

# Motion for a Stay of Action

## Stay on Appeal District Court:

1. **Purpose** If you would like certain aspects of the District Court's Final Order to be paused while on appeal, you may file a Motion for a Stay of Action with the District Court.
2. **Deadlines:** There are not set deadlines for filing.
3. **The Form:** You may use the provided outline or use your own.

## Case Caption (in the boxes on the 1<sup>st</sup> Page)

Fill in the parties' names and the District Court's name and address. Enter your contact information and case number. Title the document "Motion for a Stay of Action".

## Body of the Form

Include the following sections in your Motion (see Colorado Rules of Civil Procedure (C.R.C.P) 62 and 121 sec. 1-23(3)(a) and *Romero*, 307 P.3d 120 for more information):

- a. **Argument:** State the reason why the District Court should grant your request and the facts relied on to make that determination. If those facts are in dispute, include affidavits, other sworn statements or relevant parts of the record. Also include in your argument:
  - i. **Success:** Address if you are likely to succeed on the merits of your appeal.
  - ii. **Injury:** Address if you will be irreparably injured absent a stay and if the other parties in the case will suffer substantial injury with a stay.
  - iii. **Public Interest:** Let the Court know where the public interest lies.

- b. **Supersedes Bond:** A bond may be required to be posted with the District Court before the stay will go into effect. This is called a Supersedes Bond. Bonds are usually 125% of the total judgment. Let the District Court know how much the Supersedes Bond should be set for, and why.
- c. **Appendix:** List out the documents you are attaching to the Motion. Those may include:
  - i. Any Affidavits or Sworn Statements of facts.
  - ii. Any relevant documents or transcripts.
- d. Sign and date the form.

### Certificate of Service

Certify the date that you sent the document and how service was made on the other parties (by mail or in-person). List the addresses you used for each party in the case and sign at the bottom.

- 4. **Filing:** You may submit your Motion in-person or by mail to the District Court.
- 5. **Service:** Send a copy of the Motion, along with any attachments, to each of the other parties in the case. Send the copy to the party's attorney, or directly to the party ONLY IF they do not have an attorney. Do NOT send a copy to the Court of Appeals.
- 6. **Be Sure to Read:** Colorado Rules of Civil Procedure (C.R.C.P.) 62 and 121 sec. 1-23(3)(a) discuss what to include in your Motion for a Stay of Action. The case of [\*Romero v. City of Fountain\*, 307 P.3d 120 \(Colo. App. 2011\)](#), further interprets when the court should grant a Stay. You may view these and other court rules and statutes at:

<http://www.lexisnexis.com/hottopics/colorado/>

- 7. **If Motion is Denied:** If the District Court denies your stay, you may then file a Motion for a Stay of Action with the Court of Appeals. See Colorado Appellate Rule (C.A.R.) 8 for more information.

<p>_____ County District/Combined Court</p> <p>Street Address: _____</p> <p>City: _____ State: _____ Zip: _____</p> <hr/> <p>In the Case of:</p> <p>Plaintiff/Petitioner: _____,</p> <p>v.</p> <p>Defendant/Respondent:</p> <p>_____</p> <p>_____.</p> <hr/> <p>Filing Party Name: _____</p> <p>Street Address: _____</p> <p>City: _____ State: _____ Zip: _____</p> <p>Phone: _____</p> <p>E-Mail: _____</p>	<p style="text-align: center;">▲ FOR COURT USE ▲</p> <hr/> <p>Case Number: _____</p> <p>Courtroom: _____</p> <p>Division: _____</p>
<h3 style="margin: 0;">Motion for a Stay of Action</h3>	

I respectfully move the District Court for an order to stay the action in the case during the time permitted to start an appeal and also the length of the appeal pursuant to Colorado Rules of Civil Procedure (C.R.C.P.) 62(b)(3) and (d), and 121 § 1-23(3)(a).

## Argument

**Supersedeas Bond**

I understand that a supersedes bond may need to be posted before a stay will go into effect. I respectfully request this Court to set the supersedes bond at \$\_\_\_\_\_.

This amount is appropriate because:

Dated: \_\_\_\_\_

Respectfully submitted,

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Certificate of Service

I certify that on (date) \_\_\_\_\_ an original Motion for a Stay of Action was filed with the court and a copy, along with any attachments, was sent to the following parties:

Counsel (Or party if without counsel):  By Mail OR  In Person

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

List the other parties served, their address, and how service was made:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

_____ County District/Combined Court Street Address: _____ City: _____ State: _____ Zip: _____	
In the Case of: Plaintiff/Petitioner: _____, v. Defendant/Respondent: _____ _____	▲ FOR COURT USE ▲ _____ Case Number: _____ Courtroom: _____ Division: _____
<b>Order re Stay of Action and Supersedeas Bond</b>	

Upon review of the Motion for a Stay of Action, the court finds and orders:

The request is granted. The Supersedeas bond is set at \$ \_\_\_\_\_ . They stay will become active as soon as the bond is posted with the court's clerk.

The request is denied for the following reasons: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

Judge  Magistrate

<p>_____ County District Court</p> <p>Street Address: _____</p> <p>City: _____ State: _____ Zip: _____</p> <hr/> <p>In the Case of:</p> <p>Plaintiff/Petitioner: _____,</p> <p>v.</p> <p>Defendant/Respondent:</p> <p>_____</p> <p>_____</p> <hr/> <p>Filing Party Name: _____</p> <p>Street Address: _____</p> <p>City: _____ State: _____ Zip: _____</p> <p>Phone: _____</p> <p>E-Mail: _____</p>	<p>▲ FOR COURT USE ▲</p> <p>_____</p> <p>Case Number: _____</p> <p>Courtroom: _____</p> <p>Division: _____</p>
<p><b>Affidavit</b></p>	

The facts that support my Motion for a Stay of Action are:



**Verification and Acknowledgment**

I affirm that I have read this affidavit and that the statements included are true and correct to the best of my knowledge.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

Subscribed and affirmed before me in the County of \_\_\_\_\_,  
State of Colorado, This \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_

Notary Public/Deputy Clerk of Court