

3.2.01 | MOTIONS FOR STAY OR INJUNCTION PENDING APPEAL

Counsel wishing to stay a judgment during the pendency of an appeal must file a motion for stay pending appeal. Fed. R. App. P. 8; Loc. R. 8. See also Loc. R. 18 (stay pending consideration of petition for review); Loc. R. 21(b) (temporary relief pending consideration of mandamus petition). Filing a notice of appeal does not automatically stay the operation of the judgment. Loc. R. 8. Counsel seeking emergency relief should notify the clerk's office of the intended filing of the motion to facilitate the rapid docketing and transmission of the necessary papers.

- **Filing in District Court**

Application for a stay or injunction pending appeal must ordinarily be made in the first instance in the district court. Fed. R. App. P. 8(a)(1). If an application to the district court for temporary relief pending appeal is not practicable, counsel must make a specific showing of the reasons the application was not made to the district court in the first instance. Loc. R. 8.

- **Content**

A motion for stay shall state the reasons for the relief requested and the facts relied upon and, if the facts are subject to dispute, shall be supported by an affidavit. Fed. R. App. P. 8(a). The motion shall include copies of all previous applications for relief and their outcome; a corporate disclosure statement (unless one has been previously filed); and any parts of the record or other materials essential to a fair presentation of the issues. Loc. R. 8.

- **Emergency Applications to Single Judge**

Ordinarily, counsel shall present all motions to the clerk for presentation to the Court. Application to a single judge should be made only in exceptional circumstances where action by a panel would be impractical due to the requirements of time. In such exceptional circumstances, counsel shall attempt to notify the clerk's office that application is being made directly to a single judge, and copies of all papers presented to the judge shall be presented to the clerk as soon as practical for filing. Loc. R. 27(e).



When a single judge determines to act, the matter will be referred to a panel as early in the process as is practical. As soon as a matter has been assigned to a panel, any action in the matter will be decided by the panel. Loc. R. 27(e).

(4th Circuit Court of Appeals // December 2023)

