



# Staying Enforcement of a Judgment Pending Appeal

BY CHRISTINA GOMEZ

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*Obtaining a stay of execution on an adverse judgment may be critical to preserving a party's rights, financial interests, and freedoms while pursuing an appeal. This article outlines the procedures for seeking a stay of enforcement of various types of judgments pending an appeal.*

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**M**any lawyers may not be aware that taking an appeal does not automatically stay enforcement of a judgment pending the appeal. Although filing an appeal usually divests the trial court of jurisdiction over the matters at issue on appeal, it does not prevent the trial court from exercising jurisdiction to enforce the judgment. Thus, for instance, absent a stay, a judgment creditor may enforce a civil judgment—and the trial court may enter orders supporting that enforcement—regardless of any pending appeal.<sup>1</sup> The trial court also retains jurisdiction to entertain stay motions and related issues even as an appeal is pending.<sup>2</sup>

A stay is not required as a condition to pursuing an appeal<sup>3</sup> (although civil appellants may be required to post a cost bond as security for the payment of anticipated appeal costs<sup>4</sup>). Yet in some cases, failing to stay enforcement of a judgment could potentially moot the appeal.<sup>5</sup> Moreover, if an appealing party pays a money judgment rather than obtaining a stay, that party may not be able to recuperate the funds paid, even if it succeeds in overturning the judgment on appeal, if the recipient has become insolvent or otherwise makes recovery difficult. Likewise, a party who appeals an injunctive order without obtaining a stay could find that the status quo has changed or could suffer other irreparable harm during the pendency of the appeal that might ultimately undermine any relief he or she seeks to gain through the appeal. And a criminal defendant could potentially serve much or all of a prison sentence, only to have that sentence reversed or reduced on appeal.

Therefore, for any type of case, as soon as a judgment is entered counsel should consider whether and how to try to secure a stay pending post-trial motions and a potential appeal. This article outlines those procedures for various

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kinds of civil, criminal, and administrative actions in Colorado state and federal courts.

#### **Staying a Civil Judgment**

Stays of enforcement of civil judgments are generally governed by Rule 62 of the applicable civil rules, Rule 8 of the applicable appellate rules, and additional local rules. For some types of orders, such as injunctive orders or property division orders in a domestic case, case law sets forth additional standards for stay requests.

#### ***The Automatic Stay***

In Colorado state courts, most civil judgments are automatically stayed for 14 days after entry of the judgment.<sup>6</sup> In federal courts, the automatic stay period was recently extended from 14 days to 30 days—which is the length of time parties in most cases (where the United States is not a party) have to file a notice of appeal.<sup>7</sup> However, the automatic stay does not apply to state or federal judgments in injunction or receivership actions, or to federal judgments directing an accounting for patent infringement.<sup>8</sup> It also does not apply to other categories of orders not included within the scope of the rule.<sup>9</sup>

The newly amended Fed. R. Civ. P. 62 expressly permits a court to dissolve the automatic stay or to supersede it with a court-ordered stay.<sup>10</sup> The corresponding state rule does not include a similar provision, suggesting that state courts may lack authority to dissolve or modify the automatic stay during the 14-day period following entry of judgment.

During the duration of the automatic stay, the prevailing party cannot take any actions to enforce the judgment. This gives the other party a brief period to consider whether to file a post-trial motion or appeal and, if so, to seek a stay and to obtain a bond if one is likely to be necessary.

#### ***Stays Before an Appeal***

Because the automatic stay period ends quickly, particularly in state court, counsel should be prepared to file a stay motion (and potentially an accompanying motion for a stay pending the court's ruling on the substantive stay motion) as quickly as possible—and before expiration of the automatic stay, if at all possible. This may mean filing a stay motion in the trial court before filing an appeal, or even before deciding whether to take an appeal.

Notably, the filing of post-trial motions does not, by itself, stay enforcement of the judgment.<sup>11</sup> Parties instead must seek any requested stay while such motions are pending.

The Colorado Rules of Civil Procedure provide for discretionary stays pending the deadline for filing an appeal, the disposition of post-trial motions filed under Rules 59 or 60, and the disposition of a motion for approval of a supersedeas bond.<sup>12</sup> The federal rules more broadly provide for stays “[a]t any time after judgment is entered.”<sup>13</sup> In both state and federal courts, trial courts have discretion to determine whether to issue a stay and, if so, what bond requirements to impose as a condition for the stay.<sup>14</sup>

#### *Staying a Monetary Judgment*

In most cases, a judgment creditor can obtain a stay of execution on a money judgment by filing a supersedeas bond or other form of security in an amount and upon terms set by the trial court.<sup>15</sup> The purpose of the security is to “protect[] the appellee’s interests in the judgment”<sup>16</sup> and “secure[] the judgment against insolvency of the judgment debtor” while the appeal is pending.<sup>17</sup> The stay is effective when the bond or other security is filed and approved by the court.<sup>18</sup>

In Colorado state courts, the presumptive amount of a supersedeas bond is 125% of the total amount of the judgment, including any prejudgment interest, costs, and attorney fees awarded by the court, although a court may order or an applicable statute may provide for a different amount.<sup>19</sup> Supersedeas bonds are statutorily capped at \$25 million collectively for all appellants in a single action, unless an appellee shows that an appellant is intentionally dissipating or diverting assets to avoid payment of the judgment.<sup>20</sup>

In state courts, three different forms of bond are automatically effective when filed with the district court clerk in the presumptive amount or any different amount set by court order or statute: (1) a cash bond; (2) a certificate of deposit issued by a U.S.- or Colorado-chartered bank; and (3) a corporate surety bond issued by a surety authorized to do business in the state.<sup>21</sup> Other forms of secured bonds, including letters

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entirely remains  
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order a bond  
for less than the  
presumptive  
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of credit by a U.S.- or Colorado-chartered bank or property bonds, also may be effective, but only upon entry of an order approving the bond.<sup>22</sup> Any party who objects to a bond—including one that is automatic upon filing or one that is proposed—must file an objection within 14 days of service of the bond or proposed bond.<sup>23</sup>

In federal courts, the rules do not establish a presumptive amount of a bond. The Tenth Circuit has recognized that a bond “is usually for the full amount of the judgment, though the district court has discretion in setting the amount.”<sup>24</sup> In practice, a bond usually includes not only the amount of the judgment but also post-judgment interest for the anticipated duration of the appeal.

Although requiring a bond or other security is typical in both state and federal courts, in rare instances a court might waive a bond requirement (although a state court’s discretion to waive the bond requirement entirely remains unclear) or might order a bond for less than the presumptive amount.<sup>25</sup> Additionally, governmental entities and officials generally cannot be required to post a bond. The state, counties, municipalities, and their officers and agencies acting in an official capacity need not file a bond in a state court action unless ordered to do so by the court.<sup>26</sup> Federal courts cannot require the filing of a bond or other security by the United States, its officers, or its agencies in any appeal taken or directed by a department of the federal government.<sup>27</sup> Finally, while CRCP 62 does not expressly address this point, C.A.R. 8(c) permits an appellate court, in its discretion, to dispense with or limit the amount of a bond when the appellant is an executor, administrator, conservator, or guardian of an estate and has posted a bond in that capacity.<sup>28</sup>

Where a bond is required, parties can work with an insurance broker, bank, or surety to obtain a bond or to get answers to specific questions regarding different bond options.<sup>29</sup>

#### *Staying an Injunctive Order*

Courts have far broader discretion in considering stay requests related to nonmonetary judgments, such as judgments ordering or denying an injunction, than for requests related to monetary judgments.<sup>30</sup>

A state court may not enter a stay of an interlocutory or final judgment in an injunctive or receivership action.<sup>31</sup> However, the trial courts in both state and federal courts have discretion to suspend, modify, restore, or grant an injunction during the pendency of an appeal upon such terms for a bond that



the court determines are proper to secure the adverse party's rights.<sup>32</sup>

In both state and federal proceedings, courts will generally consider four factors in determining whether to stay an order granting or denying an injunction: (1) whether the stay applicant has shown a strong likelihood of success on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of a stay will substantially injure other parties interested in the proceeding; and (4) where the public interest lies.<sup>33</sup>

Some federal courts, including the Tenth Circuit, have held that if the movant establishes that the three "harm" factors "tip decidedly in its favor," the probability of success requirement is relaxed so as to require only a showing that the movant has raised "questions going to the merits so serious, substantial, difficult, and doubtful as to make the issue ripe for litigation and deserving of more deliberate investigation."<sup>34</sup> Colorado courts apply a slightly different test: "The probability of success that must be demonstrated is inversely proportional to the amount of irreparable injury [the movant] will suffer absent the stay" and "the movant is always required to demonstrate more than the mere 'possibility' of success on the merits."<sup>35</sup>

Whatever test is applied, courts have made clear that "[a] stay is not a matter of right, even if irreparable injury might otherwise result," but is instead "an exercise of judicial discretion" dependent upon "the circumstances of the particular case."<sup>36</sup> Where a court allows a stay of an injunctive ruling, most of the other bond provisions cited above—such as restrictions against imposing a bond requirement on a governmental entity and potential forms of bonds—will continue to apply; however, there is no presumptive bond amount in the absence of a monetary judgment.

### **Staying a Judgment in a Domestic Case**

The Colorado Court of Appeals has determined that different stay standards apply to family law cases, citing the Uniform Dissolution of Marriage Act's policies of dividing assets equitably and mitigating the harm to spouses and their children caused by a dissolution, and the Uniform Premarital and Marital Agreements Act's use

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of equitable principles to supplement the law applicable to marital agreements.<sup>37</sup>

Accordingly, a court considering a request to stay a judgment involving the division of marital and separate property cannot automatically enter a stay upon the filing of a supersedeas bond, but must "ensure that harm to the nonmovant spouse is not likely to occur if a stay is granted."<sup>38</sup> The court will consider (1) whether the movant

has made a strong showing of likelihood of success on the merits; (2) whether the movant will suffer irreparable harm absent a stay; and (3) whether a stay will harm other interested parties, in particular the other spouse.<sup>39</sup> The public interest ordinarily is not relevant, as dissolution proceedings typically involve private disputes.<sup>40</sup>

### **Seeking Stays from the Appellate Court**

In both state and federal courts, parties generally must first seek a stay from the trial court before asking for any relief from an appellate court.<sup>41</sup> If the trial court denies a stay, fails to act on a stay request, or enters terms for a bond with which a party disagrees, the party can then seek a stay from the appellate court.<sup>42</sup> In limited circumstances, a party may be able to seek relief initially in the appellate court upon showing that moving first in the trial court would be impracticable.<sup>43</sup>

Before seeking a stay from the appellate court, a party must file an appeal; this is required to confer jurisdiction upon the appeals court to act.<sup>44</sup> Any stay motion filed in the appellate court must state the reasons for granting the relief requested, cite the facts relied upon, include originals or copies of any sworn statements supporting facts subject to dispute, and provide the relevant portions of the record.<sup>45</sup> The Tenth Circuit also requires movants to address the basis for jurisdiction (both in the trial court and on appeal) and the four stay factors, and it outlines specific procedures for emergency stay motions.<sup>46</sup> The appeals courts may condition any stay on the posting of a bond or other security in the trial court.<sup>47</sup>

Counsel should keep in mind that, given the discretionary nature of stays, it is generally difficult to obtain a stay in the appeals court if the trial court has already denied such relief.

### **Staying a Criminal Sentence**

Stays of criminal sentences in state court are governed primarily by C.A.R. 8.1 and 9 and the criminal statutes regarding bail after conviction, CRS §§ 16-4-201 to -205. In federal court, such stays are governed primarily by Fed. R. Crim. Proc. 38, Fed. R. App. P. 9, and the Bail Reform Act of 1984, codified at 18 USC §§ 3141 to 3150.

### *Staying a Prison Sentence*

In state court proceedings, following a conviction and either before or after sentencing, a defendant may move for release on bail pending post-trial motions or appellate review.<sup>48</sup> Except where the defendant was convicted of certain offenses (including murder, felony sexual assault, crimes of violence, and child abuse, among others),<sup>49</sup> the trial court, in its discretion, “may continue the bond given for pretrial release, or may release the defendant on bond with additional conditions including monetary conditions, or require bond under one or more of the alternatives set forth in C.R.S. § 16-4-104.”<sup>50</sup> Bail following conviction may be granted only if the court finds both that the defendant is unlikely to flee and does not pose a danger to the safety of any person or the community, and that the appeal is not frivolous or pursued for the purpose of delay.<sup>51</sup> The statutes governing bail after conviction set forth other bond requirements, considerations in determining whether and on what conditions to grant an appeal bond, and contents for orders on appeal bonds.<sup>52</sup>

Either side may file a petition or motion for appellate review of a state district court’s decision refusing or granting release on bail or setting the conditions of release pending appeal.<sup>53</sup> The statute sets forth filing requirements and deadlines for a response.<sup>54</sup> Decisions concerning whether to grant bail and the amount and conditions for a bond are reviewed in an expedited manner and are generally reviewed for abuse of discretion.<sup>55</sup> On review, the appeals court may remand for further hearing, order the trial court to modify the terms and conditions of the appeal bond, order the trial court to modify the terms and conditions of the appeal bond and remand for further hearing on additional conditions, or dismiss the petition.<sup>56</sup>

If a defendant obtains bail, the sentence of imprisonment can be stayed pending the appeal.<sup>57</sup> A defendant who does not obtain bail can postpone service of the sentence for up to 60 days upon filing a notice of appeal and written notice to the trial court of the election for a stay.<sup>58</sup> But election to postpone service of a sentence does not entitle a defendant who has not obtained bail to release from custody. It means only that the defendant will not be

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transferred to the facility where he or she will be serving the sentence, and credit may not be available for time spent in custody while postponing service of a sentence.<sup>59</sup>

In federal court, the trial court must stay a sentence if the defendant is released pending appeal.<sup>60</sup> Under the Bail Reform Act of 1984, a trial court must order the detention of a convicted defendant sentenced to a term of imprisonment pending the defendant’s appeal unless the court finds (1) by clear and convincing evidence that the defendant is not likely to flee or pose a danger to the safety of any other person or the community if released; and (2)

that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in reversal, an order for a new trial, a sentence not including a term of imprisonment, or a reduced sentence to a term less than the total time already served plus the anticipated duration of the appeal.<sup>61</sup> But following convictions of certain offenses—such as crimes of violence carrying a maximum prison sentence of 10 years or more, offenses for which the maximum sentence is life imprisonment or death, and offenses carrying a maximum prison sentence of 10 years or more under the Controlled Substances Act—a higher standard for release applies: the defendant also must make a clear showing of exceptional reasons why detention would not be appropriate.<sup>62</sup> The Bail Reform Act also sets forth other bond requirements and considerations.<sup>63</sup>

Either side may seek review of a federal district court’s order on release or detention pending an appeal by filing a notice of appeal from the order or by filing a motion in an existing appeal from the judgment of conviction.<sup>64</sup> The federal appellate rules set forth additional procedures and filing requirements.<sup>65</sup> Such appeals and motions “shall be determined promptly,” and the defendant may be ordered released with appropriate conditions if he or she meets the statutory conditions of release and “clearly show[s] that there are exceptional reasons why [his or her] detention would not be appropriate.”<sup>66</sup>

Different rules and standards apply to federal proceedings considering bail after conviction but before sentencing,<sup>67</sup> bail pending an appeal by the government,<sup>68</sup> and release or transfer pending review of a habeas decision.<sup>69</sup>

### *Staying a Sentence of Probation*

In both state and federal courts, trial courts have discretion to stay a sentence of probation pending an appeal and to set any terms for such a stay.<sup>70</sup>

### *Staying Other Criminal Penalties*

In both state and federal courts, a trial court has discretion to stay a sentence to pay a fine or a fine and costs pending an appeal.<sup>71</sup> The court also has discretion to determine the proper terms for

such a stay, such as requiring the defendant to deposit all or part of the fine and costs into the court's registry, requiring the defendant to pay a bond or submit to an examination of assets, or entering an order restraining the defendant from dissipating his or her assets.<sup>72</sup>

The federal rules are similar for staying orders of restitution pending an appeal, except that the rules suggest restraining orders, injunctions, orders requiring a defendant to post all or part of the monetary restitution into the court's registry, or orders requiring the posting of a bond as possible conditions for obtaining a stay.<sup>73</sup> There is no state rule on point, but the general rules concerning stays pending appeal likely could apply to such orders.

With federal orders of forfeiture, a trial court may enter a stay on terms appropriate to ensure that the property remains available pending appellate review.<sup>74</sup> Again, there is no state rule on point, but the same principles might apply under the general stay rules.

#### *Stays in Death Penalty Cases*

In both state and federal cases, a sentence of death is automatically stayed upon the filing of an appeal from the conviction or sentence.<sup>75</sup>

#### *Seeking Stays from the Appellate Court*

As in civil cases, stays in criminal proceedings generally must first be sought from the trial court and, if a party is unsuccessful (or is unsatisfied with the bond or other stay terms set by the trial court), further relief can be sought from the appellate court once an appeal is filed.<sup>76</sup>

#### **Staying an Administrative Decision**

The State Administrative Procedure Act sets forth the standards for obtaining a stay of a state administrative decision pending judicial review. Under the Act, a state agency may postpone the effective date of its action pending judicial review upon application and a finding that irreparable injury would otherwise result.<sup>77</sup> A reviewing court also may issue such a stay upon a similar finding, irrespective of whether an application previously was made to or denied by the agency.<sup>78</sup> Thus, the only prerequisite to obtaining a stay of agency action is a finding that irreparable injury would otherwise result.<sup>79</sup>

Where a court orders the stay, it may set such terms and security as it finds necessary and may take all actions necessary and appropriate to postpone the effective date of the agency's action or to preserve the parties' rights pending judicial review.<sup>80</sup>

A party is not required to first seek a stay from a Colorado agency. Practitioners should carefully consider whether it is worth making such a request before going to the appellate court because the Court of Appeals has often denied stay requests.<sup>81</sup>

In proceedings brought in the federal appeals courts for judicial review of federal administrative decisions, Fed. R. App. Proc. 18 governs stays pending review.<sup>82</sup> Rule 18 provides that a petitioner ordinarily must first seek a stay from the agency, unless the petitioner can show that doing so would be impracticable.<sup>83</sup> The rule provides further requirements for stay

motions submitted to the appellate court, and it allows the appellate court to condition relief upon the filing of a bond or other appropriate security.<sup>84</sup> The Tenth Circuit has applied the same four-factor test applied to injunctive stays pending an appeal in considering stays of agency action pending judicial review.<sup>85</sup>

#### **Staying Other Types of Orders or Judgments**

Different rules and standards may apply to stay motions directed at specific types of judgments. For instance, separate rules apply to stays of municipal or county court judgments or magistrate rulings appealed to Colorado district courts,<sup>86</sup> to foreign judgments domesticated in the state,<sup>87</sup> and to automatic stays resulting from pending federal bankruptcy proceedings.<sup>88</sup> Counsel should check any statutes, rules, and case law pertinent to a particular order or

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judgment to verify the applicable standards and filing requirements for seeking a stay.

Finally, taking an interlocutory or discretionary appeal may or may not stay the remainder of the action pending the appeal. For instance, in both state and federal court, when entering partial judgment in a civil case under Rule 54(b) a trial court has discretion to determine whether to stay enforcement of that judgment pending resolution of the remainder of the case and, if so, the conditions for such a stay.<sup>89</sup> Seeking interlocutory review in state court also does not automatically stay the underlying proceedings in the district court, unless the district or appellate court so holds; but the granting of a petition for appeal under C.A.R. 4.2 or the issuance of a rule to show cause under C.A.R. 21 does stay such proceedings, unless the appellate court holds otherwise.<sup>90</sup> In federal court, neither the filing

nor the granting of a petition for interlocutory appeal under 28 USC § 1292(b) automatically stays the underlying action; parties instead must separately seek a stay if desired during § 1292(b) review.<sup>91</sup> And in criminal cases, all state proceedings are automatically stayed upon the filing of an interlocutory appeal or an appeal from an order dismissing one or more counts of a charging document before trial, unless the appellate court orders otherwise.<sup>92</sup> Federal criminal proceedings are not automatically stayed pending an interlocutory appeal, so parties must seek a stay if they desire one.<sup>93</sup>

### Conclusion

Counsel should carefully review and follow the protocols for seeking a stay of execution of a particular type of judgment, and should be prepared to act quickly following entry of the

judgment. Your clients' ability to vindicate their rights and interests in the event of a successful appeal may well depend upon it. [CL](#)

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### NOTES

1. See *Muck v. Arapahoe Cty. Dist. Court*, 814 P.2d 869, 874-75 (Colo. 1991); *Strong v. Laubach*, 443 F.3d 1297, 1299 (10th Cir. 2006).
2. See *Odd Fellows Bldg. & Inv. Co. v. City of Englewood*, 667 P.2d 1358, 1360 (Colo. 1983); *People v. Stewart*, 55 P.3d 107, 126 (Colo. 2002); *United States v. Meyers*, 95 F.3d 1475, 1488 n.6 (10th Cir. 1996).
3. See *O'Donnell v. State Farm Mut. Auto. Ins. Co.*, 186 P.3d 46, 53 (Colo. 2008); *Strong*, 443 F.3d at 1299.
4. In state civil appeals, the appellant must file a cost bond of \$250, or such different amount as set by the trial court, unless the bond is exempted by law (such as the exemption for public entities), waived on the basis of indigency, or covered by a supersedeas bond that includes security for the payment of costs on appeal. See C.A.R. 7; *O'Donnell*, 186 P.3d at 53; *In re Marriage of Delahoussaye*, 924 P.2d 1210, 1210 (Colo.App. 1996). In federal civil appeals, the requirement of a cost bond lies within the trial court's discretion under Fed. R. App. P. 7, and the amount of a cost bond can vary widely. See, e.g., *Tennille v. W. Union Co.*, 774 F.3d 1249, 1254-58 (10th Cir. 2014) (reducing the amount of the cost bond in a class action appeal from about \$1 million to \$5,000).
5. See generally Gill, 18 *Colo. App. Law and Practice* §§ 7:1, 7:8 (Thomson West 3d ed.); Wright et al., 13B *Fed. Prac. & Proc. Juris.* § 3533.2.2 (Thomson West 3d ed.).
6. CRCP 62(a).
7. Fed. R. Civ. P. 62(a) and Advisory Comm. Notes to 2018 Amendments. See also Fed. R. App. P. 4(a)(1).
8. CRCP 62(a); Fed. R. Civ. P. 62(c).



9. See, e.g., *People ex rel. Strodman*, 293 P.3d 123, 134–36 (Colo.App. 2011) (the automatic stay does not apply to a forcible medication administration order); *In re Marriage of Adams*, 778 P.2d 294, 295 (Colo.App. 1989) (the automatic stay does not apply to a temporary custody order, which does not qualify as a “judgment”).

10. Fed. R. Civ. P. 62(a) and Advisory Comm. Notes to 2018 Amendments.

11. See *Oman v. Morris*, 471 P.2d 430, 433 (Colo. App. 1970); Wright et al., *supra* note 5 at § 2903.

12. CRCP 62(b).

13. Fed. R. Civ. P. 62(b).

14. CRCP 62(b); Fed. R. Civ. P. 62(b).

15. CRCP 62(d); Fed. R. Civ. P. 62(b). See also *Muck*, 814 P.2d at 873 (“The language of C.R.C.P. 62 and C.A.R. 8(a), and the history of and rationale for the supersedeas bond, convince us that, in general, C.R.C.P. 62(d) continues the venerable tradition of requiring a supersedeas bond as a prerequisite for obtaining an order staying execution of the judgment.”); *Miami Int’l Realty Co. v. Paynter*, 807 F.2d 871, 873 (10th Cir. 1986) (“[A] full supersedeas bond should

be the requirement in normal circumstances.”).

16. *Muck*, 814 P.2d at 872.

17. *Strong*, 443 F.3d at 1299.

18. CRCP 62(d); Fed. R. Civ. P. 62(b).

19. CRCP 121 § 1-23(3)(a).

20. CRS § 13-16-125(1) and (2).

21. CRCP 121 § 1-23(1).

22. CRCP 121 § 1-23(2), (5). For property bonds, the court may order certain conditions, such as an appraisal by a qualified appraiser, information regarding liens and encumbrances against the property, and title insurance. See CRCP 121 § 1-23 cmt. [1] to 2006 Amendments.

23. CRCP 121 § 1-23(6).

24. *Strong*, 443 F.3d at 1299; *accord Olcott v. Del. Flood Co.*, 76 F.3d 1538, 1559–60 (10th Cir. 1996); *Miami Int’l Realty*, 807 F.2d 871, 873.

25. *Muck*, 814 P.2d at 872 n.9; *Miami Int’l Realty*, 807 F.2d at 873–74; Wright et al., *supra* note 5 at § 2905.

26. CRCP 62(e). C.A.R. 8(c) provides more broadly that an appellate court “shall not require” a bond by the state, county commissioners, cities, towns, school districts, charitable or educational institutions under state control

or patronage, or public officials acting in their official capacities.

27. Fed. R. Civ. P. 62(e); 28 USC § 2408.

28. C.A.R. 8(c).

29. For more information on different bonding instruments and options, see Beier, “Bonds in Colorado Courts: A Primer for Practitioners,” 34 *Colorado Lawyer* 59 (Mar. 2005), and Huckabay, “Don’t Let Misperceptions About Appeal Bonds Hinder Your Client’s Appeal,” 33 *ABA Appellate Practice J. 2* (Apr. 3, 2014).

30. See generally CRCP 62(b), 121 § 1-23(3)(a); Fed. R. Civ. P. 62(d).

31. CRCP 62(a).

32. CRCP 62(a), (c); Fed. R. Civ. P. 62(d).

33. See *Romero v. City of Fountain*, 307 P.3d 120, 122 (Colo.App. 2011); *FTC v. Mainstream Mktg. Servs., Inc.*, 345 F.3d 850, 852 (10th Cir. 2003); 10th Cir. R. 8.1.

34. *FTC*, 345 F.3d at 852 (citation omitted).

35. *Romero*, 307 P.3d at 123 (citation omitted).

36. *Id.* at 122. See also Wright et al., *supra* note 5 at § 2904.

37. *In re Marriage of Finn*, 411 P.3d 1167, 1170 (Colo.App. 2016).

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- Affordable housing covenants and the *Meyerstein* case
- Developing affordable housing (a hypothetical pre-application meeting)
- Federal, state, and local regulatory issues in resort communities, including affordable housing policies, workforce housing, and enforcement
- 50-state analysis
- Creating healthy communities through health care/affordable housing synergies (a Denver case study)
- Emergence of land trusts as tools to promote affordable housing

**Stay tuned for this *not-to-miss* series starting in July 2019**

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38. *Id.*  
 39. *Id.* at 1170-71.  
 40. *Id.* at 1171.  
 41. C.A.R. 8(a)(1); Fed. R. App. P. 8(a)(1).  
 42. CRCP 62(g); C.A.R. 8(a)(2)(A)(ii); Fed. R. Civ. P. 62(g); Fed. R. App. P. 8(a)(2)(A)(ii).  
 43. C.A.R. 8(a)(2)(A)(i); Fed. R. App. P. 8(a)(2)(A)(i).  
 44. See generally C.A.R. 3; Fed. R. App. P. 3.  
 45. C.A.R. 8(a)(2)(B); Fed. R. App. P. 8(a)(2)(B).  
 46. 10th Cir. R. 8.1, 8.2.  
 47. C.A.R. 8(a)(2)(E); Fed. R. App. P. 8(a)(2)(E).  
 48. CRS § 16-4-201(1)(a).  
 49. CRS §§ 16-4-201(1)(a), -201.5(1).  
 50. CRS § 16-4-201(1)(a).  
 51. CRS § 16-4-201.5(2).  
 52. CRS §§ 16-4-201(c), (d), -202, -203.  
 53. CRS § 16-4-204(1); C.A.R. 9(b). CRS § 16-4-204(1) provides that a petition for review filed under the statute "shall be the exclusive method of appellate review." But the appellate rules also contemplate the filing of a motion for release or for modification of the conditions of release within an existing appeal. C.A.R. 9(b).  
 54. CRS § 16-4-204(2). See also C.A.R. 9(b).

55. See C.A.R. 9(b); *People v. Johnson*, 2017 COA 97; *People v. Fallis*, 353 P.3d 934, 935 (Colo.App. 2015).  
 56. CRS § 16-4-204(3).  
 57. C.A.R. 8.1(a)(2).  
 58. *Id.*  
 59. *People v. Scott*, 489 P.2d 198, 199 (Colo. 1971).  
 60. Fed. R. Crim. P. 38(b)(1).  
 61. 18 USC § 3143(b). See also Fed. R. Crim. P. 46(c); *United States v. Affleck*, 765 F.2d 944, 952-53 (10th Cir. 1985) (discussing the standards for satisfying this test).  
 62. 18 USC §§ 3142(f)(1)(A) to (C), 3143(b)(2), 3145(c).  
 63. See, e.g., 18 USC § 3142.  
 64. 18 USC § 3145(c); Fed. R. App. P. 9(b) and Advisory Comm. Notes to 1967 Adoption and 1994 Amendments.  
 65. Fed. R. App. P. 9(a) and (b); 10th Cir. R. 9.  
 66. 18 USC § 3145(c). See also Fed. R. App. P. 9(b) and (c); 10th Cir. R. 9.1(A).  
 67. 18 USC § 3143(a).  
 68. 18 USC § 3143(c).  
 69. Fed. R. App. P. 23.

70. C.A.R. 8.1(a)(4); CRS § 16-4-201(2); Fed. R. Crim. P. 38(d).  
 71. C.A.R. 8.1(a)(3); Fed. R. Crim. P. 38(c).  
 72. *Id.*  
 73. Fed. R. Crim. P. 38(e).  
 74. Fed. R. Crim. P. 32.2(d), 38(f).  
 75. C.A.R. 8.1(a)(1); Fed. R. Crim. P. 38(a).  
 76. C.A.R. 8.1, 9(b); Fed. R. Civ. P. 38(c), (e)(1); Fed. R. App. P. 8, 9(b). See also C.A.R. 8.1(c) (for any request in the appellate court for bail pending review or for any other relief that might have been granted by the trial court, the applicant must "show that application to the court below or a judge thereof is not practicable" or that such an application was made and the trial court either denied or did not afford the relief sought).  
 77. CRS § 24-4-106(5).  
 78. *Id.*  
 79. *State Dep't of Rev. v. Dist. Court*, 568 P.2d 1157, 1158 (Colo. 1977).  
 80. CRS § 24-4-106(5).  
 81. See generally Tisdall, "Appellate Advocacy in Administrative Law Cases," 22 *Colorado Lawyer* 27, 28 (Jan. 1993).  
 82. The federal appellate rules governing judicial review of agency orders apply only to proceedings brought directly in the federal appeals courts. Different rules apply for review proceedings brought first in federal district courts. The underlying statutes govern where specific review proceedings should be filed.  
 83. Fed. R. App. P. 18(a)(1), (2)(A)(i). The Administrative Procedure Act generally grants federal agencies and reviewing courts the authority to postpone the effective date of an action pending judicial review, 5 USC § 705, although other statutes applicable to a particular agency or decision may provide otherwise.  
 84. Fed. R. App. P. 18(a)(2), (b). See also 10th Cir. R. 18.1.  
 85. See *FTC*, 345 F.3d at 852.  
 86. See Murray, "Appeals of County Court, Municipal Court, and Magistrate Rulings," 47 *Colorado Lawyer* 32, 33-34, 36 (Oct. 2018).  
 87. See, e.g., CRS § 13-53-105; *Dependable Ins. Co., Inc. v. Auto. Warranty Corp.*, 797 P.2d 1308, 1310 (Colo.App. 1990).  
 88. See, e.g., 11 USC § 362(a); *TW Telecom Holdings Inc. v. Carolina Internet Ltd.*, 661 F.3d 495, 497 (10th Cir. 2011).  
 89. CRCP 62(h); Fed. R. Civ. P. 62(h).  
 90. C.A.R. 4.2(e), 21(f).  
 91. 28 USC § 1292(b); *Wright et al.*, *supra* note 5 at § 3929.  
 92. Crim. P. 39.  
 93. See, e.g., *United States v. Clark*, 334 F. App'x 884, 885-86 (10th Cir. 2009); *United States v. Red Elk*, 185 F. App'x 716, 720 (10th Cir. 2006); *United States v. Gagan*, 95 F. App'x 941, 947-48 (10th Cir. 2004).



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