

APPEAL FROM BANKRUPTCY COURT TO DISTRICT COURT

MOTION FOR STAY PENDING APPEAL

Step	Action	Deadline	Authority	Notes
1	Motion for Stay Pending Appeal to Bankruptcy Court	Before or after Notice of Appeal is filed	Rule¹ 8007 Rule 8007(a)(1) Rule 8007(b)(3)	<ul style="list-style-type: none"> • Must be filed in bankruptcy court • Types of Relief² • Required Attachments³
2	Response	14 days from <i>Step 1</i>	See Local Rules of Bankruptcy Procedure _____	
3	Bankruptcy Court Ruling on Stay Motion			<ul style="list-style-type: none"> • Court may or may not set the motion for hearing
4	Motion for Stay Pending Appeal to District Court	After <i>Step 3</i>	Rule 8007(b)(2) Rule 8007(b)(3) Fed. R. App. P. 8	<ul style="list-style-type: none"> • Statement showing it is impracticable to do in bankruptcy court, or stating bankruptcy court ruling • Required Attachments⁴
5	Response	14 days after <i>Step 3</i>		

¹ All further “Rule ____” references are to the Federal Rules of Bankruptcy Procedure unless otherwise designated.

² Relief under **Rule 8007(a)(1)** may include: (A) a stay of the bankruptcy court’s judgment, order, or decree pending appeal; (B) the approval of a bond or other security provided to obtain a stay of judgment; (C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending; or (D) an order suspending or continuing proceedings or granting other relief.

³ **Rule 8007(b)(3) Additional content.** The motion **must also** include: (A) the reasons for granting the relief requested and the facts relied upon; (B) **affidavits or other sworn statements** supporting facts subject to dispute; and (C) **relevant** parts of the **record**.

⁴ *Id.*

Elements Required for Stay Pending Appeal

The four factors (which are *conjunctive*, not disjunctive) to be considered when determining whether or not a stay should be granted pursuant to Federal Rule of Appellate Procedure 8 and Federal Rule of Bankruptcy Procedure 8007 are set forth in *United States v. Baylor University Medical Center*, 711 F.2d 38 (5th Cir. 1983). Under this precedent, in the event an appellant cannot establish *all four* of the factors, the appellant cannot obtain a stay. The factors are:

- (1) whether movant has made a showing of likelihood of success on merits,
- (2) whether movant has made a showing of irreparable injury if stay is not granted,
- (3) whether granting of stay will substantially harm other parties, *and*
- (4) whether granting of stay will serve public interest.