

Standing Order Governing Motions to Stay a Judgment or Execution of Sentence Filed Pursuant to Mass. R.A.P. 6

(a) Contents of a Motion for a Stay; Form. A motion for a stay pursuant to Mass. R.A.P. 6 shall include in the following order:

- (1) a request for a stay, which shall state briefly the nature of the judgment or sentence entered by the trial court for which a stay is sought, the entry date of such judgment or conviction, and the name of the judge who entered it;
- (2) the text of the order and rationale of the trial court denying the motion for stay or, if no such motion was filed in the trial court, a showing why filing the motion in the trial court was not practicable;
- (3) a statement of the issues of law raised by the motion;
- (4) a statement of the specific relief requested; and
- (5) an addendum containing copies of the judgment, notice of appeal, and the trial court's order denying the prior motion for a stay.

References to the parties in the motion shall be by the designation of the party in the trial court. The motion shall not exceed five pages of text in monospaced font or 1,000 words in proportional font compliant with Mass. R.A.P. 20(a)(4)(A)-(C) without leave of the court.

(b) Supporting Memorandum of Law and Record Appendix. The motion shall, unless otherwise ordered, be accompanied by a memorandum of law (not to exceed fifteen pages of text in monospaced font or 3,500 words in proportional font compliant with Mass. R.A.P. 20[a][4][A]-[C] unless leave of the court has been obtained) in support of the movant's position, with citations to appropriate authorities and a statement addressing why a stay is appropriate. The argument shall make reference to those portions of the record which are directly relevant to the issues raised by the motion. Relevant portions of the record shall be filed as a record appendix, and include a current copy of the trial court docket entries and all relevant papers filed in the trial court, including those filed by the other party or parties. The record appendix shall be consecutively numbered starting with the cover or first page as page 1 followed by a table of contents that lists each document contained therein and the page on which it appears.

(c) Response, Form. The non-moving party or parties to the case may, but need not, file and serve a response thereto (not to exceed fifteen pages of text in monospaced font or 3,500 words in proportional font compliant with Mass. R.A.P. 20[a][4][A]-[C] unless leave of court has been obtained) setting forth reasons why the motion should or should not be granted. The response shall not restate matters contained in the motion unless the responding party is dissatisfied with the statement thereof contained in the motion. The response may be accompanied by a supplemental record appendix containing such additional portions of the record as were before the trial court and are necessary for adjudication, and which the movant failed to include in its record appendix.

(d) Response, Timing.

(1) For motions filed in all civil matters and for criminal matters entered in the Appeals Court's single justice session (i.e., prior to the entry of an appeal pursuant to Mass. R.A.P. 10[a][1] or [2]), the other party or parties to the case may, but need not, file and serve a response thereto within seven days after the service of the motion (ten days if the movant's certificate of service required under [e] hereof shows service by first-class mail), or such other time as the court may direct.

(2) For motions filed in criminal appeals subsequent to the entry of and during the pendency of a direct or collateral appeal in the Appeals Court, the time limit for a response is governed by the provisions of Mass. R.A.P. 6(b)(2)(B)-(C).

(3) For motions filed in civil appeals entered pursuant to Mass. R.A.P. 10(a)(1) the other party or parties to the case may, but need not, file and serve a response thereto within seven days after the service of the motion (ten days if the movant's certificate of service required under [e] hereof shows service by first-class mail), or such other time as the court may direct.

(e) Filing; Service; Required Certificate(s). The motion, memorandum, record appendix, and any subsequently filed response and supplemental record appendix, shall be filed electronically if the filing party is represented by counsel. Self-represented litigants may file electronically, or may file a single paper original or duplicate in the office of the Clerk of the Appeals Court. Any document required to be e-filed may be filed on paper upon allowance of a motion to waive the e-filing requirement, preferably filed in advance or with the document. The motion must contain a showing of undue hardship, significant prejudice, exigency, or other good cause.

Whether filed electronically or on paper, all filings shall include a certificate of service on all other parties in the case, including the service and filing of a copy in the appropriate trial court clerk's office from which the matter arose. The certificate of service shall set forth the name, address, email address, and telephone number of counsel or other persons upon whom service has been made, and specify the date and manner of service. The certificate of service shall identify the name of each party represented by counsel and specify the counsel who represents each party.

Service may be personal, by first class mail, or electronically with the consent of the person served. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by first class mail is complete on mailing. Registration for and use of the electronic filing system constitutes consent to electronic service, and such service is complete upon e-filing.

If a petition and supporting memorandum of law or a response is produced in a proportional font, an additional certificate of compliance with the length limit(s) is required and must include the name and size of the proportionally spaced font used, the number of non-excluded words, and the name and version of the word-processing program used.

(f) Impounded or confidential information. In any case in which the trial court entered an order impounding, sealing, or excluding from public access all or any portion of the trial court records,

or there is material or information in a party's motion, addendum, memorandum, or any appendix that is automatically impounded or deemed confidential by statute or court rule, the parties shall comply with Mass. R.A.P. 16(d), 16(m), and 18(d). See G. L. c. 265, § 24C. The parties shall comply with Supreme Judicial Court Rule 1:24, Protection of Personal Identifying Information in Publicly Accessible Court Documents in all filings to the Appeals Court.

(g) Hearing. The single justice has discretion to determine whether a hearing shall be held.