

Appellate Tips for Trial Lawyers

LOS ANGELES COUNTY BAR ASSOCIATION

Volume 1, Number 14-A • An E-Publication of the Los Angeles County Bar Association • March 2009

[Selected](#)

[Benefits](#)

[Renew Your
Membership](#)

[Superior Court
Civil Register](#)

[Member Benefits](#)

[Calendar of Events](#)

California civil and criminal litigation overlap in a crucial area: preserving your record for appeal. Although this series of short articles is mainly designed for civil trial lawyers, some "best practices" apply in every trial. Keep an eye on what our appellate-lawyer writers have to say about how to preserve your trial court victory or how to lay the groundwork for a successful challenge when you have lost.

Post-Trial: Protecting Superior Court Judgments from Enforcement

Part 1—Money Judgments between Entry and Appeal

by Feris M. Greenberger

You just lost a trial in superior court. Entry of a big money judgment is imminent. Post-trial motions loom, and beyond them, a likely appeal. Before honing your arguments, take care *now* to protect the judgment from enforcement before and during appeal.

Money Judgments Are Enforceable upon Entry

Staying enforcement should top your "to do" list because a money judgment is enforceable upon entry. (Code Civ. Proc. §683.010.) You do not want the Damocles sword of threatened collection hanging over your client as you plan and carry out your post-trial and appellate strategies.

Ask the Judge to Delay Entry of Judgment

If judgment is not entered yet, consider requesting a delay. While the general rule requires entry within 24 hours after a jury verdict or immediately upon filing of a bench trial decision, the trial court has some authority to postpone it. (Code Civ. Proc. §664.) Until there is a judgment, there is nothing to enforce.

Request a Temporary Stay in the Trial Court

Following entry, the trial court can stay enforcement of a money judgment (or other judgment stayed on appeal only by bond or undertaking) for a period that extends 10 days beyond the last date on which a notice of appeal could be filed—in other words, at least 70 days. (Code Civ. Proc. §918 (a), (b).) The judge has that power whether or not an appeal will be taken and whether or not a notice of appeal has been filed. (Code Civil Proc. §918 (c).) You want this stay. It protects your client between entry of judgment and the filing of a bond or undertaking to stay enforcement during appeal. Ask for it right away. Note that some judges believe this requires a noticed motion.

Planning for a Stay Pending Appeal

What comes next? And what if it is not a money judgment? With your temporary stay in place, take steps to line up something longer lasting. For pointers on that process, stay tuned for the next installment of this article.



Contributed by Feris M. Greenberger, a Partner at Greines, Martin, Stein & Richland LLP, a firm specializing in appellate practice.

In over twenty years with the firm, Feris has briefed more than 200 matters in the state and federal appellate courts. She has appeared in the California Supreme Court and in every district of the California Court of Appeal.

Readers are advised that changes in the law may affect the accuracy of this publication or the functionality of links after the publication date.
