

APPEAL BONDS IN FAMILY LAW CASES

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The need to stay enforcement of a judgment or order in family law cases is certainly more rare than civil litigation, however, they do occur. Most often we see the appeals relate to the final judgment for division of assets, spousal support, child support and/or attorney's fees. In these instances, several unique challenges can complicate the appellant's ability to obtain an appeal bond.

Community Property

Appeal bonds are provided by surety companies, and when it comes to providing appeal bonds for individuals, surety companies will require collateral in almost all situations. The challenge with family law cases is they typically involve community property, which limits the appellants ability to use their interest as collateral, because sureties cannot accept a pledge of collateral without the approval from both spouses to sign for their respective interests in the property. This problem can be addressed either through court order or stipulation by both parties.

Separate Property

If the appellant has property that is separate and not community, the surety will consider accepting it as collateral. The surety will generally need some form of verification confirming the assets are in fact owned separately.

Periodic Payments

When a final judgement or order is being appealed involving monthly spousal and/or child support payments, the question often is how to calculate the required bond amounts. Very few, if any, jurisdictions address this issue directly. The most common solution is to add the periodic payments that will likely occur during the course of the appeal and add the appropriate amount of interest for the same time period. It is best to try to get the other party to stipulate to the amount to avoid it



being contested, and if it is, the amount may ultimately need to be set by the court.

Conclusion

While obtaining appeal bonds for family law cases can be tricky, they certainly do take place, and we simply recommend contacting a broker as early as possible to identify any potential road blocks.

Dan Huckabay is president of Court Surety Bond Agency (CSBA), one of the leading providers of appeal bonds in the nation. He has underwritten appeal bonds in almost every state and federal district court for clients ranging from individuals to Fortune 500 companies. Mr. Huckabay is a frequent presenter, author, and expert witness on the topic. Dan can be reached at (877) 810-5525 or at Dan@courtsurety.com