

April 2024

**RAZOR**  
eNewsletter

FROM



**O'Connor  
Carnathan &  
Mack**

GIVING OUR CLIENTS AN EDGE



## ***BLS Declines to Condition Pursuit of Appeal on Posting of Appeals Bond***

In *Wulsin v. Murphy*, Plaintiff Richard L. Wulsin (“Wulsin”) prevailed on his claims and on the counterclaims in his lawsuit against his former law firm partner, Mark F. Murphy (“Murphy”). Murphy filed a notice of appeal, and Wulsin moved for an appeal bond. The court (Judge Krupp of the BLS) denied that motion.

The court began its analysis by noting that “[t]he availability and purpose of an appeal bond has been much in the news.” The court explained that, in many other states, an appeal bond is used as a device to secure a stay of an adverse money judgment. However, this is not necessary in Massachusetts because simply taking an appeal from a money judgment “automatically stays execution upon the judgment during the pendency of the appeal.” The court distinguished money judgments from cases for an injunction. In the latter cases, an appeal does *not* automatically stay enforcement of the judgment and a court may then stay the judgment upon

terms such as a bond. The court went on to state that “the Appeals Court has held that there is no authority, in cases involving an appeal from a money judgment, that permits a Massachusetts trial judge to order the posting of bond as a condition of pursuing the appeal.”

The court rejected Wulsin’s argument that either G.L. c. 231, § 117 (which gives the Superior Court power to make interlocutory orders pending appeal) or Mass. R. App. P. 6(a)(2) change that result. The court said that the Appeals Court has not extended the language in § 117 to encompass issuing a bond in a money judgment case. As for Rule 6(a)(2), the court stated that Rule 6 applies in situations (unlike money judgment cases) “where there is no automatic stay of the lower court judgment . . . Rule 6 does not expand the availability of an appeal bond to money judgments.”

## About OCM

OCM is boutique litigation firm based in Burlington, Massachusetts, whose clients include Fortune 500 companies as well as closely held businesses and astute individuals. OCM’s attorneys help their clients not only resolve disputes but also avoid them altogether. Whether you are facing a courtroom battle, arbitration, mediation, or negotiation, OCM can help.





[View Our Website](#)

[Unsubscribe](#)

OCM Law 10 Burlington Mall Road Suite 301 Burlington, Massachusetts 01803 United States (781) 359-9000