**IN THE MAGISTRATE COURT OF {{ case\_county.upper() }} COUNTY, WEST VIRGINIA**

**{{ p.name.full() }},**

**Plaintiff/Appellee, Magistrate Court Case No.: {{ case\_num }}**

**v. Circuit Court Appeal No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**{{ r.name.full(middle=”full”) }},**

**Defendant/Appellant.**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**NOTICE OF AUTOMATIC STAY**

**OF MAGISTRATE COURT ORDER PENDING APPEAL**

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**COMES NOW,** the Defendant/Appellant, {{ r.name.full(middle=”full”) }},having filed a Notice of Appeal in the Magistrate Court of {{ case\_county }} County, West Virginia, in Case No. {{ case\_num }}, and provides notice to this Court and all parties of the automatic stay provided by West Virginia law. Such a stay is to avoid the eviction of the Defendant and any other enforcement of the judgment until their appeal has been decided.

1. West Virginia law provides for an automatic stay upon appeal. West Virginia Code § 50-5-12 states: “[a]ny person may appeal the judgment of a magistrate court to the circuit as a matter of right…The filing or granting of an appeal shall automatically stay further proceedings to enforce the judgment.”
2. Additionally, Rule 18A of the West Virginia Rules of Civil Procedure for Magistrate Courts provides, “[u]pon timely filing of an appeal or motion to set aside the judgment, execution of the judgment shall be stayed until the appeal or motion has been decided.”
3. The Defendant has filed a timely appeal from the judgment entered {{ judgment\_date }}.
4. Under West Virginia law, the judgment requiring the Defendant to vacate is stayed and no further proceedings to enforce the judgment can be undertaken until the appeal has been decided.
5. Any eviction attempt would be unlawful. The Defendant is entitled to possession of the rental property at {{ r.address.on\_one\_line() }}, until their appeal has been decided.

Respectfully Submitted,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

{{ r.name.full(middle=”full”) }}, Defendant/Appellant