

## Tabbert, Sharon

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**From:** Roger Hughes <rhughes@adamsgraham.com>  
**Sent:** Thursday, May 05, 2016 1:40 PM  
**To:** 'Babcock, Chip'; 'Pamela Baron'; 'Walker, Marti'; Dorsaneo, William  
**Cc:** Tabbert, Sharon  
**Subject:** RE: Memo from Bill Dorsaneo - Proposed Appellate Rule 57 - Revised April 29

At the last meeting I asked some questions about integrating supersedeas relief into the Proposed TRAP 57. My concern that, pending a direct appeal, appellate review of supersedeas disputes are in limbo.

TRAP 24.4 says a party dissatisfied with the trial court's ruling on the adequacy of supersedeas, etc., "may seek review . . . by motion filed in the court of appeals with jurisdiction or potential jurisdiction over the appeal from the judgment in the case." The court of appeals ruling is reviewed by a mandamus petition in the TxSCt. So in a Rule 57 direct appeal is there no TRAP 24.4 review? Under TRAP 24.4 the first step is a motion in the court of appeals.

TRAP 29.3 provides in an interlocutory appeal "the appellate court" may make temporary orders to preserve the parties' rights; but it can't suspend enforcement if appellant's rights could be protected by supersedeas or another order under TRAP 24. Perhaps this would allow the Supreme Court power over supersedeas during interlocutory direct appeals (if such exist).

Perhaps the simplest solutions would be a subsection that during the pendency of a Rule 57 proceeding, the Supreme Court may exercise the power to review the trial court's rulings on supersedeas relief that the courts of appeal exercise under TRAP 24 and 29.

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