



SO ORDERED,

A handwritten signature in blue ink that reads "Katharine M. Samson".

Judge Katharine M. Samson
United States Bankruptcy Judge
Date Signed: June 6, 2025

The Order of the Court is set forth below. The docket reflects the date entered.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI

IN RE: CHRISTOPHER LADALE LANE

CASE NO. 19-50681-KMS

DEBTOR

CHAPTER 7

KARAM FAMILY, LLC

PLAINTIFF/COUNTER-DEFENDANT

V.

ADV. PROC. NO. 23-06003-KMS

CHRISTOPHER LADALE LANE

DEFENDANT/COUNTER-PLAINTIFF

ORDER DENYING MOTION FOR STAY PENDING APPEAL (DKT. # 62)

THIS MATTER came on for hearing on May 19, 2025, on the Motion for Stay Pending Appeal and Request to Waive Bond Requirement (Adv. ECF No. 62) by Defendant Christopher LaDale Lane; the Supplemental Brief in Support of the Motion (Adv. ECF No. 72); and the Objection to the Motion (Adv. ECF No. 74) by Plaintiff Karam Family, LLC. Having considered the matter, the Court determines that the Motion should be denied. The Court has jurisdiction over the subject matter and parties to this proceeding pursuant to 28 U.S.C. §1334 and §157(b).

Background

On April 28, 2025, this Court issued its Opinion and Final Judgment determining that the Florida Default Judgment in favor of Karam Family, LLC and against Christopher Lane is excepted from discharge under 11 U.S.C. § 523(a)(4). Adv. ECF Nos. 55, 56.

On May 8, 2025, Lane filed a Notice of Appeal and the matter was transmitted by the Bankruptcy Clerk to the United States District Court for the Southern District of Mississippi. Adv. ECF Nos. 61, 67, 68. He also filed a Motion for Stay Pending Appeal pursuant to Federal Rule of Bankruptcy Procedure 8007(a)(1), requesting stay of enforcement of the Final Judgment, and waiver of the supersedeas bond requirement based on indigency. Adv. ECF No. 62.

In his motion, Lane raises the question of whether the Florida state court had personal jurisdiction over him at the time that it entered the default judgment.¹ *Id.* And he states his intent to seek relief in Florida from the state court judgment for lack of personal jurisdiction. *Id.* at 2. Lane asserts that without a stay he will suffer irreparable harm, that a temporary stay will not cause material prejudice to Karam Family, and that it is in the public interest to prevent enforcement of a potentially void judgment. *Id.* at 3. He further asserts that he lacks resources to secure a bond of any kind and asks the Court to waive the bond requirement. *Id.*

Karam Family objects to the request for waiver of bond asserting that “[t]he purpose of a supersedeas bond is to protect the appellee from the risk of a later uncollectible judgment and compensate the appellee for the delay in enforcement of the judgment” and that Lane’s “indigency claim should not operate to deprive [Karam] of this protection.” Adv. ECF No. 74 at 1. And Karam asserts that Lane “failed to present sufficient evidence of indigency.” *Id.* Karam argues that Lane does not demonstrate a likelihood of success on appeal, that Karam will suffer substantial harm if a stay is granted without bond, and that the public interest is not served by allowing debtors to avoid financial responsibility of securing their appeals. *Id.* at 2. Karam further asserts that alternatives to a full bond should be rejected. *Id.*

¹ Because lack of personal jurisdiction related to the default judgment was not raised in the Pre-trial Order (Adv. ECF No. 44), it was not addressed in the Court’s Opinion and Order currently on appeal.

Analysis

Under Bankruptcy Rule 8007, a motion for stay pending appeal is first sought in the bankruptcy court:

Rule 8007. Stay Pending Appeal; Bond; Suspending Proceedings

(a) Initial Motion in the Bankruptcy Court.

(1) In General. Ordinarily, a party must move first in the bankruptcy court for the following relief:

- (A) a stay of the bankruptcy court's judgment, order, or decree pending appeal;
- (B) the approval of a bond or other security provided to obtain a stay of judgment;
- (C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending; or
- (D) an order suspending or continuing proceedings or granting other relief permitted by (e).

Fed. R. Bankr. P. 8007(a). "A stay during an appeal is an 'extraordinary remedy' and requires a substantial showing." *Am. Multi-Cinema, Inc. v. Nat'l CineMedia, LLC (In re Nat'l CineMedia, LLC)*, 2023 WL 5030098, at *2 (S.D. Tex. Aug. 4, 2023) (citing *Thomas v. Bryant*, 919 F.3d 298, 303 (5th Cir. 2019)). And "[a] stay pending appeal 'is not a matter of right, even if irreparable injury might otherwise result.'" *United States v. Tex.*, 97 F.4th 268, 274 (5th Cir. 2024) (quoting *Nken v. Holder*, 556 U.S. 418, 427 (2009)). "[T]he decision to enter the stay is committed to the discretion of the bankruptcy court." *Ruff v. Ruff*, 2023 WL 2574021, at *2 (E.D. Tex. Mar. 20, 2023).

Courts generally apply four factors to determine whether a stay should be granted:

- (1) Whether the movant has made a showing of likelihood of success on the merits;
- (2) Whether the movant has made a showing of irreparable injury if the stay is not granted;
- (3) Whether the granting of the stay would substantially harm the other parties; and
- (4) Whether the granting of the stay would serve the public interest.

Plains Mktg., L.P. v. Barrow Shaver Res. Co., LLC (In re Barrow Shaver Res. Co., LLC), 2025 WL 685513, at *2–3 (Bankr. S.D. Tex. Mar. 3, 2025) (citing *In re First S. Sav. Ass'n*, 820 F.2d 700, 704 (5th Cir. 1987)). "The first two factors of the traditional standard are the most critical." *Nken*

v. Holder, 556 U.S. at 434. “It is not enough that the chance of success on the merits be ‘better than negligible.’” *Id.* And “simply showing some ‘possibility of irreparable injury’ fails to satisfy the second factor.” *Id.* at 434-45 (internal citation omitted).

Under Bankruptcy Rule 7062, that makes Federal Rule of Civil Procedure 62 applicable to adversary proceedings, a stay of proceedings may be obtained by posting a bond or other security. *See* Fed. R. Bankr. P. 7062; Fed. R. Civ. P. 62.² Stays of money judgments, like the judgment here, are typically sought under Rule 62. *Acevedo-Garcia v. Vera-Monroig*, 296 F.3d 13, 17 (1st Cir. 2002) (stays of money judgments are ordinarily sought under Rule 62); *Culwell v. Tex. Equip. Co. (In re Tex. Equip. Co.)*, 283 B.R. 222, 225 (Bankr. N.D. Tex. 2002) (“Courts have interpreted [Rule 62] to authorize a stay pending appeal on a money judgment as a matter of right, if the appellant posts a sufficient supersedeas bond); *Fucich Contracting, Inc. v. Shread-Kuyrkendall & Assocs., Inc.*, 2023 WL 4201756, at *3 (E.D. La. June 27, 2023) (“Prior to 2018, an appellant seeking to stay execution of a monetary judgment pending appeal was required to post a supersedeas bond . . . [b]ut Rule 62 was amended . . . and now a stay can be issued when the applicant ‘provid[es] a bond or other security.’”); *In re Estate of Taplin*, 2022 WL 2714513, at *4 (Bankr. E.D. Cal. July 11, 2022) (“When a money judgment is involved, the usual measure is to require the posting of a supersedeas bond, now referred to in updated rules as ‘bond or other security.’ Fed. R. Bankr. P. 8007(a)(1)(B).”).

“The Fifth Circuit has stated that the ‘purpose of a supersedeas bond is to preserve the status quo while protecting the non-appealing party’s rights pending appeal.’” *Ebert v. Appel*, 2018 WL 10335464, at *1 (N.D. Tex. May 2, 2018) (quoting *Poplar Grove Planting & Refin. Co. v.*

² In the 2018 amendments to Federal Rule of Civil Procedure 62, “[s]ubdivision 62(b) carries forward in modified form the supersedeas bond provisions of former Rule 62(d).” Fed. R. Civ. P. 62 advisory committee’s note to 2018 amendment.

Bache Halsey Stuart, Inc., 600 F.2d 1189, 1190-91 (5th Cir. 1979)). “The nature of a supersedeas bond’s role is to protect both parties and therefore dictates that it should not normally be dispensed with.” *Id.*; see also *Clapper v. Am. Realty Invs., Inc.*, 2023 WL 6932525, at *1 (N.D. Tex. Oct. 18, 2023) (“The Fifth Circuit has adopted ‘a general rule that losing parties in the district court can obtain a stay pending appeal only by giving a supersedeas bond.’”).

An exception to the general rule may apply when a party “objectively demonstrates a present financial ability to facilely respond to a money judgment and presents to the court a financially secure plan for maintaining the same degree of solvency during the period of the appeal.” *Hignell v. City of New Orleans*, 2025 WL 637498, at *2 (E.D. La. Feb. 27, 2025) (quoting *Enserch Corp. v. Shand Morahan & Co.*, 918 F.2d 462, 464 (5th Cir. 1990)). The burden is on the moving party to demonstrate reasons for departure from the usual requirement of a full security supersedeas bond to stay a money judgment. See *Poplar Grove Planting & Ref. Co. v. Bache Halsey Stuart, Inc.*, 600 F.2d at 1191.

Lane filed an Affidavit of Indigency in Support of Motion to Waive Bond. Adv. ECF No. 76. He asserts that he has no real estate, no savings or retirement accounts, and no investment assets. *Id.* at 1. He further asserts that he owns no property that could be liquidated to satisfy a bond and that he has only minimal income from contract work and part-time labor. *Id.* Lane has suggested no alternative means of providing a bond.

Lane’s purported inability to post a bond is not sufficient grounds to waive the bond requirement. As numerous courts have noted, a lack of assets is a reason to require, not waive, a bond. See *Lewis v. United Joint Venture*, 2009 WL 1654600, at *1 (W.D. Mich. June 10, 2009) (movant’s “alleged illiquidity strengthens, not weakens, the need for an appropriate bond”); *Slip N’ Slide Recs., Inc. v. TTV Recs., LLC*, 2007 WL 1098751, at *2 (S.D. Fla. Apr. 8, 2007) (“If ...

defendant's financial situation appears precarious, that fact counsels not in favor [of] an unsecured stay, but instead in favor of a stay only upon the posting of adequate security.”); *United States v. Rhodes*, 2024 WL 3403045, at *3 (D. Mont. May 30, 2024) (court denied stay without bond where claim of indigency lacked sufficient support and no alternative mechanism for security was identified; waiver was requested simply because it could not be satisfied); *Gonzales v. City of Inglewood*, 2009 WL 10869043, at *2 (C.D. Cal. Mar. 25, 2009) (“The financial instability or precarious financial position of an appellant . . . weighs in favor of requiring bond rather than against it.”); *Burris v. JPMorgan Chase & Co.*, 2022 WL 3285441 at *3 (D. Ariz. Aug. 11, 2022) (plaintiff undermined his position where he made no effort to identify alternative security but simply requested waiver of bond requirement because he could not satisfy it); *S.E.C. v. O’Hagan*, 901 F. Supp. 1476, 1480-81 (D. Minn. 1995) (court did not grant stay where indigency was asserted but no supersedeas bond or alternative security was proposed).

Because the Court finds that a bond is required to obtain stay of the money judgment in this case, it is not necessary for the Court to address the traditional factors for stay pending appeal.

IT IS THEREFORE ORDERED AND ADJUDGED that Motion for Stay Pending Appeal and Request to Waive Bond Requirement is DENIED without prejudice.

##END OF ORDER##