

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

GeoVera SPECIALTY INSURANCE
COMPANY

Plaintiff

VS.

GRAHAM ROGERS, INC., EAST
CENTRAL ARKANSAS INSURANCE,
INC., and JERRY REEVES

Defendants

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NO: 4:08CV00163 SWW

ORDER

By order entered August 23, 2010, the Court granted a motion for attorney fees and costs by Defendant Graham Rogers Inc., (“Graham Rogers”), awarding \$39,794.50 in attorney fees and \$198.80 in costs. Before the Court is Plaintiff’s motion (docket entry #138) to stay enforcement of the fee award pending appeal; Graham Rogers’ response in opposition (docket entry #139); and Plaintiff’s reply (docket entry #140). After careful consideration, and for reasons that follow, the motion to stay enforcement of the fee award pending appeal will be granted on the condition that Plaintiff post a supersedeas bond in the amount of \$40,000 within fifteen (15) days from the entry date of this order.

Rule 62(d) of the Federal Rules of Civil Procedure, provides:

If an appeal is taken, the appellant may obtain a stay by supersedeas bond, except in an action described in Rule 62(a)(1) or (2). The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the court approves the bond.

Fed. R. Civ. P. 62(d).

Plaintiff asks the Court to stay enforcement of the fee award without requiring a supersedeas bond, stating as follows:

Rule 62 provides that the court must make adequate security for the award in the form of a [supersedeas] bond. Here, there is no reason for the stay to require a bond, because Graham already has adequate security. A bond would simply be obtained from an insurance company, and Geovera is an insurance company. Graham is adequately protected in the event Graham prevails on appeal.

Docket entry #138, at 3.

Graham Rogers opposes a stay unless adequate bond is posted and approved. Although a district court may waive bond if the judgment debtor has a clear ability to pay the amount of judgment, the Court declines to assume that such is the case solely because “GeoVera is an insurance company.” In reply to Graham Roger’s opposition, Plaintiff states that it is in the process of obtaining a supersedeas bond. Accordingly, Plaintiff’s motion to stay enforcement of the order granting attorney fees and costs (docket entry #138) is GRANTED contingent upon the posting of a \$40,000 bond. Plaintiff shall have fifteen (15) days from the date of this Order to file said supersedeas bond, and upon filing of the bond, a stay will be entered.

IT IS SO ORDERED THIS 22nd DAY OF SEPTEMBER, 2010.

/s/Susan Webber Wright
UNITED STATES DISTRICT JUDGE