

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNLy BECKER, et al.,  
Plaintiffs,  
v.  
WELLS FARGO BANK, N.A., et al.,  
Defendants.

No. 2:10-cv-2799-TLN-KJN PS

ORDER

On April 8, 2015, the court issued an order denying plaintiff’s motion to post a supersedeas bond without prejudice on the grounds that plaintiff’s proposed cash bond instrument did not comply with the requirements of Local Rule 151(h) and directing plaintiff to file an amended proposed cash bond for the court’s approval within ten days. (ECF No. 244.) On April 9, 2015, plaintiff filed an amended proposed bond instrument in compliance with this order. (ECF No. 246.)

The amended proposed bond instrument provides that plaintiff will deposit a money bond in the amount of \$188,706.43 with the Clerk of Court “upon condition of the court’s order granting this instrument.” (ECF No. 246 at 2.) It further instructs that “[t]he deposit is to be held by the Clerk of Court during the pendency of [plaintiff’s] appeal of the court’s award of attorneys’ fees.” (*Id.*) Finally, it states that “[t]he deposited funds shall be released to defendant Wells Fargo Bank, N.A. in the event that plaintiff’s appeal with respect to the award of attorneys’

1 fees and costs is dismissed or the court's order is affirmed by the Ninth Circuit Court of  
2 Appeals." (Id.)

3 The proposed language in plaintiff's amended bond instrument appears to satisfy the  
4 requirements of Local Rule 151 and Federal Rule of Civil Procedure 62(d). Furthermore,  
5 defendant stated in its opposition to plaintiff's prior motion to post supersedeas bond that it agrees  
6 that the proposed bond amount is sufficient and that it would have no objections to plaintiff  
7 posting a cash bond in this amount provided that the bond instrument contain certain language,  
8 which plaintiff has included in the amended proposed instrument. (ECF No. 241.) Given these  
9 facts, the court approves plaintiff's proposed cash bond and directs plaintiff to post a cash bond  
10 for \$188,706.43 and the approved bond instrument to the Clerk of Court within 10 days of this  
11 order.

12 Accordingly, IT IS HEREBY ORDERED that:


13 1. Plaintiff's amended motion to approve supersedeas bond (ECF No. 246) is  
14 GRANTED, and the supersedeas bond submitted by plaintiff is APPROVED.

15 2. Within 10 days of this order, plaintiff shall deposit a money bond for \$188,706.43  
16 and the approved bond instrument with the Clerk of Court. Execution of judgment regarding the  
17 award of attorneys' fees and costs to defendant will be STAYED pursuant to Federal Rule of  
18 Civil Procedure 62(d) upon the posting of plaintiff's bond.

19 3. The Clerk is directed to notify the financial department of this order.

20 IT IS SO ORDERED.

21 Dated: April 13, 2015

22   
23 \_\_\_\_\_  
24 KENDALL J. NEWMAN  
25 UNITED STATES MAGISTRATE JUDGE  
26  
27  
28