

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DONNA HINES,

Plaintiff,

v.

CALIFORNIA PUBLIC UTILITIES
COMMISSION, AROCLES AGUILAR, DANA S.
APPLING, ROBERT J. WULLENJOHN, STATE
PERSONNEL BOARD, GREGORY W. BROWN and
FLOYD D. SHIMOMURA,

Defendants.

No. C 07-04145 CW

ORDER DENYING
PLAINTIFF'S MOTION
TO STAY JUDGMENT
PENDING APPEAL
(Docket No. 403)

Plaintiff Donna Hines, who is proceeding pro se, moves for an order staying the Court's judgment pending her appeal and for relief from the requirement that she post a supersedeas bond. Defendant California Public Utilities Commission (CPUC) did not respond to Plaintiff's motion. The motion was taken under submission on the papers. Having considered the papers submitted by Plaintiff, the Court DENIES her motion.

BACKGROUND

On July 27, 2010, the Court granted the CPUC's motion for summary judgment, denied Plaintiff's motions for a continuance and for summary judgment and awarded Defendants costs. The Clerk

1 entered judgment the same day.

2 On August 6, 2010, the CPUC filed a bill of costs for
3 \$3,193.62. After disallowing some expenses, the Clerk taxed costs
4 in the amount of \$3,175.80 against Plaintiff.

5 On August 23, 2010, Plaintiff filed a notice of appeal of the
6 Court's orders in this action.

7 DISCUSSION

8 Under Federal Rule of Civil Procedure 62(a), the execution or
9 enforcement of a judgment is automatically stayed for fourteen days
10 after entry of the judgment. Subdivision (d) of that Rule provides
11 that, subject to certain exceptions, when an appeal is taken, the
12 appellant may obtain a stay of execution by posting a supersedeas
13 bond: "a party taking an appeal from the District Court is entitled
14 to a stay of a money judgment as a matter of right if he posts a
15 bond in accordance with Fed.R.Civ.P. 62(d)." Am. Mfrs. Mut. Ins.
16 Co. v. Am. Broadcasting-Paramount Theatres, Inc., 87 S. Ct. 1, 3
17 (1966). "The purpose of a supersedeas bond is to secure the
18 appellees from a loss resulting from the stay of execution and a
19 full supersedeas bond should therefore be required." Rachel v.
20 Banana Republic, Inc., 831 F.2d 1503, 1505 n.1 (9th Cir. 1987).

21 Courts have discretion to stay execution of a judgment without
22 requiring a bond. See Fed. Prescription Serv. v. Am. Pharm. Ass'n,
23 636 F.2d 755, 759-61 (D.C. Cir. 1980) (stating that Rule 62 "in no
24 way necessarily implies that filing a bond is the only way to
25 obtain a stay"). The moving party carries the burden to show that
26 relief from the bond requirement is justified. Poplar Grove
27 Planting & Ref. Co., Inc. v. Bache Halsey Stuart, Inc., 600 F.2d
28 1189, 1191 (5th Cir. 1979).

1 Plaintiff argues that execution of the Court's judgment will
2 impose an undue hardship upon her. However, she offers no evidence
3 concerning her financial condition. There is no indication that
4 she is unable to remit payment to the CPUC for its costs, which the
5 Clerk taxed in the amount of \$3,175.80. Accordingly, Plaintiff
6 does not establish that waiver of the bond requirement is
7 warranted.

8 If Plaintiff seeks to stay the Court's judgment pending
9 appeal, she shall post a supersedeas bond in the amount of the
10 costs taxed against her.

11 CONCLUSION

12 For the foregoing reasons, the Court DENIES Plaintiff's motion
13 to stay the judgment pending appeal without posting a supersedeas
14 bond. (Docket No. 403.) Plaintiff shall remit \$3,175.80 to the
15 CPUC forthwith or, in the alternative, post a supersedeas bond for
16 this amount.

17 IT IS SO ORDERED.

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19 Dated: September 10, 2010



20 CLAUDIA WILKEN
21 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DONNA HINES,

Plaintiff,

v.

CALIFORNIA PUBLIC UTILITIES
COMMISSION, et al.,

Defendants.

Case Number: CV07-04145 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 10, 2010, I SERVED a true and correct copy of the attached, by placing said copy in a postage paid envelope addressed to the person hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy into an inter-office delivery receptacle located in the Clerk's office.

Donna Hines
268 Bush Street, #3204
San Francisco, CA 94104

Dated: September 10, 2010

Richard W. Wieking, Clerk
By: MP, Deputy Clerk