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2
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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6
7 ALEXANDER GRAHAM-SULT and DAVID
GRAHAM,

8 Plaintiffs,

9 v.

10 NICHOLAS P. CLAINOS, RICHARD L.
11 GREENE, LINDA McCALL, GREENE
12 RADOVSKY MALONEY SHARE & HENNIGH
13 LLP, BILL GRAHAM ARCHIVES LLC,
d/b/a WOLFGANG'S VAULT, NORTON
LLC and WILLIAM E. SAGAN,

14 Defendants.
15
16 _____/

No. C 10-4877 CW

ORDER
CONDITIONALLY
GRANTING MOTION TO
STAY AND DENYING
MOTION FOR
APPROVAL OF
SUPERSEDEAS BOND
(Docket No. 159)

17
18 In its March 23, 2012 order, the Court granted Defendants
19 Richard Greene, Linda McCall and Greene Radovsky Maloney Share &
20 Hennigh LLP (collectively, Greene Defendants) and Defendant
21 Nicholas P. Clainos' motions for award of attorneys' fees and
22 costs pursuant to California Code of Civil Procedure section
23 425.16, commonly known as California's Anti-Strategic Lawsuit
24 Against Public Participation (Anti-SLAPP) statute and Defendants
25 Bill Graham Archives LLC, Norton LLC and William E. Sagan's
26 (collectively, BGA Defendants) motion for an award of attorneys'
27 fees and costs under the Copyright Act, 17 U.S.C. § 505. Docket
28

1 No. 142. The Court awarded a total of \$501,180.75 in fees.¹ Id.
2 Plaintiffs Alexander Graham-Sult and David Graham filed a timely
3 notice of appeal of the Court's order on attorneys' fees.

4 Plaintiffs have filed a motion to stay execution of the fee
5 award and for approval of a \$615,000 supersedeas bond. Defendants
6 oppose the motion, arguing that Plaintiffs' proposed bond is
7 insufficient to protect them from the loss that may result from
8 the stay. Defendants argue that the amount of the bond should be
9 increased from \$615,000 to \$1 million, or the stay should be
10 denied.

11 Having considered the parties' papers and the entire record
12 in this case, the Court finds that Plaintiffs' proposed \$615,000
13 bond is not sufficient to protect Defendants "from the risk of a
14 later uncollectible judgment." National Labor Relations Board v.
15 Westphal, 859 F.2d 818, 819 (9th Cir. 1988). The Court finds that
16 a bond in the amount of \$750,000 is sufficient to protect
17 Defendants' interest in the judgment, statutory interest, and any
18 award of fees and costs on appeal. See, e.g., Cotton v. City of
19 Eureka, California, 860 F. Supp. 2d 999, 1029 (N.D. Cal. 2012)
20 (citing Christopher A. Goelz & Meredith J. Watts, California
21 Practice Guide: Ninth Circuit Civil Appellate Practice ¶ 1:168
22 (TRG 2011)) (reporting that a bond of 1.25 to 1.5 times the
23 judgment is typically required).

24 For the foregoing reasons, the Court conditionally GRANTS
25 Plaintiffs' motion to stay and denies their motion for supersedeas
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27 ¹ In a concurrently filed order, the Court grants Defendants
28 a total of \$99,248.53 in additional "fees on fees" and reply fees.

1 bond. Within seven days of the date of this order, Plaintiffs
2 shall post a supersedeas bond in the amount of \$750,000 and
3 provide the Court with notice that they have posted such a bond.
4 Once Plaintiffs have done so, the Court will stay the case pending
5 resolution of the appeal.

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7 IT IS SO ORDERED.

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9 Dated: 3/21/2013

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CLAUDIA WILKEN
United States District Judge