

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

LARRY KLAYMAN,

Plaintiff,

v.

JUDICIAL WATCH, INC., *et al.*,

Defendants.

Civil Action No. 06-670 (CKK)

MEMORANDUM OPINION

(September 9, 2019)

Pending before the Court is Plaintiff/Counter-Defendant Larry Klayman's [609] Motion to Stay Enforcement of Judgment Pending Appeal Without Bond ("Pl.'s Mot."). In their [610] Response to Plaintiff's Motion to Stay Enforcement of Judgment Pending Appeal Without Bond, Defendants/Counter-Plaintiffs argue that Klayman has failed to meet his burden to demonstrate that a bond is not required. The Court agrees.¹

Upon the posting of a supersedeas bond, a party may obtain a stay pending appeal under Federal Rule of Civil Procedure 62. *See* Fed. R. Civ. P. 62(b). "The purpose of the supersedeas bond is to secure the appellee from loss resulting from the stay of execution." *Fed. Prescription Serv., Inc. v. Am. Pharm. Ass'n*, 636 F.2d 755, 760 (D.C. Cir. 1980). Because the stay benefits the appellant and "deprives the appellee of the ultimate benefits of [the] judgment, a full supersedeas bond should be the requirement in normal circumstances." *Id.* Normal circumstances include

¹ Because the issue in contention between the parties is whether the Court should stay enforcement of the judgment pending appeal *without a bond*, the Court shall focus its analysis on whether a stay should be issued without a bond, rather than on whether a stay should be issued at all. Many of the authorities that Klayman cites address the general considerations relevant to whether a stay for enforcement of a judgment pending appeal should be issued, but those factors are inapplicable to whether a bond should be required for any such stay. *See, e.g., Hilton v. Braunskill*, 481 U.S. 770, 776 (1987) (listing "factors regulating the issuance of a stay"); *Doe v. Trump*, No. 17-5267, 2017 WL 6553389, at *1 (listing factors for courts to take into account when "considering whether to grant a stay pending appeal").

those “where there is some reasonable likelihood of the judgment debtor’s inability or unwillingness to satisfy the judgment in full upon ultimate disposition of the case.” *Id.* A district court, however, may in its discretion “order partially secured or unsecured stays” in “unusual circumstances.” *Id.* at 760–61. The moving party has the burden to “objectively demonstrate the reasons for such a departure.” *Grand Union Co. v. Food Employers Labor Relations Ass’n*, 637 F. Supp. 356, 357 (D.D.C. 1986) (quoting *Poplar Grove Planting & Ref. Co. v. Bache Halsey Stuart, Inc.*, 600 F.2d 1189, 1191 (5th Cir. 1978)).

The Court of Appeals has emphasized three considerations when reviewing a district court’s exercise of discretion in granting a stay without bond: (1) the damage award amount, (2) the net worth of the moving party in relation to the damage award, and (3) the residency status of the moving party. *Fed. Prescription Serv.*, 636 F.2d at 761. For example, in *Federal Prescription Service, Inc. v. American Pharmaceutical Association*, the net worth of the moving party was “about 47 times the amount of the damage award,” and the moving party was “a long-term resident of the District of Columbia” who had not indicated “any intent to leave.” *Id.* The Court of Appeals viewed these factors as supporting the district court’s exercise of discretion in granting the stay without bond. *Id.*; *cf. Athridge v. Iglesias*, 464 F. Supp. 2d 19, 24–25 (D.D.C. 2006) (granting stay of enforcement of judgment pending appeal where defendants presented over \$7 million in real estate holdings to guarantee judgment).

No such factors are evident here, and Klayman has neither “objectively demonstrate[d] a present financial ability to facilely respond to a money judgment” nor “presente[d] to the court a financially secure plan for maintaining that same degree of solvency during the period of an appeal.” *Athridge*, 464 F. Supp. 2d at 24 (internal quotation marks omitted). As for the damages award and Klayman’s net worth, the total judgments in this case exceed \$2.8 million, and while

