

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DR. GLENN W. CHERRY, ET AL.,

Plaintiffs,

v.

Case No. 8:09-cv-33-T-33EAJ

D.B. ZWIRN SPECIAL OPPORTUNITIES
FUND, L.P., ET AL.,

Defendants.

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ORDER

This cause comes before the Court pursuant to Plaintiffs' Motion to Stay Pending Appeal (the "Motion to Stay" Doc. # 182), which was filed on February 1, 2010. Defendant Tama Broadcasting, Inc. and the "Zwirn Defendants" filed Memoranda in Opposition to the Motion to Stay on February 10, 2010. (Doc. ## 183, 184). For the reasons that follow, the Court will deny the Motion to Stay.

Analysis

Plaintiffs seek an order, pursuant to Rule 62 of the Federal Rules of Civil Procedure, staying this Court's January 27, 2010 order dismissing this case with prejudice. (Doc. # 180).

Plaintiffs fail to specify any of the eight subsections of Rule 62 in the Motion to Stay. In addition, Plaintiffs have demonstrated neither a probable likelihood of success on

the merits on appeal nor that the "balance of the equities" weighs heavily in favor of a stay. See United States v. Hamilton, 963 F.2d 322, 323 (11th Cir. 1992).

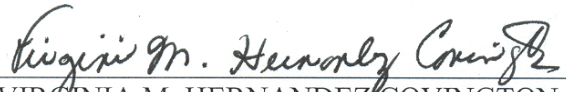
A stay is considered an "extraordinary relief" for which the moving party bears a "heavy burden." Winston-Salem/Forsyth County Bd. Of Edu. v. Scott, 404 U.S. 1221, 1231 (1971). The Court agrees with Tama's argument that "the Motion to Stay does not even attempt to address the Plaintiffs' heavy burden of establishing that a stay pending appeal is appropriate in this case." (Doc. # 183 at 3). The Court determines that Plaintiffs are not entitled to a stay pending appeal.

Accordingly, it is hereby

ORDERED, ADJUDGED, and DECREED:

Plaintiffs' Motion to Stay Pending Appeal (Doc. # 182) is **DENIED**.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 16th day of February 2010.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies: All Counsel of Record