

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

BCIJ, LLC, etc.,

Plaintiff,

v.

CASE NO. 8:09-CV-551-T-17EAJ

THOMAS J. LEFEVRE, et
al.,

Defendants.

_____ /

ORDER

This cause is before the Court on:

Dkt. 130 Report and Recommendation
Dkt. 135 Objection
Dkt. 146 Response

The assigned Magistrate Judge has issued a Report and Recommendation in which it is recommended that the Motion to Require Plaintiff BJIC, LLC to post a bond (Dkts. 51 and 84) be granted in part, and Plaintiff be required to post a lis pendens bond in the amount of \$47,455.00.

The Court has independently reviewed the pleadings, including the Objection and Response to Objection.

Defendant Bayonne requests that the Court modify the Report and Recommendation to add a time limit of twenty days, and require Plaintiff to provide evidence to the Court of having posted the bond. Plaintiff has no objection to the modification but requests a time limit of thirty days.

Defendant Bayonne further requests that the Court modify the Report and Recommendation to provide that in the event that Plaintiff does not comply with the requirement to post a bond, the lis pendens will be dissolved, and therefore be of no further force or effect, by further Order of the District Court.

Plaintiff BCIJ responds that Sec. 48.23(3) provides that "the court shall control and discharge the recorded notice of lis pendens as the Court would grant and dissolve injunctions." Plaintiff BCIJ further argues that the Florida Supreme Court has held that an injunction should not be "dissolved for deficient injunction bond for non-payment of costs or for want of notice." Gamble v. Campbell, 6 Fla. 347 (Fla. 1855). Plaintiff BCIJ argues that to provide immediate dissolution of the lis pendens for failure to post a bond contravenes Florida law.

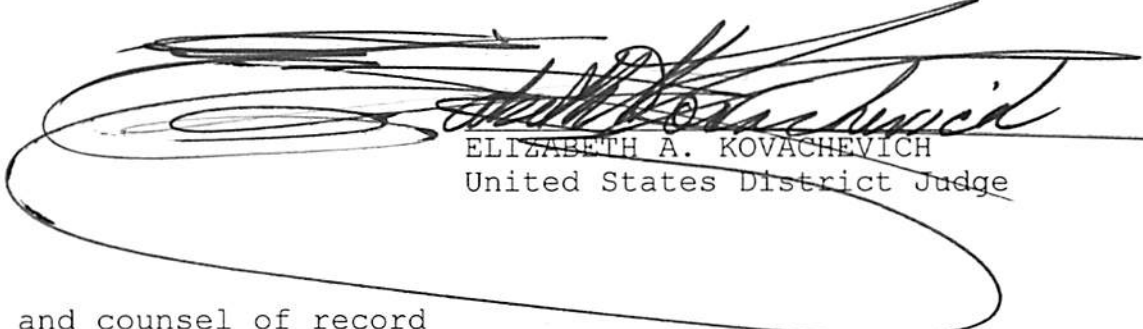
After consideration, the Court adopts and incorporates the Report and Recommendation, which recommends that the Motion to require Plaintiff BCIJ, LLC be granted in part, and Plaintiff BCIJ, LLC be required to post a lis pendens bond in the amount of \$47,455.00. The Court also sustains Defendant Bayonne's objection in part, and directs Plaintiff BCIJ, LLC to post the lis pendens bond within thirty days of the date of this order, and to file proof of compliance in this case. Accordingly, it is

ORDERED that the Report and Recommendation is **adopted** and incorporated by reference. The Court **grants** the Motion to Require Plaintiff BCIJ, LLC to post a bond **in part**. Plaintiff BCIJ, LLC shall post a lis pendens bond in the amount of \$47,455.00 within thirty days of the date of this Order and shall

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file proof of compliance in this case. The Court **sustains**
Defendant Bayonne's objection in part.

9th **DONE and ORDERED** in Chambers, in Tampa, Florida on this
day of April, 2010.



ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:
All parties and counsel of record