

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 13-21413-CIV-COHN/SELTZER

TERESITA SORRELS and
JOSEPH SORRELS,

Plaintiffs,

v.

NCL (BAHAMAS) LTD., d/b/a
NORWEGIAN CRUISE LINE,Defendant.

**ORDER DENYING PLAINTIFFS' MOTION FOR RECONSIDERATION
AND MOTION TO APPROVE SUPERSEDEAS BOND**

THIS CAUSE is before the Court upon Plaintiffs' Motion for Rehearing, Reconsideration, Alteration or Amendment of Judgment and/or Relief from Court's Order Denying Plaintiffs' Motion to Stay Cost Award and Final Judgment Entered Thereon and/or Alternative Motion to Stay Enforcement of Cost Judgment and Leave to File Supersedeas Bond [DE 112] ("Motion"). The Court has carefully reviewed the Motion and Defendant's Response [DE 114] and is otherwise advised in the premises.

On September 3, 2014, the Court denied Plaintiffs' Motion to Defer Ruling on the Defendant's Motion to Tax Costs and/or Alternative Motion to Stay Execution as to Any Costs Judgment Rendered [DE 100]. See DE 110 at 9. Applying the four factors relevant to a stay pending appeal, the Court declined to stay its costs ruling or judgment until the Eleventh Circuit decides Plaintiffs' appeal of this Court's final judgment.

Among other points, the Court determined that Plaintiffs had not made the required strong showing that they were likely to prevail on appeal. See id. at 3. The Court then

proceeded to grant in part and deny in part Defendant's Motion for Bill of Costs [DE 96], awarding Defendant \$11,141.90 in taxable costs. See DE 110 at 9; DE 111 at 1 (Final J. Taxing Costs).

In their current Motion, Plaintiffs ask the Court to reconsider its denial of a stay pending appeal. They argue that "the Court misconstrued" Plaintiffs' arguments that they are likely to succeed on appeal, because the Court did "not consider[]" that the Eleventh Circuit has set Plaintiffs' appeal for oral argument. DE 112 at 2-3. But though not expressly stated, the Court was aware of this fact, consistent with the reasoning in its Order. See DE 110 at 3 ("The issues presented on appeal, like those decided by this Court, are substantial."). And the Eleventh Circuit's grant of oral argument does not change that Plaintiffs have failed to show a strong likelihood of prevailing on appeal. See Reyher v. Equitable Life Assurance Soc'y, 900 F. Supp. 428, 430 (M.D. Fla. 1995) (explaining that a court may not grant reconsideration if "the motion does not raise new issues but only relitigates what has already been found lacking").¹

Alternatively, Plaintiffs move for "an automatic stay of the costs judgment pursuant to the provisions of Local Rule 62.1 for the purposes of obtaining a supersedeas bond." DE 112 at 7; see Fed. R. Civ. P. 62 (d); S.D. Fla. L.R. 62.1. In this respect, Plaintiffs have filed a supersedeas bond in the amount of \$11,142.00—virtually the same as the \$11,141.90 costs award. See DE 116 at 3. Under this Court's Local Rules, however, "[a] supersedeas bond staying execution of a money judgment shall be in the amount of **110% of the judgment**, to provide security for interest, costs, and any award of damages for delay." S.D. Fla. L.R. 62.1(a) (emphasis added). Because

¹ The Court has considered Plaintiffs' other arguments for reconsideration but finds that they lack merit and do not warrant separate discussion.

Plaintiffs' bond is insufficient, the Court will not approve it. See Fed. R. Civ. P. 62(d) ("The stay takes effect when the court approves the bond.").

Accordingly, it is

ORDERED AND ADJUDGED that Plaintiffs' Motion for Rehearing, Reconsideration, Alteration or Amendment of Judgment and/or Relief from Court's Order Denying Plaintiffs' Motion to Stay Cost Award and Final Judgment Entered Thereon and/or Alternative Motion to Stay Enforcement of Cost Judgment and Leave to File Supersedeas Bond [DE 112] is hereby **DENIED**.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 22nd day of October, 2014.


JAMES I. COHN
United States District Judge

Copies provided to:

Counsel of record via CM/ECF