

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

TIMM ADAMS, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

Case No. CV 03-49-E-BLW

**MEMORANDUM DECISION
AND ORDER**

INTRODUCTION

The Court has before it a motion to approve a supersedeas bond and stay execution pending appeal filed by DuPont. The motion is fully briefed and at issue. For the reasons expressed below, the Court will grant the motion.

ANALYSIS

Plaintiffs object to the bond proffered by DuPont on the ground that it does not contain the language set forth in Local Rule 65.1.1: “Every bond within the scope of these rules will contain the surety or sureties' consent that in case of the principal's or surety's default, upon notice of not less than fourteen (14) days, the Court may proceed summarily and render judgment against them and award execution.”

The Court retains full discretion to approve a bond that is sufficient to

Memorandum Decision & Order - 1

protect the intended beneficiary. *See* 11 Wright, Miller and Kane, *Federal Practice & Procedure*, § 2905 at p. 522 (1995). In this case, the Court reads the language of the bond to bind the surety – Fidelity and Deposit Company of Maryland – to pay the judgment if DuPont defaults, up to the sum of \$11 million. Both sides agree that the amount of the bond is sufficient, and that DuPont’s net worth is far greater than the judgment. There is no indication that either DuPont or Fidelity would be unable to pay the judgment. Given this, the lack of the quoted language does not render the bond insufficient to protect plaintiffs’ interests. The Court will therefore approve the bond and stay any execution on the judgment pending appeal pursuant to Federal Rule of Civil Procedure 62(d).

ORDER

In accordance with the Memorandum Decision above,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion to approve supersedeas bond (Dkt. 1709) is GRANTED, and the supersedeas bond submitted by DuPont is APPROVED.

IT IS FURTHER ORDERED, that any execution on the judgment is STAYED pursuant to Federal Rule of Civil Procedure 62(d).



DATED: August 2, 2010

B. Lynn Winmill

Honorable B. Lynn Winmill
Chief U. S. District Judge