

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**CENTRAL VALLEY AG COOPERATIVE,
for itself and as Fiduciary of the Central
Valley Ag Cooperative Health Care Plan;
and CENTRAL VALLEY AG
COOPERATIVE HEALTH CARE PLAN,**

Plaintiffs,

vs.

**DANIEL K. LEONARD, SUSAN
LEONARD, THE BENEFIT GROUP, INC.,
ANASAZI MEDICAL PAYMENT
SOLUTIONS, INC., CLAIMS DELEGATE
SERVICES, LLC, LINUS G. HUMPAL, and
GMS BENEFITS, INC.,**

Defendants.

8:17CV379

ORDER

This matter is before the Court on Plaintiffs' Motion to Stay Execution of Judgments, ECF No. 416. For the reasons stated below, the Court will grant the motion and direct Plaintiffs to file their proposed bond with the Court.

BACKGROUND

This Court granted the Defendants' Motion for Summary Judgment and dismissed the action with prejudice on August 30, 2019, ECF No. 373. On February 6, 2020, the Court awarded total attorney fees of \$1,490,000.00 to defendants, collectively, and entered judgment in their favor for this amount. ECF No. 411. On February 14, 2020, the Court taxed costs and expenses in the amount of \$37,997.85. ECF Nos. 412, 413, 414. Plaintiffs move the court for an Order to stay any action to enforce the judgments during the pendency of Plaintiffs' appeals to the United States Court of Appeals for the Eighth Circuit. No Defendant has opposed the stay or the amount of the bond.

DISCUSSION

Under Federal Rule of Civil Procedure 62(b), an appellant “may obtain a stay by providing a bond or other security.” While there is no precise formula for determining the amount of the bond, the Court has previously approved bonds of approximately 120% of the total judgment amount as an appropriate amount to secure a stay of execution. See *Morales v. Farmland Foods, Inc.*, 2013 U.S. Dist. LEXIS 195046 (D. Neb. May 1, 2013) (Bataillon, J.); *Metro. Life Ins. Co. v. Novotny*, 2006 U.S. Dist. LEXIS 24627 (D. Neb. Apr. 21, 2006) (Bataillon, J.).

Plaintiffs offer a bond in the amount of \$1,833,592.42 as security for the requested stay of execution. The bond has been underwritten by Western Surety Company, a Department of Treasury approved and certified surety. The amount of the bond—\$1,833,592.42—is equal to the amount of the fee award and taxed costs (\$1,527,997.85), plus an additional 20% of the judgment amounts to cover interest, costs, and any award of damages for delay. The Court concludes that the proposed bond is reasonable.

Accordingly,

IT IS ORDERED:

1. Plaintiffs’ Motion to Stay Execution of Judgments, ECF No. 416, is granted;
2. Execution of the Attorneys’ Fee Award, ECF No. 411, and taxed costs and expenses, ECF Nos. 412, 413, 414, is stayed pending the resolution of Plaintiffs’ appeal pending before the United States Court of Appeals for the Eighth Circuit; and
3. On or before April 8, 2020, Plaintiffs shall file the bond with the Clerk of the Court in the amount of \$1,833,592.42.

Dated this 27th day of March, 2020.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge