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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

MANUEL QUIROZ, JR.,	)	
	)	
Plaintiff,	)	3:10-CV-00657-LRH-WGC
	)	
v.	)	
	)	<u>ORDER</u>
JEFFREY A. DICKERSON,	)	
	)	
Defendant.	)	

Before the Court is Defendant Jeffrey A. Dickerson’s (“Dickerson”) Second Motion for Stay of Judgment Pending Appeal. Doc. #190.<sup>1</sup> Plaintiff Manuel Quiroz, Jr. (“Quiroz”) filed a Response (Doc. #195), to which Dickerson did not reply.

**I. Facts and Procedural History**

On January 22, 2013, following a jury trial, the Court entered judgment in favor of Quiroz and against Dickerson in the amount of \$449,914.00.<sup>2</sup> Doc. #134. Thereafter, on February 17, 2013, Dickerson filed a Notice of Appeal. Doc. #139. On April 22, 2013, the Court denied Dickerson’s First Motion to Stay Judgment Without Bond. Doc. #161. On September 5, 2013, Dickerson filed the present Motion for Stay of Judgment Pending Appeal, proposing a “bond or other security” in the amount of \$100,000.00. Doc. #190.

<sup>1</sup> Refers to the Court’s docket number.

<sup>2</sup> The Court has since issued a Bill of Costs ordering that costs are taxed in the amount of \$1,134.22 and shall be included in the judgment. Doc. #191; Doc. #192.

1 **II. Legal Standard**

2 To stay the execution of a judgment pending appeal, ordinarily the appellant must furnish a  
3 proper supersedeas bond. Fed. R. Civ. P. 62(d); *see also* Fed. R. App. P. 8(a)(1) (a party must  
4 ordinarily move first in the district court for a stay pending appeal and approval of the supersedeas  
5 bond). “The purpose of the supersedeas bond is to preserve the status quo while protecting the  
6 non-appealing party’s rights pending appeal.” *Poplar Grove Planting and Refining Co. v. Bache*  
7 *Halsey Stuart, Inc.*, 600 F.2d 1189, 1190-91 (5th Cir. 1979). The bond should ordinarily include  
8 the whole amount of the judgment remaining unsatisfied, costs on the appeal, interest, and damages  
9 for delay. *See id.* at 1191 (holding that Rule 62(d) is consistent with its predecessor, Civil Rule  
10 73(d), which required a bond to include costs on the appeal, interest, and damages for delay).

11 An appellant may be entitled to a waiver of the full bond requirement and a discretionary  
12 stay only in extraordinary cases. *See Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1367  
13 (9th Cir. 1990). The burden is on the moving party to “objectively demonstrate the reasons for  
14 such a departure.” *Poplar Grove*, 600 F.2d at 1191. Courts that have examined this question have  
15 held that a waiver should be granted only “if the filing of a supersedeas bond would irreparably  
16 harm the judgment debtor and, at the same time, such a stay would not unduly endanger the  
17 judgment creditor’s interest in ultimate recovery.” *Cayuga Indian Nation of N.Y. v. Pataki*, 188  
18 F.Supp.2d 223, 254 (N.D.N.Y.2002) (internal citations omitted). Upon waiving the full  
19 supersedeas requirement, courts “often require alternative security considerably in excess of the  
20 amount of the judgment.” *Id.* at 255 (internal citations omitted); *see also Int’l Telemeter Corp. v.*  
21 *Hamlin Intern. Corp.*, 754 F.2d 1492, 1495 (9th Cir. 1985) (holding that a district court may permit  
22 security other than a bond).

23 **III. Discussion**

24 The Court’s judgment in this matter, including taxable costs, totals \$451,048.22. *See* Doc.  
25 #134; Doc. #192. As such, the Court shall grant Dickerson’s Motion for Stay of Judgment Pending  
26 Appeal on the condition that he posts a full supersedeas bond in the amount of \$451,048.22 in

1 accordance with this Order. In the event the Court's judgment is affirmed on appeal, the Court  
2 reserves the right to modify its April 22, 2013 Order requiring Dickerson to post a \$2,000.00 bond  
3 for Quiroz's costs on appeal in order to fully compensate him for the expense of appeal. *See* Doc.  
4 #161.

5 The Court finds that this is not a case warranting waiver of the full supersedeas bond  
6 requirement. In denying Dickerson's first Motion to Stay Judgment, the Court found that Quiroz  
7 faced a serious risk of being unable to collect on the judgment in this matter. *See* Doc. #161, p. 2.  
8 The Court reiterates this concern now. Dickerson contends that "[c]ollection activity will  
9 financially annihilate [him]." Doc. #190, p. 3. Dickerson further asserts that "[i]f anything, [he]  
10 would be in a better financial position to pay at the conclusion of the appeal." Doc. #190, p. 3.  
11 However, Dickerson fails to explain and the Court fails to understand how this would be the case.  
12 Moreover, Dickerson has not shown that a lesser amount than the total judgment in this matter  
13 would adequately protect Quiroz's interest in ultimate recovery. Nor has he presented to the Court  
14 a financially secure plan for maintaining solvency during the period of appeal. Finally, Dickerson  
15 omits any explanation of the "other security with a value of \$100,000.00" that he proposes in place  
16 of a supersedeas bond. Thus, the Court finds that Dickerson has not sufficiently demonstrated his  
17 need for a departure from the normal supersedeas bond requirement.

18 **IV. Conclusion**

19 IT IS THEREFORE ORDERED that Dickerson's Motion for Stay of Judgment Pending  
20 Appeal (Doc. #190) is GRANTED conditioned upon Dickerson posting a full supersedeas bond in  
21 the amount of \$451,048.22 with a qualified third-party financial institution within twenty (20) days  
22 of the issuance of this Order.

23 IT IS SO ORDERED.

24 DATED this 31<sup>st</sup> of October, 2013.



25 LARRY R. HICKS  
26 UNITED STATES DISTRICT JUDGE