

2025 WL 2308676

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United States District Court, D. Nevada.

Lori Chavez-DeRemer, Plaintiff

v.

NAB, LLC, Asia Trinh, and Nicole Brown, Defendants

Case No. 2:21-cv-00984-JAD-EJY

|
Filed 08/11/2025

[ECF Nos. 161, 164]

Order Denying Defendants' Motions to Stay Execution of Judgment

U.S. District Judge Jennifer A. Dorsey

*1 In this Fair Labor Standards Act (FLSA) case, this court entered a \$690,005.78 judgment in favor of Secretary of Labor Lori Chavez-DeRemer and against NAB, LLC, Nicole Brown, and Asia Trinh for violations of the FLSA's minimum-wage and overtime provisions. Brown and Trinh now move to stay execution of that judgment under Federal Rule of Civil Procedure (FRCP) 62(b) without posting a supersedeas bond, arguing that they are financially unable to do so. The United States opposes. Because Brown and Trinh do not establish that they are entitled to such relief, I deny their motion.

Discussion

A. The court may, in its discretion, waive FRCP 62(d)'s bond requirement under limited circumstances.

FRCP 62(b) permits a judgment debtor to stay the execution of a money judgment pending appeal if she posts a supersedeas bond or other security in the judgment amount.¹ "The posting of a bond protects the prevailing plaintiff from the risk of a later uncollectible judgment and compensates him for delay in the entry of the final judgment."² Courts have discretion to waive the bond requirement or require some other form of security to stay execution.³

The Ninth Circuit has not articulated a test to guide this discretion, but district courts within this circuit typically rely

on the standards set out in the Fifth and Seventh Circuits to determine when a departure from FRCP 62(d)'s full-bond requirement is warranted. In *Poplar Grove Planting & Refining Co. v. Bache Halsey Stuart, Inc.*, the Fifth Circuit held that the burden should be on the party moving for a departure from "the usual requirement of a full security supersedeas bond" to "objectively demonstrate the reasons for such a departure."⁴ And the Seventh Circuit has held that waiver of the bond requirement may be appropriate in two types of cases: (1) when "the defendant's ability to pay the judgment is so plain that the cost of the bond would be a waste of money" and (2) the "opposite case" in which "the requirement would put the defendant's other creditors in undue jeopardy."⁵ The Seventh Circuit has articulated some considerations to guide a court's discretion when determining whether to waive the bond requirement:

(1) the complexity of the collection process; (2) the amount of time required to obtain a judgment after it is affirmed on appeal; (3) the degree of confidence that the district court has in the availability of funds to pay the judgment; (4) whether the defendant's ability to pay the judgment is so plain that the cost of a bond would be a waste of money; and (5) whether the defendant is in such a precarious financial situation that the requirement to post a bond would place other creditors of the defendant in an insecure position.⁶

*2 Generally, if a court determines that waiver of a full supersedeas bond is warranted, it requires some other security—like a lien on real property or other assets—to protect the prevailing plaintiff from being unable to collect on a judgment when the appeal concludes.⁷

Brown and Trinh argue only that they face extreme financial hardship, and they contend that such hardship alone justifies a stay without bond. Brown claims that she has "no savings, no steady income, ... owns no real property, ... and has been unable to maintain regular employment."⁸ Trinh contends that she also "has no savings, owns no real estate, and has

been financially impacted by this prolonged litigation.”⁹ But neither defendant provides any documentation to support those claims. Nor have they demonstrated that their financial situation would place their obligations to “other creditors” at risk, offered any alternative form of security to cover the judgment, or advanced any argument that they will be more able to pay after appeal.¹⁰ In short, general financial hardship does not excuse a judgment debtor from paying a validly executed judgment, and Brown and Trinh provide no legitimate reason why the Secretary of Labor’s attempts to collect on that judgment should wait until after the appeal process concludes. So I deny their motion to stay execution of judgment without posting a supersedeas bond.

B. The parties are warned that using generative AI tools like ChatGPT may result in sanctions.

*3 The Secretary has pointed to at least one case cited in Trinh’s brief that doesn’t exist.¹¹ Incidents of fake authority cited in briefs have skyrocketed in recent months, and the culprit is usually the use of generative AI software like ChatGPT to conduct legal research and write briefs. While AI tools can be useful in many respects, and this court does not prohibit litigants from using them, the parties are warned that those services pull information from across the web—

including from unreliable sources—and may hallucinate (or make up fake) legal precedent.

When a pro se litigant or attorney signs any filing before this court, she certifies that “the claims, defenses, and other legal contentions are warranted by existing law”¹² The parties are advised that using AI to research and write their briefs may violate this rule if they rely on hallucinated or inaccurate legal citations to support their arguments. Parties must verify that the authorities they cite are accurate and real before presenting them to this court. There will be consequences, including sanctions, for the continued reliance on inaccurate or fake authority in legal briefs submitted to this court.

Conclusion

IT IS THEREFORE ORDERED that Brown and Trinh’s motions to stay execution of the monetary judgment pending appeal [ECF Nos. 161 & 164] are DENIED.

All Citations

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Footnotes

- 1 Fed. R. Civ. P. 62(b).
- 2 *NLRB v. Westphal*, 859 F.2d 818, 819 (9th Cir. 1988).
- 3 See *Int’l Telemeter Corp. v. Hamlin Int’l Corp.*, 754 F.2d 1492, 1495 (9th Cir. 1985) (noting that “the court has discretion to allow other forms of judgment guarantee” under FRCP 62); *Matter of Combined Metals Reduction Co.*, 557 F.2d 179, 192 (9th Cir. 1977) (noting that FRCP 62(b) permits a party to obtain a stay “as a matter of right by posting a supersedeas bond,” and finding that because no bond was posted, “the grant or denial of the stays was a matter strictly within the judge’s discretion”).
- 4 *Poplar Grove Planting & Refining Co. v. Bache Halsey Stuart, Inc.*, 600 F.2d 1189, 1191 (5th Cir. 1979).
- 5 *Olympia Equip. Leasing Co. v. W. Union Telegraph Co.*, 786 F.2d 794, 796 (7th Cir. 1986).
- 6 *Dillion v. City of Chicago*, 866 F.2d 902, 904–05 (7th Cir. 1988). Brown and Trinh both rely on the law that applies when determining whether staying an injunction is appropriate pending appeal. See ECF No. 161 at 3; ECF No. 164 at 3 (citing *Nken v. Holder*, 556 U.S. 418, 434 (2009)—a case analyzing whether to stay the ordered removal of an undocumented immigrant under the factors traditionally used to analyze requests

for preliminary injunctive relief—to support its legal statements). Brown and Trinh do not seek to stay the injunction portion of this court's judgment, so their chosen law is inapplicable here.

7 See, e.g., *Olympia Equip. Leasing*, 786 F.2d at 797 (noting that the alternatives to posting bond would be to allow the prevailing party to execute the judgment, “or to allow the posting of alternative security”); *Brooktree Corp. v. Advanced Micro Devices, Inc.*, 757 F. Supp. 1101, 1104 (S.D. Cal. 1990) (permitting defendant to “provide real property security in an appropriate amount” to protect the prevailing party's interest).

8 ECF No. 161 at 2.

9 ECF No. 164 at 6.

10 Both defendants use large portions of their briefs and replies relitigating issues that this court has ruled on and which are not open to reconsideration in this court. I will not consider those arguments here because they are irrelevant to the limited question of whether the defendants have objectively demonstrated reasons to stay execution of the monetary judgment against them without requiring that they post a supersedeas bond. Any arguments concerning the factual findings and legal conclusions must be raised on appeal.

11 See ECF No. 170 at 4 n.1.

12 Fed. R. Civ. P. 11(b)(2).