

UNITED STATES BANKRUPTCY COURT

DISTRICT OF IDAHO

In re:

AMANDA MARIE RIEKENA,

Debtor.

Case No. 26-20041-BRW

Chapter 7

SUMMARY ORDER

Appearances:

Christopher S. Williams, Kootenai Bankruptcy, PLLC, Hayden, Idaho, Attorney for the Chapter 7 Debtor Amanda Marie Riekana

Steven L. Taggart, Olsen Taggart PLLC, Idaho Falls, Idaho, Attorney for Bolton Law, PLLC

I. INTRODUCTION

On July 9, 2026, this Court entered a Memorandum Decision finding Bolton Law, PLLC (“Bolton Law”) violated the automatic stay pursuant to § 362(k).¹ Doc. No. 85. Following submissions by the parties, on August 9, 2026, the Court entered a *Summary Order Re: Attorneys’ Fees Request and Subsequent Filings* (the “Order”), awarding \$30,704.76 in attorneys’ fees and costs to Debtor Amanda Marie Riekana (the “Debtor”). Doc. No. 94. On August 12, 2026, Bolton Law filed a *Notice of Appeal to the Bankruptcy Appellate Panel* (Doc. No. 96) and on August 26, 2026, filed this *Motion for Approval to Stay Summary Order Re: Attorneys’ Fees Request and Subsequent Filings and Approve Other Security* (the “Motion”) (Doc. No. 102). The Debtor objected to the Motion (Doc. No. 111) and a hearing was held on September 17, 2026, where counsel for the Debtor and Bolton Law presented arguments, after

¹ Hereinafter, unless otherwise indicated, all section citations are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532, all citations to a “Rule” are to the Federal Rules of Bankruptcy Procedure, and citations to a “Civil Rule” are to the Federal Rules of Civil Procedure.

which the Motion was taken under advisement.

II. APPLICABLE LAW AND ANALYSIS

A. The Interplay Between Rules 8007 and 7062, Civil Rule 62, and the Posting of Bonds

Initially, the Court will briefly discuss the methods by which a stay pending appeal may be obtained, as there appears to be some confusion by the parties. The basis for a stay pending appeal relies on one of two rules. Rule 7062, which provides that Civil Rule 62 is applicable in adversary proceedings, generally permits a party seeking a stay pending appeal of an adversary proceeding to receive such a stay upon the posting of a bond. The granting of a bond pursuant to Civil Rule 62 is largely automatic if the proposed bond is sufficient.

Rule 8007, on the other hand, governs requests for a stay pending appeal of a bankruptcy court order or judgment in contested matters and generally requires a party to first request such relief from the bankruptcy court. Rule 8007(a)(1). A stay under Rule 8007(a) is not guaranteed as a matter of right, even if a bond will be posted. “The court may deny a stay despite the willingness of the applicant to post a bond, and may grant a stay without the posting of a bond or other security.” 10A COLLIER ON BANKRUPTCY ¶ 8007.09 (Richard Levin & Henry J. Sommers eds., 16th ed.); *In re Franz*, 534 B.R. 378, 390 n.21 (Bankr. D. Idaho 2015) (noting “posting a bond does not guarantee a stay (outside of a supersedeas bond on appeal of a money judgment under Rule 7062 which incorporates Civil Rule 62(d) in adversary proceedings, a situation not present here)”).

Bolton Law overlooks the different standards. The Motion relies on *Farmer v. Crocker Nat’l Bank (In re Swift Aire Lines, Inc.)* 21 B.R. 12, 14 (9th Cir. BAP 1982) for the proposition that, “[o]n a timely application for a [bond or other security], the function of the court is limited to a determination whether the conditions of the bond [or other security] conform to the

requirements of Rule 73(d) and whether the sureties thereon are adequate—it may approve or disapprove the bond [or other security].” In doing so, Bolton Law conflates Rules 7062 and 8007.² Under Rule 7062, a stay may be obtained by posting a sufficient bond. However, that rule applies only in adversary proceedings and not contested matters *unless* the Court orders, pursuant to Rule 9014(c), that Rule 7062 applies to a particular contested matter. No party made any such request, either in the text of the Motion, orally at the hearing, or at any point throughout the duration of this contested matter. And under these facts, the Court declines to exercise its discretion under Rule 9014(c) and apply Rule 7062 to this contested matter.

Rule 8007 does contain a bond component, however. Subsection (a)(1)(B) provides that a party seeking a stay pending appeal may ask for “the approval of a bond or other security provided to obtain a stay of judgment[.]” Unlike Rule 7062, this does not mean the mere posting of a sufficient bond is the end of the inquiry. Rather,

[i]f a stay pending appeal is warranted, the Court may condition the stay on the posting of “a bond or other security.” Fed. R. Bankr. P. 8007(a)(1)(B). The bond or security is intended to protect the opposing party or parties, which may include the bankruptcy estate generally, against loss that may be sustained as a result of a failed appeal. Because there is no stay pending appeal as of right under Rule 8007, the Court must first determine whether a stay is warranted and, if so, determine whether a bond or other security will be required as a condition of the stay.

In re 160 Royal Palm, LLC, No. 18-19441-EPK, 2020 WL 4791964, at *2 (Bankr. S.D. Fla. Feb. 13, 2020); *In re TGP Commc’ns, LLC*, No. 24-13938-MAM, 2024 WL 4112246, at *1 (Bankr. S.D. Fla. Sept. 6, 2024) (“To issue a stay under Rule 8007, a bankruptcy court must undertake a two-step analysis, first determining whether a stay is warranted and, if so, then determining

² In her objection to the Motion, the Debtor also erroneously relied on Rule 7062 and Civil Rule 62.

whether to require a bond or other security as a condition of the stay.”); 10A COLLIER ON BANKRUPTCY ¶ 8007.05[1] (“Bankruptcy Rule 8007(a) provides for four types of relief that may be sought from the bankruptcy court by a party . . . to an appeal. These are: . . . (2) *assuming the court grants a stay*, approval of a bond or other security provided to obtain a stay of the judgment, order, or decree[.]” (emphasis added); *but see In re Est. of Taplin*, No. 21-24148-C-11, 2022 WL 2714513, at *4 (Bankr. E.D. Cal. July 11, 2022) (construing a motion to extend time to pay sanctions as a motion for stay pending appeal, and without analyzing the traditional factors, noting that, “[w]hen a money judgment is involved, the usual measure is to require the posting of a supersedeas bond” pursuant to Rule 8007(a)(1)(B) and finding that “[n]othing about this case warrants deviating from traditional standard practice.”).

Accordingly, while Bolton Law has offered to post a bond in this case, under Rule 8007, that fact alone is insufficient. Rather, the Court must first consider whether a stay is warranted, and only then turn to the sufficiency of the bond offered.

B. The Criteria for Granting a Stay Pending Appeal are Not Met

While the Rule itself does not provide a standard for courts to employ in determining whether a stay is appropriate despite explicitly allowing a party to request such relief, there are well-established elements to consider.

“The standard for evaluating stays pending appeal is similar to that employed by district courts in deciding whether to grant a preliminary injunction.” *Lopez v. Heckler*, 713 F.2d 1432, 1435 (9th Cir. 1983). In order to obtain a stay pending appeal, [movant/appellant] must demonstrate: 1) a likelihood of success on the merits; 2) irreparable injury if the stay is denied; 3) no substantial harm will come to [appellee]; and 4) that the stay will do no harm to the public interest. *In re Wymer*, 5 B.R. 802, 806 (9th Cir. BAP 1980). The appellant bears the burden of proving that all of these elements are satisfied in a particular case. *In re Irwin*, 338 B.R. 839, 843 (E.D. Cal. 2006) (quoting *In re Shenandoah Realty Partners, L.P.*, 248 B.R. 505, 510 (W.D. Va. 2000)). Failure to establish even

one of the elements dooms the motion. *Id.* (quoting *In re Deep*, 288 B.R. 27, 30 (N.D.N.Y. 2003)).

In re Frantz, 534 B.R. at 384-86 (quoting *Thomason Farms, Inc. v. Thomason (In re Thomason)*, No. 03-42400-JDP, 2007 WL 2257662 at *2 (Bankr. D. Idaho Aug. 3, 2007)) (footnote omitted).

Put another way, the Ninth Circuit has characterized the factors as “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Lair v. Bullock*, 697 F.3d 1200, 1203 (9th Cir. 2012) (quoting *Nken v. Holder*, 556 U.S. 418, 434 (2009)). The movant bears a heavy burden in demonstrating the circumstances warrant exercise of the Court’s discretion. *Id.*; *In re Frantz*, 534 B.R. at 385-86. Moreover, the power to grant a stay pending appeal “should be sparingly employed and reserved for the exceptional situation.” *In re Frantz*, 534 B.R. at 386 (quoting *In re Wymer*, 5 B.R. at 806).

1. Likelihood of Success on Appeal

Initially, the Court notes that because Bolton Law failed to address the required elements in its motion and only gave superficial treatment to them during the hearing after prompting by the Court, the analysis could begin and end here.³ Bolton Law has the burden to prove each of the elements, and it simply has not done so. *Reed v. Paramo*, No. 18-CV-361 JLS, 2023 WL 2728717, at *1 (S.D. Cal. Mar. 29, 2023) (noting because movant failed to address the factors for a stay pending appeal, he failed to carry his burden of establishing that a stay is warranted). Nevertheless, the Court will consider the four factors, as well as Bolton Law’s offer to post a

³ Indeed, Bolton Law’s Motion spans 2.5 pages, including the caption and signature. Doc. No. 102.

bond in the amount of attorneys' fees awarded in the Order.

Beginning with the first factor, the Court must determine whether, and to what extent, Bolton Law has shown a likelihood of success on appeal. *See In re Frantz*, 534 B.R. at 385 (citing *Dynamic Fin. Corp. v. Kipperman (In re North Plaza, LLC)*, 395 B.R. 113, 121 (S.D. Cal. 2008)) (determining that “[s]howing a ‘likelihood of success’ requires that the movant raise questions going to the merits [that are] so serious, substantial, difficult and doubtful as to make them fair ground for litigation and thus for more deliberate inquiry”) (citing *County of Alameda v. Weinberger*, 520 F.2d 344, 349 n.12 (9th Cir. 1975)). This factor is not satisfied by a mere showing that the likelihood is “better than negligible” or that there is a “mere possibility of relief.” *Samson v. W. Cap. Partners, LLC (In re Blixseth)*, 509 B.R. 701, 706 (Bankr. D. Mont. 2014)⁴ (quoting *Lair*, 697 F.3d at 1204) (quoting *Nken*, 556 U.S. at 434.) While it is not necessary for the petitioner to show that it is more likely than not that it will win on the merits, “at a minimum” the petitioner must show that there is a “substantial case for relief on the merits.” *Lair*, 697 F.3d at 1204 (quoting *Leiva-Perez v. Holder*, 640 F.3d 962, 966 (9th Cir. 2011) (per curiam)).

Bolton Law has designated three issues for appeal: 1) whether the state court’s entry of the sanctions order which implemented the oral ruling was a ministerial act; 2) whether the state court’s oral ruling was effective at the point made or when the sanctions order was entered; and 3) whether the Debtor’s counsel’s failure to file the required Rule 2016(b) disclosure timely should result in reduction of the damages awarded against it under § 362(k). Doc. No. 103. In a lengthy decision, as well as a later summary order addressing the Rule 2016(b) argument, the

⁴ Though *Blixseth* involved an appeal from an adversary proceeding in which a money judgment was entered, the petitioner did not offer to post a bond; accordingly, the factors applicable in the instant case were considered by the court.

Court carefully analyzed each of those issues under the facts presented, considered the applicable case law, and applied it. Specifically, while Bolton Law argued the Idaho Supreme Court case of *Katseanes v. Katseanes*, 522 P.3d 1236 (Idaho 2023), caused the state court's oral ruling to be effective immediately in this bankruptcy case, thus relieving it of a violation of the automatic stay, the Court disagreed and explained the basis for such conclusion under the circumstances of this case. The Court is aware that Bolton Law disagrees with its decision; however, there has been no analysis whatsoever to show that the firm will likely be successful in its appeal. The Court concludes Bolton Law has not met its burden on this element.

2. Irreparable Injury if the Stay is Denied

Regarding this second factor, if Bolton Law must pay the fees awarded to Debtor under the Order and the BAP ultimately disagrees with this Court's analysis, the "injury" caused by the payment is not irreparable. An injury is considered "irreparable" where it "cannot be adequately measured or compensated by money and is therefore often considered remediable by injunction." *In re Frantz*, 534 B.R. at 389 (quoting Black's Law Dictionary 906 (10th ed. 2014)). At bottom, the action involved is simply the payment of money. Should the Debtor spend the money in the interim, unwise though that would be, this may make Bolton Law's claw back more difficult, but not impossible. Thus, the injury is not "irreparable." The Debtor has counsel who will undoubtedly inform her that the funds do not truly belong to her until the appeals court or courts have spoken. Given these facts, the Court cannot find that the injury associated with having to pay the awarded fees at this time would be "irreparable," and thus this standard has not been met.

Bolton Law has also stated that its appeal would be "essentially moot" if it paid the fees awarded in the Order. This is not so. First, a determination that payment of the amount of the judgment or order as a bond would moot the appeal would be nonsensical. Such a conclusion,

without more, would render Rule 7062, Civil Rule 62, and Rule 8007(a)(1)(B) largely superfluous. Furthermore, the case law does not support Bolton Law's assertion. In federal court, the usual rule is that payment of a judgment does not foreclose an appeal. *Jones v. McDaniel*, 717 F.3d 1062, 1069 (9th Cir. 2013) (citing *Milicevic v. Fletcher Jones Imports, Ltd.*, 402 F.3d 912, 915 (9th Cir. 2005) (holding that barring any contemporaneous agreement not to appeal associated with the payment, paying the judgment amount does not render an appeal moot)); *Desire, LLC v. Manna Textiles, Inc.*, 986 F.3d 1253, 1259 n.2 (9th Cir. 2021). Accordingly, denial of the stay and requiring satisfaction of the Order would not moot the appeal.

3. Substantial Injury to Other Parties if the Stay is Imposed

The only other parties who would be burdened by the imposition of a stay would be the Debtor along with her family court and bankruptcy court counsel, who would be denied these funds as a source of payment for the fees incurred. While this does present an inconvenience, and perhaps even a burden, any potential injury is not substantial.

4. Public Interest

As to the final factor, "considerations of the public interest involve testing whether the relief requested would affect the public at large, as opposed to the immediate parties to appeal." *Acton v. Fullmer (In re Fullmer)*, 323 B.R. 287, 305 (Bankr. D. Nev. 2005). While the public has an interest in seeing judgments and professionals paid, as well as not seeing a bankruptcy debtor forced to incur additional fees due to another's violation of the automatic stay, any public interest in play here is not substantial. This factor is equivocal.

Based upon the foregoing, as an exercise of its discretion, the Court concludes a stay pending appeal is not warranted as presented here. This is especially so considering the heavy

burden on the movant and the general principle that a stay pending appeal is granted sparingly and reserved for exceptional situations.

C. The Bond Offered by Bolton Law is Either Insufficient or Unspecified

In addition to not being properly grounded in the appropriate Rule and analysis, the Motion fails in other respects. Even if the Court were to conclude a stay should be granted and conditioned upon the posting of a bond, or if the Court had exercised its discretion and read a request into the Motion and briefing for Rule 7062 to apply to this contested matter, the Court still finds the bond offered was insufficient. First, when asking to file a bond, the Motion merely stated that, “Bolton would argue that it has sufficient financial capacity” to permit a stay without a bond, but if the Court were to require a financial posting, then it is willing to do so. Doc. No. 102 at pp. 2–3. The Court recognizes that the amount in the Order is modest—\$30,704.76—and such an amount is probably within a law firm’s ability to pay. Nevertheless, no financial statement of any kind was provided to the Court to support Bolton Law’s assertion. Moreover, while suggesting that a bond in the amount required by the Order would be sufficient, the Motion entirely leaves the amount of any bond up to the Court. In her opposition to the Motion, the Debtor argues that applicable interest along with attorneys’ fees in the approximate amount of \$10,000 to defend the appeal should be added to the sum awarded in the Order. Doc. No. 111. Indeed, “if a stay might be obtained under Rule 8007 by posting a bond or other security, the party requesting the stay is normally required to file a bond or other security in a sum sufficient to indemnify the party prevailing in the bankruptcy court against the losses associated with the stay for the likely time to appeal[,]” which may include “not only the principal amount of the judgment, but post-judgment interest and if recoverable, counsel fees and expenses.” 10A COLLIER ON BANKRUPTCY ¶ 8007.09[1]. Given this approach and applying the applicable

standard and rule, the Court is disinclined to set a bond in any amount.

III. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that the Motion, Doc. No. 102, is **DENIED**.



DATED: September 25, 2026

A handwritten signature in black ink, appearing to read "Brent R. Wilson", is written over a horizontal line.

Brent R. Wilson
U.S. Bankruptcy Judge