

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT LONDON

NEW LONDON TOBACCO MARKET,
INC. and FIVEMILE ENERGY, LLC

Plaintiffs,

V.

KENTUCKY FUEL CORPORATION and
JAMES C. JUSTICE COMPANIES, INC.,

Defendants.

Civil Action No. 6:12-cv-91-GFVT-HAI

Judge Gregory F. Van Tatenhove

**DEFENDANTS' MOTION TO PAY
FUNDS INTO COURT AS A
SUPERSEDEAS BOND**

Defendants, Kentucky Fuel Corporation and James C. Justice Companies, Inc., by counsel and pursuant to Rule 62 of the Federal Rules of Civil Procedure, respectfully move the Court for entry of an Order directing Defendants to pay funds into Court equal to the amount of the sanctions recently imposed against their counsel as a supersedeas bond against execution on that portion of the Judgment [Doc. 467] recently entered against Defendant. As grounds for this Motion, Movants respectfully state as follow:

On April 24, 2020, the Court entered its Memorandum Opinion and Order (the "Order") [Doc. 466]. Among other rulings, the Order included the following: "Plaintiffs are awarded monetary sanctions against the Getty Law Group and Mr. Richard Getty in the amount of **\$10,000.00**; Defendants **SHALL PAY** Plaintiffs the **\$10,000.00** owed as sanctions within **thirty (30) days** of the entry of this Order." Order, p. 13 [Doc. 466; Page ID #: 12027] (emphasis in original).

Defendants will file a Notice of Appeal of this and several others aspects of the Order. The undersigned and his firm intend to fully pay the sanctions if that portion of the Order is

ultimately upheld by the Sixth Circuit.¹ However, while that appeal is pending, Defendants respectfully submit that the amount of those sanctions should be paid into Court as a supersedeas bond.

The Federal Rules of Civil Procedure provide for the posting of a bond or other security to stay execution on a judgment:

(a) Automatic Stay. Except as provided in Rule 62(c) and (d), execution on a judgment and proceedings to enforce it are stayed for 30 days after its entry, unless the court orders otherwise.

(b) Stay by Bond or Other Security. At any time after judgment is entered, a party may obtain a stay by providing a bond or other security. The stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.

Fed. R. Civ. P. 62 (a) and (b).

An Order for payment of \$10,000.00 into Court as a supersedeas bond will protect Plaintiffs in the event the sanctions award is upheld, and will protect Defendants' counsel in the event it is not. Defendants therefore respectfully request that the Court enter an Order that \$10,000.00, or such other amount as the Court deems appropriate, be paid into Court as a supersedeas bond, staying enforcement of the sanctions provision of the Order and the resulting Judgment pending the outcome of any and all appeals.

Respectfully submitted,

/s/ Richard A. Getty

RICHARD A. GETTY
DANIELLE HARLAN

and
MARCEL RADOMILE

THE GETTY LAW GROUP, PLLC
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¹ The Order requires Defendants to pay the sanctions imposed upon them by their counsel, but the undersigned sees no reason for Defendants to be saddled with a penalty assessed against their counsel.

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COUNSEL FOR DEFENDANTS,
KENTUCKY FUEL CORPORATION AND
JAMES C. JUSTICE COMPANIES, INC.

CERTIFICATE OF SERVICE

A copy of the foregoing Defendants' Motion To Pay Funds Into Court As A Supersedeas Bond was served on the 14th day of May 2020, electronically in accordance with the method established under this Court's CM/ECF Administrative Procedures and Standing Order upon all parties in the electronic filing system in this case.

/s/ Richard A. Getty
COUNSEL FOR DEFENDANTS

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