

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	:	CIVIL ACTION NO. 1:CV-02-1194
	:	
Plaintiff	:	(Judge Kane)
and	:	
	:	
MARION SHAUB,	:	
	:	
Plaintiff-Intervenor	:	
v.	:	
	:	
FEDERAL EXPRESS CORPORATION,	:	
Defendant	:	

ORDER

Before this Court is Defendant’s partially concurred in motion for stay of judgment. (Doc. No. 251). Defendant seeks a stay of judgment pending resolution of post-trial motions and appellate review pursuant to Federal Rule of Civil Procedure 62(b). Intervenor concurs that the judgment may be stayed pending resolution of the post-trial motions but does not concur in a stay pending appellate review. Plaintiff EEOC was unable to provide a definitive response at the time of Defendant’s filing.

Federal Rule of Civil Procedure 62(b) provides that “In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion . . . to alter or amend a judgment made pursuant to Rule 59 . . . or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50”

Defendant has filed a motion to alter or amend a judgment pursuant to Rule 59. (Doc. No. 249). Additionally, Defendant “will be filing imminently a renewed motion for judgment as a matter of law pursuant to Fed. R. Civ. P. 50.” (Doc. No. 251 at 2). The Court, therefore, will

stay the judgment pending resolution of post-trial motions.

Defendant also requests that the Court stay the judgment pending appeal. Federal Rule of Civil Procedure 62(d) provides “When an appeal is taken the appellant by giving a supersedeas bond may obtain a stay subject to the exceptions contained in subdivision (a) of this rule. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal, as the case may be.” Fed. R. Civ. P. 62(d). Defendant has not filed a notice of appeal or procured an order allowing an appeal. Defendant, therefore, has not fulfilled the requirements of Fed. R. Civ. P. 62(d). Thus, the Court will not stay judgment pending appellate review at this time.

Accordingly, **IT IS ORDERED THAT** Defendant’s partially concurred in motion for stay of judgment will be **GRANTED** in part and **DENIED** in part. Judgment is hereby **STAYED** pending resolution of the post-trial motions only. The motion to stay judgment pending appeal is **DENIED** without prejudice to refile. Defendant may renew its motion to stay judgment pending appellate review in compliance with Federal Rule of Civil Procedure 62(d).

S/ Yvette Kane
Yvette Kane
United States District Judge

Date: March 4, 2004