

Signed 5/30/96

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

HIDEAKI NAKAI,

Plaintiff

v.

WICKES LUMBER COMPANY,

Defendant

Civil No. 95-54-P-C

GENE CARTER, Chief Judge

MEMORANDUM AND ORDER DENYING MOTION FOR STAY OF
EXECUTION OF JUDGMENT AND WAIVER OF SUPERSEDEAS BOND

Before the Court for action at this time is Defendant's Motion to Stay Execution Pending Post-Trial Motions and Appeal Without Bond (Docket No. 54). All pending post-trial motions have now been decided. The motion seeks an order of the Court, in the case's present status, (1) staying execution of Plaintiff's Judgment pending appeal and (2) permitting pursuit of an appeal without the need to post a supersedeas bond. After full review of the written submissions of the parties on said motion and hearing oral argument of counsel, on the record on May 29, 1996, it is hereby ORDERED that said motion be, and it is hereby, DENIED in all respects.

The Court CONCLUDES that Defendant is not entitled to the automatic stay provided for in Fed. R. Civ. P. 62(f) because, under Maine law, Plaintiff's Judgment is not a lien on

Defendant's property. The Court FURTHER CONCLUDES that there is no evidentiary record sufficient for the Court to determine, in the exercise of its discretion pursuant to Fed. R. Civ. P. 62(b), that Plaintiff is now sufficiently secure in his ability to enforce the subject Judgment to warrant relief from the bond requirement or that provision of an appropriate supersedeas bond by this Defendant pending appeal will cause significant harm or hardship to Defendant.

GENE CARTER
Chief Judge

Dated at Portland, Maine this 30th day of May, 1996.