

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In re)	Case No. 01-19647-B-11
Coast Grain Company,)	
Debtor.)	
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Greg Braun, Plan Agent)	Adversary Proceeding No. 03-1466
Plaintiff,)	DC No. MDM-3
v.)	
Bouma Dairy, B & G Hay Company,)	
Fisher Ranch, Charlie Tadema, and)	
Bootsma Calf Ranch,)	
Defendants.)	
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**ORDER DENYING EX PARTE APPLICATION BY DEFENDANT
BOUMA DAIRY FOR ORDER STAYING ENFORCEMENT OF
JUDGMENT AND APPROVING FORM AND AMOUNT OF
SECURITY AS CONDITION THEREOF**

The court has read and considered the ex parte application of defendant Bouma Dairy (Bouma) for an order staying enforcement of the judgment yet to be entered in the above-captioned matter, and approving the form and amount of security to be provided therefore. The court has also read and considered the Plan Agent's opposition thereto. Based thereon,

IT IS HEREBY ORDERED that defendant Bouma Dairy's ex parte application for an order staying enforcement of the judgment to be entered in this matter is DENIED without prejudice.

Bouma does not need an order of this court to stay the enforcement of a money judgment pending appeal. Pursuant to Fed.R.Civ.P. 62(d) (made applicable to adversary proceedings by Fed.R.Bankr.P. 7062), the stay is effective upon the posting and approval of a supersedeas bond. The bond may be given at any time after the filing of a notice of appeal. The court has not yet entered a judgment in this adversary proceeding and the

1 time to file a notice of appeal has not yet commenced. In that regard, the ex parte
2 application is premature.

3 If cause exists to allow the substitution of some form of security in place of an
4 approved supersedeas bond, such as a letter of credit from a commercial bank, then that
5 determination will require a noticed motion, and possibly an evidentiary hearing. If the
6 parties cannot agree upon a satisfactory form of security to be posted pursuant to Rule
7 62(d), then Bouma may make an application to have that matter heard on shortened time.
8 Pursuant to Fed.R.Civ.P. 8005, this court has the discretion to issue a temporary stay or
9 to make any other order, on ex parte application if necessary, upon a showing that such
10 relief is appropriate to protect Bouma's rights or to prevent unreasonable disruption of
11 Bouma's business operations, pending resolution of the supersedeas bond dispute.

12 Dated: April _____, 2005
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15 /s/ W. Richard Lee
16 W. Richard Lee
17 United States Bankruptcy Judge
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