

POSTED ON WEBSITE  
NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

In re:	)	Case No. 06-22225-D-7
	)	
BETSEY WARREN LEBBOS,	)	
	)	
Debtor.	)	
_____	)	
	)	
LINDA SCHUETTE,	)	
	)	
Plaintiff,	)	Adv. Pro. No. 07-2006-D
	)	
v.	)	
	)	
BETSEY WARREN LEBBOS,	)	
et al.,	)	
	)	
Defendants.	)	
	)	

This memorandum decision is not approved for publication and may not be cited except when relevant under the doctrine of law of the case or the rules of claim preclusion or Issue preclusion.

MEMORANDUM DECISION ON APPLICATION  
FOR A STAY OF THE JOINT DEFAULT JUDGMENT

On June 13, 2008, the defendants herein, Betsey Warren Lebbos, Jason Gold, and Thomas Carter, filed an Application for A Stay Of The Joint Default Judgment ("the Application") in this adversary proceeding. For the reasons set forth below, the court will deny the Application.

On March 11, 2008, the plaintiff herein, Linda Schuette, filed an application for default judgment against defendants Lebbos, Gold, and Carter. Lebbos filed written opposition, and Gold and Carter joined in that opposition. Following a hearing

1 on April 17, 2008, the court issued findings of fact and  
2 conclusions of law and a judgment against the three defendants  
3 ("the Judgment").

4 The defendants provide no statutory or rule authority for  
5 the Application, and make no mention of a pending appeal from the  
6 Judgment. However, the court's docket in this case discloses  
7 that the defendants have appealed from the Judgment. The court  
8 thus construes the Application as a request for a stay pending  
9 appeal, pursuant to Federal Rule of Bankruptcy Procedure 8005, or  
10 in the alternative, as a request for a stay of proceedings to  
11 enforce a judgment, pursuant to Federal Rule of Civil Procedure  
12 62, made applicable in this proceeding by Federal Rule of  
13 Bankruptcy Procedure 7062.

14 The court has considered the defendants' arguments, and is  
15 not persuaded (1) that the defendants are likely to succeed on  
16 the merits of their appeals, and (2) that the absence of a stay  
17 creates the possibility of irreparable injury to them.  
18 Similarly, they have not shown the existence of serious questions  
19 going to the merits of their appeals, and have failed to show  
20 that a balancing of the hardships tips in their favor. See  
21 Tribal Village of Akutan v. Hodel, 859 F.2d 662, 663 (9th Cir.  
22 1988); Cadance Design Sys. v. Avant! Corp., 125 F.3d 824, 826  
23 (9th Cir. 1997).

24 Accordingly, the court will deny the Application.

25 Dated: June 19, 2008

26 \_\_\_\_\_/s/  
27 ROBERT S. BARDWIL  
28 United States Bankruptcy Judge