

IN THE SUPREME COURT OF THE STATE OF NEVADA

VINCENT T. SCHETTLER, AN
INDIVIDUAL,
Appellant,
vs.
PACIFIC WESTERN BANK, A
CALIFORNIA CORPORATION,
Respondent.

No. 83408

FILED

SEP 15 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER GRANTING STAY AND OF LIMITED REMAND

This is an appeal from a post-judgment district court order appointing a receiver to aid in judgment collection efforts.

Appellant Vincent T. Schettler has filed an emergency motion seeking to stay the receivership order. Respondent Pacific Western Bank opposes a stay and requests that any stay nevertheless imposed be conditioned on Schettler posting a bond in the full amount of the underlying judgment, plus additional interest, as the district court had indicated would be appropriate. Schettler has filed a reply, arguing that a bond for the full judgment amount is not warranted, as enforcement of the judgment itself is not being stayed and the appropriate security is merely that which would cover the potential harm Pacific West could incur if his appeal from the receivership order is not successful. Schettler posits that, under this standard, no bond is necessary because post-judgment interest continues to accrue and Pacific West failed to articulate any particularized harm arising from a stay.

When considering a motion for a stay pending resolution of an appeal, we consider the following factors: whether (1) the object of the

appeal will be defeated absent a stay, (2) appellant will suffer irreparable or serious harm without a stay, (3) respondent will suffer irreparable or serious harm if a stay is granted, and (4) appellant is likely to prevail on the merits of the petition. NRAP 8(c). Having considered the parties' arguments in light of these factors, we conclude that a stay of the receivership order pending our consideration of this appeal is warranted. *See generally WC 1st & Trinity, LP v. Roy F. & JoAnn Cole Mitte Found.*, No. 03-19-00905-CV, 2020 WL 544748 (Tex. App. Feb. 3, 2020) (recognizing that a party's right to manage his assets is unique and irreplaceable and concluding, where there is evidence that a receivership could place those assets at risk, a stay upon bond should issue if the judgment creditor's interest is protectable by monetary security). Accordingly, we stay the district court's order appointing a receiver upon Schettler posting an appropriate bond. NRAP 8(a)(2)(E).

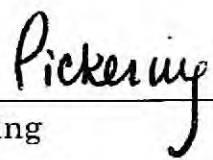
Although Pacific West has asked for a bond in the full judgment amount plus additional interest and Schettler has asked that no bond requirement be imposed, neither party has adequately briefed the issue. Further, while the district court has indicated that it would likely require a bond in the full judgment amount, it ultimately did not make any findings or conclusions regarding the appropriate amount, since it denied a stay altogether. As the proper bond amount is disputed, we remand this matter to the district court for the limited purpose of determining the amount of the bond, as a condition for the stay, that would protect Pacific West from the risk incurred by not placing Schettler's assets into receivership pending appeal. *See Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981) (noting that "an appellate court is not an

appropriate forum in which to resolve disputed questions of fact"); see generally *WC 1st & Trinity*, No. 03-19-00905-CV, 2020 WL 544748, at *4.

As the district court's temporary stay will expire before the parties have a chance to obtain a bond amount determination from the district court, we grant a temporary stay for 30 days, effective upon Schettler posting a \$50,000 bond in the district court.

It is so ORDERED.


_____, J.
Cadish


_____, J.
Pickering


_____, J.
Herndon

cc: Hon. Timothy C. Williams, District Judge
Solomon Dwiggins & Freer, Ltd.
Lemons, Grundy & Eisenberg
Black & Wadhams
Lewis Roca Rothgerber Christie LLP/Las Vegas
Eighth District Court Clerk