

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

MICHAEL E. MANN, PH.D.,

Plaintiff,

v.

NATIONAL REVIEW, INC., *et al.*,

Defendants.

Case No. 2012 CA 008263 B

Judge Alfred S. Irving, Jr.

Defendant Mark Steyn's Motion for Stay of Execution on the Judgment

H. Christopher Bartolomucci
D.C. Bar No. 453423
Justin A. Miller (*pro hac vice*)
SCHAERR | JAFFE LLP
1717 K Street NW, Suite 900
Washington, D.C. 20006
(202) 787-1060
cbartolomucci@schaerr-jaffe.com

Counsel for Defendant Mark Steyn

INTRODUCTION

Pursuant to D.C. Superior Court Civil Rule 62, the Due Process Clause of the Fifth Amendment, and this Court's inherent power, Defendant Mark Steyn moves for a stay of execution on the judgment against him, and any proceedings to enforce the judgment, pending the outcome of his post-trial motions and any appeal. An automatic stay has been in effect for the past 30 days, but a further stay requires an order of this Court. *See* Super. Ct. R. 62(a). Steyn has filed a motion for a new trial, a renewed motion for judgment as a matter of law, and an alternative motion for remittitur of the grossly excessive and unconstitutional \$1 million punitive damages award. Given the very substantial constitutional and other legal issues arising from that punitive award, Steyn respectfully asks this Court to continue the stay under Rule 62 without a bond pending the resolution of his motions and appeal.

BACKGROUND

The jury awarded Plaintiff Michael Mann \$1 in nominal damages from each Defendant. Trial Tr. 8, 10 (2/8/24). This Court had instructed the jury if "you find that there are no proven damages resulting or that the damages are only speculative, then you may award nominal damages" "such as \$1." Trial Tr. 68 (2/7/24 AM); *see* Jury Instructions at 9. As punitive damages, the jury awarded \$1,000 from Defendant Rand Simberg and \$1,000,000 from Steyn. Trial Tr. 8, 11 (2/8/24). Plaintiff introduced no evidence at trial concerning Steyn's net worth.

ARGUMENT

THERE IS GOOD CAUSE TO EXTEND THE STAY ON EXECUTION OF THE JUDGMENT PENDING THE RESOLUTION OF POST-TRIAL MOTIONS AND ANY APPEAL WITHOUT BOND

This Court should stay execution on the judgment against Steyn and any proceedings to enforce it pending resolution of his post-judgment motions and appeal. The Court may grant such a stay “for any lawful reason.” *Dickey v. Fair*, 768 A.2d 540, 541 n.2 (D.C. 2001).

A bond is not “required in order to obtain a stay. It is within the discretion of the judge to issue a stay without requiring a bond.” *Goldberg. Marchesano. Kohlman. Inc. v. Old Republic Sur. Co.*, 727 A.2d 858, 861 (D.C. 1999) (citation omitted). *See also Fed. Prescription Serv., Inc. v. Am. Pharm. Ass’n*, 636 F.2d 755, 759 (D.C. Cir. 1980) (A court has “discretionary power to stay execution of a money judgment without requiring bond.”). Furthermore, “[t]here are constitutional limitations upon a court’s power to impose a ruinous supersedeas bond requirement upon a litigant as a condition of staying execution of a judgment during appeal.” *Curtis v. Gordon*, 980 A.2d 1238, 1249 n.20 (D.C. 2009) (quoting Tigar & Tigar, *Federal Appeals: Jurisdiction and Practice* § 6.11, at 374–75 (3d ed. 1999) (citing *In re Am. President Lines, Inc.*, 779 F.2d 714, 718–19 (D.C. Cir. 1985))).

As Steyn has explained in detail in his motion for judgment as a matter of law or remittitur, the \$1,000,000 punitive damage award is unlawful for numerous reasons. First, Steyn did not publish with actual malice. Second, Mann recovered no compensatory damages and so may not recover punitive damages. Third, Steyn’s post does not show the state of mind required for punitive damages. Fourth, Plaintiff did not introduce at trial any evidence of Steyn’s net worth. Fifth, the award violates District of Columbia law and the First Amendment. Sixth, the grossly excessive amount of the punitive award violates the Due Process Clause of the Fifth Amendment.

Accordingly, the punitive award should be set aside in its entirety or at a minimum reduced to a fraction of the amount awarded.

Finally, Mann can show no pressing need to collect on the \$1 million award prior to the outcome of post-trial motions challenging it. He has no legal bills to pay in this case. Instead, he has joked on his X (Twitter) account that he should use the \$1 million award to bribe Justice Thomas to leave the U.S. Supreme Court.



Prof. Michael E. Mann (@MichaelEMann), X [Twitter] (Feb. 19, 2024, 1:42 PM), <https://twitter.com/MichaelEMann/status/1759649626893000799>.

In the circumstances here, a stay without bond is justified and should be entered.

CONCLUSION

For the foregoing reasons, this Court should grant Defendant Steyn's motion for a stay of execution on the judgment, and any proceedings to enforce the judgment, pending the outcome of Steyn's post-trial motions and any appeal, without requiring a bond.

Dated: March 8, 2024

Respectfully submitted,

s/ H. Christopher Bartolomucci

H. Christopher Bartolomucci

D.C. Bar No. 453423

Justin A. Miller (*pro hac vice*)

SCHAERR | JAFFE LLP

1717 K Street NW, Suite 900

Washington, DC 20006

(202) 787-1060

cbartolomucci@schaerr-jaffe.com

Counsel for Defendant Mark Steyn

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

MICHAEL E. MANN, PH.D.,

Plaintiff,

v.

NATIONAL REVIEW, INC., *et al.*,

Defendants.

Case No. 2012 CA 008263 B

Judge Alfred S. Irving, Jr.

(Proposed) Order

Upon consideration of Defendant Mark Steyn's Motion for Stay of Execution on the Judgment, the memoranda in support thereof, and any opposition thereto, it is hereby:

ORDERED that any execution on the judgment, and any proceedings to enforce the judgment, are stayed pending the outcome of Steyn's post-trial motions and any appeal. No bond shall be required.

DATED this ____ day of _____, 2024.

The Honorable Alfred S. Irving, Jr.
Associate Judge