

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FILED
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DISTRICT OF DELAWARE

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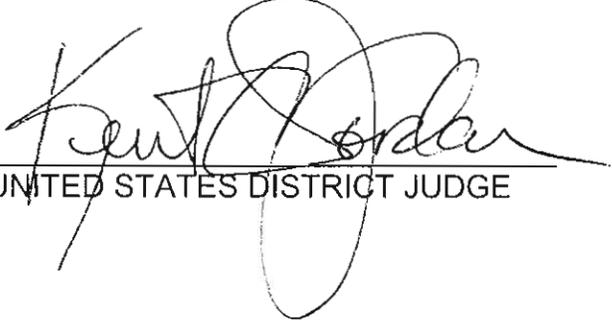
CALLAWAY GOLF COMPANY,)
)
)
 Plaintiff,)
)
 v.) Civil Action No. 01-669 KAJ
)
)
 DUNLOP SLAZENGER,)
)
)
 Defendant.)

MEMORANDUM ORDER

Before me is a motion by Dunlop Slazenger Group Americas, Inc., d/b/a Maxfli ("Dunlop") entitled "Motion for Stay of Judgment Enforcement Proceedings Pending Rulings on Post-Trial Motions." (Docket Item ["D.I."] 456; the "Motion".) Federal Rule of Civil Procedure 62(b) provides a means for staying enforcement of a judgment during the consideration of post-trial motions. That rule includes the requirement that there be "such considerations for the security of the adverse party as are proper" FED. R. CIV. P. 62(b). Dunlop seeks a stay without being required to post a bond, but it has not provided any persuasive argument for that position. Dunlop's sole argument for getting a stay without giving security is that it will have "unremedied harm and damages in posting now a bond in an amount twice in excess of the appropriate amount." (D.I. 456 at 1.) In short, it assumes the conclusion it seeks to establish. Dunlop is no different from any other litigant who believes it will prevail on post trial motions. Therefore, if Dunlop wishes to stay enforcement of the \$2.2 million judgment pending post trial motions, it must proceed in the ordinary course and post an appropriate bond. In this case, the bond must be in the full amount of the judgment. If such a bond is posted, a

stay would appear to be in order.

Accordingly, IT IS HEREBY ORDERED that Dunlop's Motion (D.I. 456) is DENIED without prejudice to its filing another motion pursuant to Federal Rule of Civil Procedure 62(b), after it has made arrangements for the posting of an appropriate bond. Any such renewed motion must be filed within 10 days.


UNITED STATES DISTRICT JUDGE

DATE: February 25, 2005
Wilmington, Delaware