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 2014-M1-701473
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 CIRCUIT COURT OF
 COOK COUNTY, ILLINOIS
 MUNICIPAL DIVISION
 LERK DOROTHY BROWN

33013

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,
)
)
 Plaintiff,)
)
)
 v.)
)
 RICHARD DANIGGELIS,)
)
)
 Defendant.)

14 M1 701473

MOTION TO STAY ENFORCEMENT OF THE FINAL JUDGMENT
 DURING THE PENDANCY OF THE APPEAL

NOW COMES the Defendant, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and moves this court to Stay the Enforcement of the Final Judgment Entered in this case. In support of his motion Defendant states as follows:

1. On January 27, 2015 Plaintiff was granted possession of Defendant's property.
2. The property subject to this litigation has been Defendant's residence for over 20 years. The purpose of staying the enforcement is to preserve the status quo during the pendency of the appeal.
3. Defendant is ready to appeal the January 27, 2015 judgment. See attached Notice of Appeal. *Exhibit 'A'*
4. Defendant has a meritorious appeal due to the fact that this court has already ruled that Defendant's counterclaim, *inter alia*, could not be allowed due to the principles of *res judicata*. If principles of *res judicata* are applicable to prevent Defendant's counterclaim they should have been equally applicable to prevent Plaintiff from proceeding with his complaint.
8. Moreover, at the time of filing of Plaintiff's complaint Plaintiff already had a motion pending before Judge Otto asking for the same relief requested in Plaintiff's complaint.
9. In addition, this court has given full credit to the underlying judgment issued by Judge Otto and Defendant has a pending Petition for Leave to Appeal Judge Otto's rulings with

the Supreme Court of Illinois. If Defendant's Petition for Leave to Appeal is granted Judge Otto's rulings may be reversed.

10. Moreover, Defendant has a pending claim against Plaintiff's former partner and attorney who has participated in the transaction approved by Judge Otto. That trial may shed a completely different light on relevant aspects of the real estate transaction underlying this litigation.
11. During the trial on Plaintiff's complaint Plaintiff's attorney in the subject transaction, Paul Shelton, admitted that the deed utilized to transfer Defendant's property to Plaintiff was given to him to hold it in escrow.
12. The above facts indicate that Defendant may still be able to reverse the outcome of this litigation and therefore that the status quo should be preserved keeping the parties in the same position during the pendency of the appeal related to the January 27, 2015 order for possession.
13. Typically, stays in forcible entry and detainer cases are conditioned on an "use and occupancy" bond as described by the Illinois Supreme Court in *Jack Spring, Inc. v. Little*, 50 Ill.2d 351, 280 N.E.2d 208 (1972). Under an "use and occupancy" bond, the tenant is required to continue to make payment of rental installments as they become due. *see also, Pole Realty Co. v. Sorrells*, 84 Ill.2d 178, 180, 417 N.E.2d 1297 (1981). The stay is intended to preserve the status quo while the appeal is pending.
14. This, however, is not a typical case because Plaintiff never had possession of Defendant's property allegedly purchased in 2006.
15. Courts have inherent power to grant or deny a stay. The decision to grant or deny a stay will only be reversed if it is an abuse of discretion. *Stacke v. Bates*, 138 Ill.2d 295, 562 N.E.2d 192 (1990).
16. Although the Illinois Supreme Court has declined to adopt a specific set of factors to determine if a stay should be granted, the court did state three factors that may be considered. The court held in deciding whether to grant a stay, a balancing test must be employed, in which all elements bearing on the equitable nature of the relief sought should be considered. 138 Ill. 2d at 308.
17. One factor to be considered is whether a stay is necessary to secure the fruits of the appeal. 138 Ill.2d at 305. In a forcible entry and detainer case, a stay is necessary to secure the fruits of an appeal. If a tenant is required to vacate the premises during the appeal there is a risk that the appeal will be dismissed because of mootness or that the landlord will have rented the premises during the appeal making it unavailable.
18. Another factor the court will consider is whether there is a substantial likelihood of success on the merits. 138 Ill.2d at 306. This factor is based on the merits of each case.

19. A final factor relevant to a stay determination is whether the defendant will suffer hardship. This factor is not controlling and should only be considered in light of the other factors. 138 Ill.2d at 307-08.

Wherefore, Defendant prays for an order staying the enforcement of the order of possession during the pendency of the appeal and/or in the alternative setting required bond amount to secure Plaintiff's interests during the pendency of the appeal.

Respectfully submitted,



Andjelko Galic
RICHARD DANIGGELIS

ANDJELKO GALIC
Attorney for Defendant
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Chicago, IL 60602
(312) 986- 1510
Attorney No. 33013

Exhibit "A"

APPEAL TO THE ILLINOIS APPELLATE COURT
FIRST JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT – FIRST DISTRICT

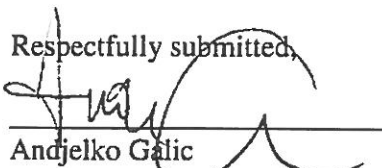
JOSEPH YOUNES,)	
)	From the Circuit Court of
Appellee,)	Cook County, Illinois
)	Municipal Department,
vs.)	First District
)	
RICHARD DANIGGELIS,)	Gen. No.: 14 M1 701473
)	
Appellant.)	Hon. Judge George F. Scully
)	Judge Presiding

NOTICE OF APPEAL

Defendant – Appellant, Richard Daniggelis, hereby appeals to the Illinois Appellate Court for the First Judicial District pursuant to Supreme Court Rule 303 from the following orders entered in this matter in the Circuit Court of Cook County, Illinois, Municipal Department, First District:

- (1) The order entered on January 27, 2015 giving possession of Defendant’s property to Plaintiff;
- (2) Prior orders entered in this matter leading to the January 27, 2015 order and in particular the orders entered on December 10, 2014 granting Plaintiff leave to amend its complaint and the order entered on January 2, 2015 denying Defendant’s motion to reconsider denial of Defendant’s motion to dismiss.

By this appeal, Defendant-Appellant will ask the Appellate Court to reverse and/or remand the orders appealed from and for such other relief, as the Appellate Court may deem appropriate to grant.

Respectfully submitted,


 Andjelko Galic
 Attorney for Defendant-Appellant

Andjelko Galic
 LAW OFFICE OF ANDJELKO GALIC
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 Chicago, IL 60602
 Phone: (312) 986-1510
 Attorney No: 33013

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,

Plaintiff,

v.

RICHARD DANIGGELIS,

Defendant.

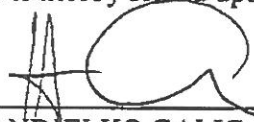
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14 M1 701473

NOTICE OF FILING

TO: Peter King, Esq.
101 N. Wacker Drive, Suite 2010
Chicago, IL 60606


You are hereby given notice that on February 26, 2015, we electronically filed with the Clerk of the Circuit Court of Cook County Defendant's Motion to Stay Enforcement During the Pendency of the Appeal, a copy of which is attached and is hereby served upon you.



ANDJELKO GALIC
Attorney for Defendant
134 N. LaSalle Street, Suite 1040
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(312) 986- 1510
Attorney No. 33013

CERTIFICATE OF SERVICE

I, Andjelko Galic, an attorney, certify that I caused this Notice of Filing to be served on the above identified party by placing a copy of it in an envelope addressed the above party at the above address and depositing the same in the U.S. mailbox in Chicago, on February 26, 2015 with proper postage prepaid.



Andjelko Galic

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