Marcus v Grunberg
2017 NY Slip Op 31659(U)
August 4, 2017
Supreme Court, New York County
Docket Number: 151886/2014
Judge: Robert D. Kalish

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY - PART 29

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Amnon Marcus, Shimon Marcus,
Moshe Marcus, Edli Marcus and Ran Marcus

Plaintiff

DECISION AND ORDER

-against-

INDEX NO.: 151886/2014

Michael Grunberg, Ariel Grunberg,
342 West 56th Owners Corp. and
Fanny Grunberg & Associates, LLC
d/b/a "Grunberg Realty" and
d/b/a "Grunberg Management"

Defendant

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Upon the foregoing papers, the Plaintiffs' motion for provisional equitable relief is denied, and the Defendants' cross-motion is granted solely to the extent that the Plaintiffs are hereby ordered to post a security in the amount of $500.00 pursuant to CPLR 8501 and 8503 within 15 days from the date of service of a copy of this order with notice of entry.

Background and Underlying Dispute[1]

In the underlying action, the Plaintiffs allege in the verified complaint in sum and substance that they are the joint owners of shares and the proprietary lease allocated to Unit 7C in a cooperative corporation know as 342 West 56th Owners Corp. (The "Corporation"). The Plaintiffs further allege that the Defendant Michael Grunberg is the Managing Principal of Fanny Grunberg & Associates, LLC ("Fanny Grunberg & Associates") and that the Defendant

[1] Said factual background is a restatement of the factual background of the underlying action as given in the Court's prior decisions on motion sequence 002, 003 and 004 in the underlying action.

Ariel Grunberg is a Principal of Fanny Grunberg & Associates. Plaintiffs further indicate that Fanny Grunberg & Associates is the managing agent for the Corporation. The Plaintiffs further indicate that Ariel Grunberg is the President of the Corporation's board of directors (the "Board") and that Michael Grunberg is the vice president of the Board.

The Plaintiffs allege that they entered into a partnership with the Grunberg Defendants to develop certain real property in the State of Israel (the "Project"). The Plaintiffs allege that during the course of the Project, an Israeli bank required additional security in order to provide additional financing. The Plaintiffs argue that they and Michael Grunberg and Ariel Grunberg (Collectively the "Grunberg Defendants") agreed that the Grunberg Defendants would pledge a condominium unit that the Grunberg Defendants owned in Israel to the benefit of the lending bank. In consideration of that, the Plaintiffs entered into a written guaranty (the "Guaranty") in which the Plaintiffs agreed to indemnify the Grunberg Defendants for any loss in connection with the Project and for the Defendants' collateralization of their condominium in Israel to the extent sum of $625,000.00. The Guaranty further indicated that the parties were simultaneously executing a security agreement and cooperative recognition agreement ("Security and Recognition Agreement") in order to collateralize the Guaranty with the Plaintiffs co-op apartment in New York. The Plaintiffs argue that an essential precondition to their entry into the Guaranty and the Security and Recognition Agreement was the Grunbergs' representation that they would pledge their condominium in Israel as collateral for additional financing for the Project.

The Plaintiffs argue that they executed the Guaranty and the Security and Recognition Agreement in good faith and performed upon said agreements. However, Michael Grunberg refused to pledge the condominium in Israel to the financing bank. The Plaintiffs argue in the summons and complaint that the Project ultimately failed due to the inability to obtain necessary financing, and that there is currently pending litigation in the State of Israel between the Grunberg Defendants and the Plaintiffs.

The Plaintiffs further allege in the summons and complaint that the Grunberg Defendants caused a UCC-1 lien to be placed upon the Plaintiffs' co-op apartment. On March 3, 2013, the Plaintiffs caused a UCC-3 statement to be filed allegedly vacating the UCC-1 lien on the basis that the Guaranty and Security and Recognition Agreement were not based upon any consideration. The Plaintiffs argue that even though the lien was allegedly vacated by Plaintiffs filing the UCC-3 statement, the Grunberg Defendants have maintained the position that a lien remained in effect, and the Board will not consent to the sale of the Plaintiff's co-op apartment. Similarly, the Board will not consent to the Plaintiffs subletting their co-op apartment.

The Defendants Michael Grunberg, the Corporation and Fanny Grunberg & Associates served and filed an answer to the Plaintiffs' complaint including two counterclaims. The first counterclaim is for reasonable attorneys' fees and expenses incurred by the Corporation in the underlying action, as per the proprietary lease between the Plaintiffs and the Corporation. The second counterclaim is for reasonable attorneys' fees and expenses incurred by Michael Grunberg in the underlying action as per the Guaranty.

The Defendant Ariel Grunberg also served and filed an answer to the Plaintiff's summons and complaint.

Procedural History

The Plaintiffs previously moved this Court for summary judgment against the Defendants (mot seq 002) and for injunctive relief (mot seq 003). By decision dated May 11, 2015, this Court denied both the Plaintiffs' summary judgment motion and motion for injunctive relief.[2]

The Plaintiffs then made a second motion for summary judgment (mot seq 004), which this Court denied by decision dated January 17, 2017.

This Court now has before it a second motion (mot seq 005) by the Plaintiffs requesting injunctive relief in the underlying action.

Parties' contentions

In the instant motion, the Plaintiffs request an order of the Court "granting Plaintiffs' motion for provisional equitable relief in the form of the sale of the subject apartment with the proceeds being placed into a Court escrow account pending the outcome of the litigation, and for such other and further relief as this Court may deem just and proper." (Plaintiffs' notice of motion). The Plaintiffs argue in support of the instant motion that over fifty months have passed since the first failure to sell the subject apartment in January 2013, and that during said time, the Plaintiffs have paid over $58,000 in maintenance charges for the subject apartment, which constitutes an "egregious waste of an asset". The Plaintiffs argue that said "waste" would be eliminated if this Court were to authorize the sale of the property with the proceeds of said sale being placed in an escrow account with the Court.

The Plaintiffs further argue that there is a contract of sale in place on the subject apartment and that the purchase price deposit is currently being held in escrow. Plaintiffs argue that the subject apartment is prepared to be sold to an existing shareholder of the co-op. However, the Plaintiffs argue that during the pendency of the underlying litigation, the

[2] Said decision also denied the Defendant Ariel Grunberg's cross-motion to stay the underlying action pending a determination of the Israeli matter.

completion of this sale has been frustrated. The Plaintiffs attach with their moving papers an affidavit by the Plaintiff Ran Marcus, who states that since September of 2014, the Plaintiffs have been in a contract to sell the subject apartment to a "neighbor" in the co-op building, but that the Plaintiffs cannot close the sale until the Defendants' UCC lien is removed from the subject apartment. Marcus further attests that the Defendants have inhibited the Plaintiffs' attempts to sublease the subject apartment and continue to charge the Plaintiffs with the monthly maintenance fees on said apartment.

Marcus further attested that on January 23, 2017, an arbitrator issued a final award in the litigation in the State of Israel between the Grunberg Defendants and the Plaintiffs. Marcus attests that said final award, on appeal, disposed of all claims and counterclaims between the Parties with respect to the Project. He further attests that per said final award, a total of $625,000 plus $35,586 in interest was awarded to the Grunberg Defendants. Marcus affirms that on February 9, 2017, the Plaintiffs instructed the escrow agent in Israel to release $660,586 to the Grunberg Defendants and that the escrow agent did so. He further attests that the Grunberg Defendants filed a motion to "repair" the arbitrator's decision, which was denied by the arbitrator on February 27, 2017. Marcus attests that there is no right for the Grunberg Defendants to appeal the arbitrator's final decision, which is final and enforceable. Therefore, Marcus argues that there is no longer any debt owed by the Plaintiffs to the Grunberg Defendants and no longer any basis for the Grunberg Defendants' lien on the subject apartment.

Plaintiffs argue in sum and substance that given the arbitrator's decision and the fact that the Plaintiffs have released $660,586 to the Grunberg Defendants in accordance with the arbitrator's decision, there is no longer any debt owned by the Plaintiffs to the Grunbergs stemming from the Project. As such, the Plaintiffs argue that there is no longer a basis for the Grunberg's UCC lien against the subject apartment. The Plaintiffs argue that the lien should be vacated in order to allow the sale of the subject apartment so that the Plaintiffs no longer

have to pay maintenance fees on the apartment, and that the proceeds of the sale should be placed in escrow pending the resolution of the underlying action.

In opposition to the instant motion, the Defendants argue in sum and substance that the Plaintiffs have failed to meet the burden for preliminary injunctive relief. Specifically, the Defendants argue that the Plaintiffs have failed to submit a copy of any alleged and bona fide contract of sale as to the subject apartment, nor have the Plaintiffs presented any credible proof that a bona fide sales transaction exists. The Defendants further argue that the Plaintiffs have not made any request to the Board to consent to any sale, nor has the Board denied any such request.

The Defendants further argue that the Plaintiffs have failed to establish irreparable harm, a likelihood of success on the merits in the underlying action or that the equities balance in the Plaintiffs' favor. Specifically, the Defendants argue that the Plaintiffs have wrongfully indicated to the Court that the litigation in Israel has ended, and that granting the Plaintiffs the requested injunctive relief would remove the only security the Defendants have for any and all additional monies due to the Defendants in the Israel arbitration proceeding. The Defendants argue that the arbitrator's determination is not final and that additional sums may be due to the Grunberg Defendants stemming from said litigation. The Defendants further argue that any damages that the Plaintiffs may suffer are fully compensable in money damages.

The Defendants further argue in support of their cross-motion that pursuant to CPLR 8501(a) and 8503, the Plaintiffs are required to post security upon the Defendants' request and that the underlying action is to be stayed pursuant to CPLR 8502 pending said security. In addition, the Defendants move for sanctions against the Plaintiffs, arguing that the Plaintiffs knowingly made material false and misleading statements to this Court under oath regarding the status of the litigation in Israel.

The Defendants attach with their moving papers an affidavit by Hadar Weitzman, who attests that he represents the Grunberg Defendants in their currently pending litigation against the Plaintiffs in the State Israel. Weitzman attests that on or about August 24, 2015, the Israeli arbitrator ruled that the Plaintiffs owed the Grunberg Defendants the principle sums of $625,000.00 for unpaid loans, plus NIS $37,344. He further attests that the Grunberg Defendant and Plaintiffs were entitled to approximately $680,000 each. Weitzman attests that the Grunberg Defendants received the sum of $1,355,586, which represented 98% of the escrow funds in Israel, and Plaintiffs received the 2% balance from said escrow account.

Weitzman attests that on March 13, 2017, he and co-counsel filed a motion in the Tel Aviv District Court to cancel or correct the arbitrator's judgment. He further attests that thereafter he and co-counsel moved to broaden and amend the motion to cancel the judgment, and to include significant facts which have arisen from events that happened after that date. Weitzman attests that the motion was granted by court decision dated March 28, 2017, and that on April 23, 2017, he and co-counsel filed the amended motion to cancel the judgment. Weitzman attests that if the Tel Aviv District Court grants the Grunberg Defendant's motion, the court would send the matter back to arbitration for a re-hearing of the dispute between the Grunberg Defendants and the Plaintiffs. He further attests that the issuance of a new judgment with respect to the arbitration may exceed the amount of the original judgment rendered in favor of the Grunberg Defendants, and as there are no amounts remaining in escrow in Israel, the lien on the subject apartment is the Grunberg Defendants' only available security against the Plaintiffs' assets.

Weitzman further attests that the arbitrator's decision/award is not a valid judgment until confirmed by the Israeli Court and that the Plaintiffs have made a motion to confirm the arbitrator's decision before the Israeli Court. Weitzman further states that the arbitrator's award was not dispositive of all of the pending issues between the Plaintiffs and the Grunberg Defendants as to the Project and that the Grunberg Defendants intent to pursue further action

for these and other amounts due that the arbitrator would not address at the Israeli arbitration proceeding. Weitzman argues that for the foregoing reasons, the status of the Israeli arbitration proceeding provides no basis for vacating the Grunberg Defendants' lien on the subject apartment. He further argues that the ongoing and pending status of the Israeli arbitration is material justification for the contineud relevance and necessity of the lien.

The Defendants also attach an affidavit by Mark Altschul who states that he is the attorney for the Grunbergs and 342 West 56th Owners Corp. He attests that he is unaware of any current application that the Plaintiffs have made to the Corporation seeking approval of the sale of the subject apartment to a current shareholder, nor does he recall the Plaintiffs having ever submitted to the Corporation a complete application package for the proposed sale of the subject apartment. Altschul further attests that the Plaintiffs have not recently submitted any application to the Corporation for approval to sublease the subject apartment.

In addition, the Defendants argue that should the Court grant Plaintiffs' motion for injunctive relief, the Court should order the Plaintiffs to post a bond at no less than the amount that the Grunberg Defendants seek in damages in the Israeli arbitration proceeding. The Defendants also cross-move for sanctions against the Plaintiffs.

In reply to the Defendants' opposition and in opposition to the Defendants' cross-motion, the Plaintiffs argue that they have satisfied the requirements for equitable relief. Specifically, the Plaintiffs argue that they have satisfied the three-pronged test for preliminary injunction by establishing that they have a likelihood of success in the underlying action, irreparable harm absent injunctive relief and that the balance of equities favors granting them injunctive relief. The Plaintiffs further argue that the Court is authorized to order the sale of the subject apartment and place the proceeds into an escrow account. The Plaintiffs attach with their reply papers a copy of the contract of sale for the subject contract.

The Plaintiffs further argue that the bond requested by the Defendants should be nominal and that the Defendants' cross-motion for sanctions should be denied. The Plaintiffs further argue that there is a basis for the Court to sanction the Defendants, and Plaintiffs request costs and attorneys fees should the Court sanction the Defendants.

In reply to the Plaintiff's opposition to their cross-motion, the Defendants reiterate their arguments in opposition to the Plaintiffs motion and in support of their cross-motion. The Defendants further argue that the Court should not consider the contract of sale, since the Plaintiffs attach it for the first time in their reply papers. The Defendants further reiterate that the Plaintiffs have not made any application to the Corporation to sell the subject apartment and that granting the Plaintiffs' motion would in effect violate the rules of the co-op. The Defendants argue that granting the Plaintiffs' motion would deprive the Corporation of its rights under the master lease to review and approve sales of co-op apartments. The Defendants further argue that the Plaintiffs do not oppose their cross-motion for a security and that there is no basis for granting sanctions against the Defendants. The Defendants further reiterate their arguments for sanctions against the Plaintiffs.

Analysis

Standard for granting injunctive relief

CPLR § 6301 reads as follows:

> Grounds for preliminary injunction and temporary restraining order
>
> A preliminary injunction may be granted in any action where it appears that the defendant threatens or is about to do, or is doing or procuring or suffering to be done, an act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual, or in any action where the plaintiff has demanded and would be entitled to a judgment restraining the defendant from the commission or continuance of an act, which, if committed or continued during the pendency of the action, would produce injury to the plaintiff. A temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears that immediate and irreparable injury, loss or damage will result unless the defendant is restrained before the hearing can be had.

"To obtain a preliminary injunction, a movant must demonstrate, by clear and

convincing evidence, (1) a likelihood of success on the merits, (2) irreparable injury if a preliminary injunction is not granted, and (3) a balance of equities in his or her favor" (*M.H. Mandelbaum Orthotic & Prosthetic Servs., Inc. v Werner*, 126 A.D.3d 859, 860 [2d Dept 2015] *citing* CPLR §6301; *Nobu Next Door, LLC v Fine Arts Hous., Inc.*, 4 NY3d 839, 840 [2005]; *Doe v Axelrod*, 73 NY2d 748, 750 [1988]; *see also Goldstone v Gracie Terrace Apt. Corp.*, 110 AD3d 101 [1st Dept 2013]; *Delta Enter. Corp. v Cohen*, 93 AD3d 411 [1st Dept 2012]). "A party seeking the drastic remedy of a preliminary injunction must establish a clear right to that relief under the law and the undisputed facts" (*Matter of Wheaton/TMW Fourth Ave., LP v. New York City Dept. of Bldgs.*, 65 AD3d 1051, 1052 [2d Dept 2009]; *see also 106 & 108 Charles LLC v Hohn*, 96 AD3d 511 [1st Dept 2012]).

"A court evaluating a motion for a preliminary injunction must be mindful that '[t]he purpose of a preliminary injunction is to maintain the status quo, not to determine the ultimate rights of the parties'" (*Masjid Usman, Inc. v Beech 140*, LLC, 68 A.D.3d 942 [2d Dept 2009] *citing Matter of Wheaton/TMW Fourth Ave., LP v. New York City Dept. of Bldgs.*, 65 AD3d 1051 [2d Dept 2009]). The decision to grant or deny provisional relief, which requires the court to weigh a variety of factors, is a matter ordinarily committed to the sound discretion of the trial court. "It is settled law that the grant or denial of a request for a preliminary injunction, a provisional remedy designed for the narrow purpose of maintaining the status quo, is not an adjudication on the merits and will not be given res judicata effect" (*Coinmach Corp. v. Fordham Hill Owners Corp.*, 3 AD3d 312, 314 [1st Dept 2004], citing *J. A. Preston Corp. v. Fabrication Enterprises, Inc.*, 68 NY2d 397 [1986]; *Steck v Jorling*, 182 AD2d 937 [3d Dept 1992]; *Papa Gino's of Am. v. Plaza at Latham Assocs.*, 135 AD2d 74 [3d Dept 1988)] *see also 360 W. 11th LLC v. ACG Credit Co. II, LLC*, 46 AD3d 367 [1st Dept 2007], citing *35 N.Y. City Police Officers v City of New York*, 34 AD3d 392 [1st Dept 2006]; *Matter of Wheaton/TMW Fourth Ave., LP v. New York City Dept. of Bldgs.*, 65 AD3d 1051, 1052 [2nd Dept 2009]). Further, injunctive relief is considered a drastic remedy, which should be used sparingly (*See*

Town of Carmel v Melchner, 105 AD3d 82 [2d Dept 2013], citing *Trump on the Ocean, LLC v. Ash*, 81 AD3d 713 [2d Dept 2011]).

Further, the movant seeking injunctive relief must show that the irreparable harm is "imminent, not remote or speculative" (*Family-Friendly Media, Inc. v Recorder Tel. Network*, 74 AD3d 738, 739 [2d Dept 2010]). Further, economic loss, which is compensable by money damages, does not constitute irreparable harm (*see Wall St. Garage Parking Corp. v. N.Y. Stock Exch., Inc.*, 10 AD3d 223 [1st Dept 2004]; *EdCia Corp. v. McCormack*, 44 AD3d 991 [2d Dept 2007]).

The Court's decision dated May 11, 2015 denying Plaintiffs' prior motion for summary judgment and injunctive relief

As previously stated, the Plaintiffs made a prior motion for injunctive relief (mot seq 003). In said motion, the Plaintiffs requested the following injunctive relief:

- to compel the Corporation to approve Plaintiffs' application to sell their co-op shares representing their interest in apartment 7C of 342 West 56th Street to Ms.Paola Garzoni and Mr. Micho Bianchi and
- granting all such other relief as the court believes to be just under the circumstances

In its May 11, 2015 decision, the Court denied the both the Plaintiffs' motion for injunctive relief (mot seq 003) and the Plaintiffs' *first* motion for summary judgment (mot seq 002). Without restating the entirety of its May 11, 2015 decision, this Court found that the Plaintiffs failed to establish a likelihood of success on the merits in the underlying action, an irreparable injury if a preliminary injunction is not granted, or that the balance of equities favored granting injunctive relief.

The Plaintiffs are largely requesting the same relief in the instant motion as they did in their prior motion for injunctive relief (mot seq 003)

Upon review of the submitted papers, the Court finds that the Plaintiffs are asking for essentially the same relief they sought on their prior motion for injunctive relief based upon many of the same arguments they presented in their prior motion. Although the instant motion

requests that the Court authorize the sale of the subject apartment (with the proceeds being placed into escrow) and the Plaintiff's prior motion (mot seq 003) specifically requested that the Court compel the Corporation to approve Plaintiffs' application to sell their co-op shares representing their interest in the subject apart, both the Plaintiffs' instant motion and their prior motion essentially request the same injunctive relief. Specifically, the Plaintiffs ask that this Court "allow" them to sell the subject apartment prior to the resolution of the underlying action. However, the reasons why this Court denied the Plaintiffs' prior motion for injunctive relief (mot seq 003) are still largely apparent in the underlying action, regardless of the progress of the Israeli arbitration concerning the Project.

Without restating the entirety of its prior decision dated May 11, 2015, this Court finds that the Plaintiffs have failed to establish a likelihood that they will prevail in the underlying action for the reasons so stated in the Court's May 11, 2015 decision denying both Plaintiffs' *first* motion for summary judgment (mot seq 002) and Plaintiffs' prior motion for injunctive relief (mot seq 003).

In addition, the Court issued a decision on January 17, 2017 denying the Plaintiffs' second motion for summary judgment (mot seq 004), which addressed arguments that Plaintiffs did not include in their first motion for summary judgment (mot seq 002). In denying the Plaintiffs' second motion for summary judgment, this Court indicated that the issues of fact that warranted denial of the Plaintiffs' first motion for summary judgment (mot seq 002) were still present. This Court further indicated that the Plaintiffs' arguments presented for the first time on their second motion for summary judgment (mot seq 004) and the Plaintiffs' "newly discovered evidence" were insufficient to remove all material issues of fact as to the underlying dispute.

Without restating the entirety of its prior decision dated January 17, 2017, this Court also finds that the Plaintiffs have failed to establish a likelihood that they will prevail in the underlying action for the reasons so stated in the Court's January 17, 2017 decision denying

Plaintiffs' *second* motion for summary judgment (mot seq 004).

In addition, the Court finds that the Plaintiffs have failed to establish that they will incur irreparable injury if the Court does not authorize the sale of the subject apartment. The Plaintiffs argument that it continues to incur maintenance charges on the subject apartment reflect a purely economic loss that does not constitute irreparable harm (*See Wall St. Garage Parking Corp. v N.Y. Stock Exch., Inc.*, 10 AD3d 223 [1st Dept 2004]; *EdCia Corp. v McCormack*, 44 AD3d 991 [2d Dept 2007]).

The Court further finds that authorizing the sale of the subject apartment would change the status quo of the underlying action and in effect grant the ultimate relief requested by the Plaintiffs in the underlying action. In its May 11, 2015 decision, this Court denied the Plaintiffs' request for injunctive relief to compel the Corporation to approve Plaintiffs' application to sell their co-op shares as to the subject apartment. This Court indicated in said decision that granting said injunctive relief would both change the status quo of the underlying action and grant the Plaintiffs the ultimate relief requested in the underlying action. Without reiterating the entirety of its May 11, 2015 decision, this Court finds that authorizing the sale of the subject department would, for the same reasons so indicated in this Court's prior decision, both change the status quo of the underlying action and grant the Plaintiffs the ultimate relief requested in the underlying action.

Accordingly, the Plaintiffs' motion for injunctive relief is denied.

Further, the Defendants cross-motion pursuant to CPLR §§ 8501 and 8503 is granted to the extent that Plaintiffs' attorney shall place the sum of $500.00 into the Court / Clerk of the Court to serve as security for costs within 15 days from the date of service of a copy of this order with notice of entry, and the underlying matter is stayed pursuant to CPLR 8502 until Plaintiffs' attorney does so.

In addition, the Defendant's cross-motion for sanctions against the Plaintiff is denied, and the Court also declines to impose sanctions upon the Defendants.

The Court notes that the instant decision denying the Plaintiffs' request for injunctive relief in no way precludes the parties from reaching a stipulation amongst themselves as to the sale of the subject property and the placement of the proceeds of said sale within an escrow\ account, should the parties wish to enter into such a stipulation. However, for the reasons so stated, there is insufficient bases for this Court to authorize the sale of the subject apartment as injunctive relief.

Conclusion

For the reasons so stated in the instant decision, it is hereby

ORDERED that the Plaintiffs' motion for injunctive relief is hereby denied; and it is further

ORDERED that the Defendants cross-motion pursuant to CPLR §§ 8501 and 8503 is granted to the extent that within 15 days from the date of service of a copy of this order with notice of entry, the Plaintiffs either (i) pay into the Court the sum of $500.00 to be applied to the payment of costs, if any, awarded against the Plaintiffs, or (ii), at their election, file with the Clerk of this Court an undertaking with sufficient surety in a like amount to be applied to the payment of costs, if any, awarded against the Plaintiffs in this action, and it is further

ORDERED that, within 15 days from the date of service of a copy of this order with notice of entry, Plaintiffs shall serve upon the attorneys for the defendant a written notice of the payment or of the filing of such undertaking, and it is further

ORDERED that all further proceedings, except to review this order, are stayed until security for costs is given pursuant to this order; and it is further

ORDERED that the Defendant's cross-motion for sanctions against the Plaintiffs is denied, and the Court also declines to impose sanctions upon the Defendants.

The foregoing constitutes the Order and Decision of the Court.

Dated: August 4, 2017

HON. ROBERT D. KALISH
J.S.C.