

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M79795
E/sl

ROBERT A. SPOLZINO, J.P.
STEVEN W. FISHER
HOWARD MILLER
EDWARD D. CARNI, JJ.

2008-10502

DECISION & ORDER ON MOTION

Loretta Capolino, appellant,
v Mario Bua, respondent.

(Index No. 15664-07)

Motion by the appellant to stay all proceedings in a matter entitled *Bua v Capolino*, pending in the District Court, Fourth District, Suffolk County, under Docket No. SMLT 08-327, pending hearing and determination of an appeal from an order of the Supreme Court, Suffolk County, dated October 30, 2008.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is granted, and all proceedings in the matter entitled *Bua v Capolino*, pending in the District Court, Fourth District, Suffolk County, under Docket No. SMLT 08-327, are stayed pending hearing and determination of the appeal on condition that the appellant (1) pay use and occupancy to the respondent on or before the first day of every month in a sum equal to the monthly rent payable under the last year of the lease dated August 6, 1993, and (2) perfect the appeal on or before January 12, 2009; and it is further,

ORDERED that in the event the appellant does not comply with the foregoing conditions, the court, on its own motion, may vacate the stay, or the respondent may move to vacate the stay, on three days notice.

SPOLZINO, J.P., FISHER, MILLER and CARNI, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

December 11, 2008

CAPOLINO v BUA