

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PRESTON WOOD & ASSOCIATES,
LLC,

Plaintiff,

v.

RZ ENTERPRISES USA, INC. d/b/a
OPPIDAN HOMES, OPPIDAN
HOMES
VII LTD., CAMERON
ARCHITECTS,
INC., and UL, INC. d/b/a URBAN
LIVING,

Defendant.

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CIVIL ACTION NO. 4:16-cv-
01427

**DEFENDANTS’ EMERGENCY MOTION TO STAY EXECUTION OF
JUDGMENT PENDING DISPOSITION OF POST-JUDGMENT MOTIONS**

UL, Inc. d/b/a Urban Living and Vinod Ramani (“Defendants”) file this Emergency Motion to Stay Execution of Judgment Pending Disposition of Post-Judgment Motions. On November 8, 2018, this Court entered judgment against Defendants, ordering Defendants to pay damages in the amount of \$28,797,539.60,¹ costs, and post-judgment interest and also awarding injunctive relief. Doc. 189. Defendants request that the Court stay execution of the monetary

¹ The damages consisted of two components: (1) \$7,539.60 in actual damages and profits under 17 U.S.C. § 504(b), and (2) \$28,790,000 in statutory damages under 17 U.S.C. § 1203(c)(2)(B).

portion of the judgment until the Court rules on Defendants' forthcoming post-judgment motions.

Federal Rule of Civil Procedure 62(a) automatically stays execution of the judgment for 14 days. Rule 62(b) provides the Court with discretion to extend that stay pending disposition of post-judgment motions:

On appropriate terms for the opposing party's security, the court may stay the execution of a judgment—or any proceedings to enforce it—pending disposition of any of the following motions:

- (1) under Rule 50, for judgment as a matter of law;
- (2) under Rule 52(b), to amend the findings or for additional findings;
- (3) under Rule 59, for a new trial or to alter or amend a judgment; or
- (4) under Rule 60, for relief from a judgment or order.

This Court has previously granted such relief when requested. *See* Order Granting Defendant Lynn Van Der Wall's Motion to Stay Execution, Doc. 252, *Westlake Petrochemicals, LLC v. United Polychem, Inc.*, Civil Action No. H-08-3612, (S.D. Tex. Dec. 7, 2010) (Hittner, J.).

The constellation of circumstances presented here make a compelling case for staying execution of the judgment pending the disposition of post-judgment motions. Defendants are a small business that employs approximately 40 people and its owner. Ex. 1, Decl. of Vinod Ramani ¶¶ 2-3. Defendant Urban Living's annual net profits for 2017 were approximately \$300,000. *Id.* ¶ 3. Due to

Defendants' lack of liquid assets and the size of the judgment, execution of the judgment would result in Defendants' having to cease business operations and those employees losing their jobs. *Id.* ¶¶ 4-5. In a case where statutory damages are thousands of times actual damages, it would be particularly unfair to allow the company to be destroyed before the Court even rules on post-judgment motions.

Moreover, Defendants' existing creditors would be harmed by a hasty execution. As participants in the real estate business, many of Defendants' assets are encumbered by financing and other agreements with various third parties. *Id.* ¶ 3. Permitting execution of the judgment now would upset those arrangements and destroy Defendants' ability to do business and thereby generate the revenue needed to satisfy both its existing creditors and the judgment.

These problems are exacerbated by the fact that Defendants anticipate being unable to post a supersedeas bond for the full amount of the judgment. *Id.* ¶ 4. Defendants lack of liquidity as well as their relative lack of unencumbered assets compared to the size of the judgment—will necessitate a substantially reduced bond. Defendants intend to file a motion under Rule 62(d) demonstrating these circumstances in greater detail and seeking a reduced bond amount to stay execution of the judgment pending appeal. *Cf. Westlake Petrochemicals, LLC v. United Polychem, Inc.*, Civil Action No. H-08-3612, 2011 WL 13134751, at *2 (S.D. Tex. May 6, 2011) (Hittner, J.) (granting a motion for a reduced bond under

Rule 62(d) and, “considering the current financial positions of Defendants,” ordering a \$75,000 bond for a \$6.9 million judgment).

Defendants intend the relief requested in this motion to be an interim measure until the Court can rule on that forthcoming motion for reduced bond. Granting this motion for a brief stay will allow Defendants to pursue a reduced bond—both with this Court and with sureties—in an orderly fashion. Unless and until the Court grants a reduced bond that Defendants can post, Defendants are powerless to stop the imminent destruction of their real-estate business and the substantial harm to their employees and creditors that will ensue.

In order to ensure no prejudice to Plaintiff, Defendants propose that the Court additionally order that Defendants are prohibited from making any transfers of money or assets outside the scope of ordinary business during the pendency of the stay without notice to Plaintiff and notice and subsequent approval by this Court. *Cf. Westlake*, 2011 WL 13134751, at *2 (imposing a similar restriction in granting an order to reduce the amount of the supersedeas bond under Rule 62(d)).

For these reasons, the Court should grant this Motion and exercise its discretion to stay execution of the monetary portion of the judgment pending the disposition of Defendants’ forthcoming post-judgment motions. Defendants request that the Court issue the stay as soon as possible, and in no event later than November 22, 2018, the date the automatic 14-day stay expires.

Respectfully Submitted,

/s/ Justin Strother

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ATTORNEYS FOR DEFENDANTS UL,
INC. D/B/A URBAN LIVING AND
VINOD RAMANI

CERTIFICATE OF CONFERENCE

I HEREBY CERTIFY that on the 9th day of November, 2018, I conferred with Louis Bonham and Patrick Zummo, counsel for Plaintiff, regarding the relief sought in this motion. Counsel indicated that Plaintiff opposes the relief sought in this motion.

/s/ J. Mark Little
J. Mark Little

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has been served upon all counsel of record by electronic filing on this 9th day of November, 2018.

/s/ J. Mark Little
J. Mark Little

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PRESTON WOOD & ASSOCIATES, §
LLC, §

Plaintiff, §

v. §

CIVIL ACTION NO. 4:16-cv-01427

RZ ENTERPRISES USA, INC. d/b/a §
OPPIDAN HOMES, OPPIDAN §
HOMES §
VII LTD., CAMERON §
ARCHITECTS, §
INC., and UL, INC. d/b/a URBAN §
LIVING, §

Defendant. §



DECLARATION OF VINOD RAMANI

1. My name is Vinod Ramani. I am of the age of majority, am competent to make this declaration, and make this declaration based on my personal knowledge.
2. I am a defendant in the above-captioned case and the sole shareholder and CEO of UL, Inc. d/b/a Urban Living (“Urban Living”), another defendant in the case.
3. Urban Living is a real-estate company that employs approximately 40 people in the Houston area, with annual net profits of approximately \$300,000. A substantial portion of Urban Living’s assets and my assets are encumbered by financing and other agreements with third parties.
4. Neither Urban Living nor I have unencumbered assets sufficient to satisfy the \$28,797,539.60 in damages the Court ordered in the final judgment. Due to our financial circumstances, including a minimal amount of liquid assets,

Urban Living and I anticipate being unable to secure a supersedeas bond to cover the full amount of the judgment.

5. Due to these financial circumstances, execution on the judgment would result in the business shutting down. That would result in Urban Living's employees losing their jobs and impede Urban Living's ability to satisfy its existing creditors.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 9, 2018.



Vinod Ramani

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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LLC,	§	
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<i>Plaintiff,</i>	§	
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RZ ENTERPRISES USA, INC. d/b/a	§	
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LIVING,	§	
	§	
<i>Defendant.</i>	§	

**ORDER GRANTING DEFENDANTS’ EMERGENCY MOTION TO STAY
EXECUTION OF JUDGMENT PENDING DISPOSITION OF POST-
JUDGMENT MOTIONS**

On this day the Court considered Defendants’ Emergency Motion to Stay Execution of Judgment Pending Disposition of Post-Judgment Motions. Having considered the Motion, all other germane filings, and arguments of counsel, if any, the Court believes the Motion should be granted.

It is therefore ORDERED that the Motion is GRANTED.

It is furthered ORDERED that no execution may issue on the monetary portion of the Final Judgment nor may any proceeding be taken to enforce the

monetary portion of the Final Judgment until after the Court disposes of all post-judgment motions.

It is furthered ORDERED that Defendants UL, Inc. d/b/a Urban Living and Vinod Ramani are prohibited from making any transfers of money or assets outside the scope of ordinary business during the pendency of this stay without notice to Plaintiff and notice and subsequent approval by this Court.

ENTERED on this ____ day of _____, 2018.

David Hittner
United States District Judge