

1 NICHOLAS B. WARANOFF (BAR NO. 060155)  
 WILLIAM W. HUCKINS (BAR NO. 201098)  
 2 MARLENE M. MOFFITT (BAR NO. 223658)  
 ALLEN MATKINS LECK GAMBLE  
 3 MALLORY & NATSIS LLP  
 Three Embarcadero Center, 12th Floor  
 4 San Francisco, CA 94111-4074  
 Telephone: (415) 837-1515  
 5 Facsimile: (415) 837-1516

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6 Attorneys for Defendant  
 FEDERAL REALTY INVESTMENT TRUST

7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN JOSE DIVISION

11 FIRST NATIONAL MORTGAGE  
 COMPANY, a California corporation,  
 12  
 Plaintiff,  
 13  
 vs.  
 14 FEDERAL REALTY INVESTMENT TRUST,  
 15  
 Defendant.

Case No. C03 02013 RMW / RS  
**STIPULATION AND [] ORDER  
 REGARDING AMOUNT OF  
 SUPERSEDEAS BOND**  
 Judge: Hon. Ronald M. Whyte

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 19 Plaintiff First National Mortgage Company ("First National") and Defendant Federal  
 20 Realty Investment Trust ("FRIT"), by and through their undersigned attorneys, hereby agree and  
 21 stipulate as follows and request the Court to enter the accompanying order approving same:

- 22 1. FRIT intends to file an appeal to the Ninth Circuit Court of Appeals from  
 23 the Judgment in this matter, and from any subsequent order awarding costs and/or attorneys' fees.  
 24 Pursuant to Federal Rule of Civil Procedure 62(d), FRIT intends to file a supersedeas bond to stay  
 25 enforcement of the Judgment and any order awarding costs and/or attorneys' fees, pending the  
 26 determination of the appeal(s).  
 27 2. The parties agree that enforcement of any Judgment in this action shall be  
 28 stayed without any bond for thirty (30) days following entry of such Judgment. The parties also

1 agree that enforcement of any order awarding costs and/or attorneys' fees, shall be stayed without  
2 any bond for thirty (30) days following entry of such order.

3           3.       The parties further agree that enforcement of any Judgment in this action,  
4 and of any order awarding costs and/or attorneys' fees, shall be further stayed while the Judgment  
5 and/or order is pending on appeal, but only from and after the date that FRIT has a supersedeas  
6 bond or bonds on file in compliance with the terms herein with respect to such Judgment or order  
7 and only for so long as said bond(s) are on file and in effect.

8           4.       The parties further agree that Defendant's proposed bond providers,  
9 Travelers Casualty and Surety Company of America and Liberty Mutual Insurance Company, and  
10 each of them, based on their current rating and financial status, are not objectionable to Plaintiff.  
11 In the event of a material adverse change in their current rating or financial status, Plaintiff  
12 reserves the right to object to them, as provided by existing law.

13           5.       The parties further agree that the amount of the supersedeas bond necessary  
14 and sufficient to stay enforcement of any Judgment is 1.50 times the amount of the Judgment, and  
15 the amount of the supersedeas bond necessary and sufficient to stay enforcement of any order  
16 awarding costs and/or attorneys' fees is 1.50 times the amount of any such order.

17           6.       As an alternative to a supersedeas bond, FRIT may make a cash deposit in  
18 this Court's registry in the same amount as the required supersedeas bond, which deposit shall be  
19 governed by sections 995.710 *et seq.* of the California Code of Civil Procedure, and FRIT may  
20 thereafter exercise its right under California Code of Civil Procedure section 995.770 to substitute  
21 a supersedeas bond in place of the deposit, in the amount set forth in this Stipulation. Plaintiff  
22 reserves the right to object to any such bond unless it complies with the terms of this Stipulation.

23           7.       Except as expressly provided for in this Stipulation, no bond or other  
24 security shall be required as a condition of the stay set forth herein.

25           8.       The parties further agree (pursuant to Local Rule 6-2), notwithstanding any  
26 provision to the contrary, that First National may seek fees and/or costs, including attorneys' fees  
27 and expert fees, up to thirty (30) days after entry of Judgment. This enlargement of time is being  
28 provided to First National so that it has the opportunity to review voluminous time and expense

1 records for the purpose of seeking fees and costs. This extension will not affect any other  
2 scheduling issues in this case and no prior modifications related to such requests have been  
3 provided before in this matter. First National acknowledges that lead counsel for FRIT has an  
4 arbitration set for July 29-30, 2009, and that the daughter of lead counsel for FRIT is getting  
5 married out of town on August 15, 2009. Accordingly, in light of the anticipated voluminous  
6 materials that First National may file, and in light of the foregoing commitments of FRIT's  
7 counsel, First National agrees to enlarge FRIT's time to oppose First National's motion(s), and to  
8 cooperate in the scheduling of the hearing (as required in any event under existing procedures), as  
9 reasonably requested by FRIT, so that FRIT has adequate time to oppose the motion(s) and so that  
10 neither the preparation of the opposition nor the hearing date conflict with the prior commitments  
11 of FRIT's counsel.

12           9.       The effectiveness of this stipulation is expressly conditioned upon entry of  
13 this stipulation as an order of the Court.

14                   **IT IS SO STIPULATED:**

15 Dated: June 4, 2009

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

17 By: /s/Nicholas B. Waranoff

NICHOLAS B. WARANOFF  
Attorneys for Defendant  
FEDERAL REALTY INVESTMENT  
TRUST

20 Dated: June 4, 2009

WINSTON & STRAWN LLP

21 By: /s/Patrick M. Ryan

PATRICK M. RYAN  
Attorneys for Plaintiff  
FIRST NATIONAL MORTGAGE  
COMPANY

25           I, Nicholas B. Waranoff, hereby attest, pursuant to N.D. Cal. General Order No. 45, that  
26 the concurrence to the filing of this document has been obtained from each signatory hereto.

27 Dated: June 4, 2009

/s/Nicholas B. Waranoff

Nicholas B. Waranoff  
Attorney for Defendant Federal Realty  
Investment Trust

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**ORDER**

Based on the foregoing Stipulation of the parties and for good cause, the parties are hereby **ORDERED** to comply with the forgoing Stipulation.

**AS STIPULATED, IT IS SO ORDERED**

Dated: 6/10/09

  
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Hon. Ronald M. Whyte  
Judge, United States District Court