2015 IL App (2d) 141145-U
No. 2-14-1145
Order filed March 20, 2015
Supplemental Order filed May 13, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

IN RE MARRIAGE OF THOMAS S. BLOOM,	)	Appeal from the Circuit Court of Du Page County.
Petitioner-Appellee,	)	
and	)	No. 12-DV-1210
MICHELLE M. BLOOM,	)	Honorable Brian R. McKillip,
Respondent-Appellant.	)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices McLaren and Spence concurred in the judgment.

ORDER

¶ 1 *Held*: Respondent failed to demonstrate that the trial court's order granting petitioner's motion for a preliminary injunction was an abuse of discretion where respondent's arguments were, on the whole, frivolous; sanctions are warranted.

¶ 2 I. INTRODUCTION

¶ 3 Respondent, Michelle Bloom, appeals an order of the circuit court of Du Page County granting a preliminary injunction enjoining her from prosecuting a civil action in New York (a declaratory judgment action seeking to construe a stock-purchase agreement (the agreement) that could affect the value of an asset distributed in the dissolution proceeding). Petitioner, Thomas

Bloom has moved for sanctions against respondent and her attorney for filing a frivolous appeal. For the reasons that follow, we affirm and impose sanctions.

¶ 4 II. ANALYSIS

¶ 5 This cause returns to us for a fifth time. Most recently, respondent appealed the trial court's order granting a temporary restraining order (TRO) regarding her prosecution—in New York—of an action for a declaratory judgment seeking the construction of a stock-purchase agreement entered into by petitioner (respondent's former husband) and NASDAQ. We affirmed and remanded. Following our remand, the trial court imposed a preliminary injunction to the same effect. Respondent now appeals that order.

¶ 6 Generally, a court may enjoin the prosecution of a foreign suit if "prosecution of the foreign action would result in fraud or gross wrong or oppression, or when a clear equity is presented which requires such restraint to prevent a manifest wrong and injustice." *Pfaff v. Chrysler Corp.*, 155 Ill. 2d 35, 50 (1992) (o*verruled on other grounds by ABN AMRO Mortgage Group, Inc. v. McGahan*, 237 Ill. 2d 526 (2010)). The decision to grant a preliminary injunction lies within the discretion of the trial court and will not be disturbed unless that discretion is abused. *People ex rel. Klaeren v. Village of Lisle*, 202 Ill. 2d 164, 177 (2002). A trial court abuses its discretion only if no reasonable person would agree with its decision. *Cushing v. Greyhound Lines, Inc.*, 2013 IL App (1st) 103197, ¶ 308.

¶ 7 Before the trial court, petitioner had the burden of establishing the elements of an injunction. See *Franz v. Calaco Development Corp.*, 322 Ill. App. 3d 941, 946 (2001). Of course, as this is the preliminary-injunction stage of the proceedings, petitioner need not prove his case, rather, it is his burden to establish a "fair question" as to the elements at issue. *Village of Westmont v. Lenihan*, 301 Ill. App. 3d 1050, 1055 (1998). In a case to enjoin the prosecution

of a subsequently filed action, those elements are that "(a) either the parties and the legal issues involved are the same or the issues involved in the later-filed action are of the type that can and ordinarily should be disposed of in the course of the original action; and (b) there does not appear to be any proper purpose for the maintenance of the later-filed action." *John Crane, Inc. v. Admiral Insurance. Co.*, 391 Ill. App. 3d 693, 700-701 (2009); *In re Marriage of Gary*, 384 Ill. App. 3d 979, 987 (2008). On appeal, the burden is on the party challenging the trial court's decision (*i.e.*, the appellant) to establish that the trial court erred. *TSP-Hope, Inc. v. Home Innovators of Illinois, LLC*, 382 Ill. App. 3d 1171, 1173 (2008). Thus, it is respondent's burden to establish that no reasonable person could agree with the trial court that there is a fair question as to the existence of the elements set forth above.

¶ 8 It is quite clear that, in this case, a reasonable person could conclude that there is a fair question as to the existence of both elements. As to the first, a reasonable person could agree that the court in which the parties' dissolution of marriage action is pending ordinarily should dispose of the question regarding the valuation of an asset to be distributed in that action. *Cf. In re Marriage of Isaacs*, 260 Ill. App. 3d 423, 429 (1994) ("[B]oth common sense and sound public policy dictate that matrimonial litigants should not be permitted to make a circuitous run around the divorce court in coordinate courts."). The construction of the stock-purchase agreement is material to the dealings between the parties only to the extent that it affects the valuation and classification of Bloom Partners, Inc. It is clearly reasonable to conclude that these related questions should be resolved in the same forum in a single action. In addition, respondent complains that petitioner "did nothing more than make argument regarding the similarity between issues in [her] New York action and the issues in the domestic relations case pending in Du Page County." Of course, such argument is directly pertinent to the first element

petitioner was required to establish and the duplicative nature of the New York action certainly raises a question as to its actual purpose, making it relevant to the second element. See *In re Marriage of Gary*, 384 Ill. App. 3d at 987. Respondent points out that similarity is an insufficient basis to enjoin a foreign action. See *National Hockey League v. Intermart, Inc.*, 127 Ill. App. 3d 1072, 1079 (1984). This is obvious given that, in itself, it constitutes but one element of a two part test.

¶ 9 Regarding the second element, a reasonable person could also agree that a fair question existed as to whether there was a proper purpose for the maintenance of the New York action. As noted in our earlier order in this litigation, when questioned about the purpose of the New York suit, counsel could not identify one. Subsequently, the only purpose respondent's counsel could articulate is to have a New York court construe a document that was formed in contemplation of New York law. Illinois courts have applied New York law on many occasions in the past. See, *e.g.*, *Ragan v, AT & T Corp.*, 355 Ill. App. 3d 1143, 1155 (2005); *Household International, Inc. v. Liberty Mutual Insurance Co.*, 321 Ill. App. 3d 859, 870-71 (2001). Moreover, respondent has not identified any relevant difference in the laws of these two states, so it is not even clear that the law the trial court would have to apply (assuming, *arguendo*, that New York law in fact applies) would be unfamiliar. See *Household International, Inc. v. Liberty Mutual Insurance Co.*, 321 Ill. App. 3d at 868 (holding that choice-of-law questions are not relevant where no conflict exists between the laws of competing jurisdictions). As such, respondent's proffered reason rings hollow. Thus, the trial court's ruling was not an abuse of discretion.

¶ 10 Respondent advances a number of arguments as to why this result should not obtain. First, she contends that petitioner did not present any evidence as purportedly required by section

11-101 of the Code of Civil Procedure (Code) (735 ILCS 5/11-101 (West 2012)). This section states—in part—as follows:

> "In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he or she does not do so, the court shall dissolve the temporary restraining order." 735 ILCS 5/11-101 (West 2012).

According to respondent, this section required the trial court to hold an evidentiary hearing at which petitioner should have been required to present evidence before issuing the preliminary injunction.

¶ 11 Initially, we note that petitioner did notice his motion for the TRO. Respondent argues that this notice was insufficient because it stated only that petitioner would present the motion and it did not mention that a hearing would be held. Respondent fails to support this argument with any legal authority, thereby forfeiting it. *Vancura v. Katris*, 238 Ill. 2d 352, 370 (2010); *Dillon v Evanston Hospital*, 199 Ill. 2d 483, 493 (2002). We further note that the section set forth above says nothing about requiring the specific notice advocated by respondent, and respondent does not explain from where she derives this requirement.[1] It plainly does not state

[1]In her reply brief, respondent belatedly sets forth some authority in support of this argument. As she forfeited the argument in her opening brief by not properly raising it, she cannot raise it in her reply brief. *Franciscan Communities, Inc. v. Hamer*, 2012 IL App (2d) 110431, ¶ 19 (holding that an issue may not be raised for the first time in a reply brief).

that in such cases, the court should proceed as if respondent received no notice whatsoever. Thus, respondent has not established the initial premise of her argument.

¶ 12 Moreover, she also has not established that the conclusion she seeks (that the trial court was required to hold an evidentiary hearing) should follow from that premise, even if she had established it. Quite simply, section 11-101 states that in the event a TRO is issued without notice, the party seeking the injunction must "proceed with the application for a preliminary injunction." 735 ILCS 5/11-101 (West 2012). Respondent argues as if the plain meaning of "proceed" was to present evidence at an evidentiary hearing; however, respondent does not even attempt to explain why we should read the word in such a manner or provide citation to authority supporting such an interpretation. In any event, the plain meaning of "proceed" does not support respondent's interpretation of the trial court's and petitioner's responsibilities. *Evanston Insurance Co. v. Riseborough*, 2014 IL 114271, ¶ 15 ("[S]tatutory language must be given its plain and ordinary meaning."). We simply cannot equate "proceed" with "hold an evidentiary hearing." As such, assuming respondent did not receive adequate notice in connection with the TRO, respondent has nevertheless not shown that an evidentiary hearing was required (which also moots the notice issue).

¶ 13 Next, respondent argues that the trial court found and petitioner conceded that the stock-purchase agreement was not relevant to the claim for preliminary injunctive relief. Initially, we note that respondent provides no citations to the record to substantiate her claims regarding the trial court's ruling or petitioner's purported admission. Illinois Supreme Court Rule 341(h)(7) (eff. Feb. 6, 2013) requires argument to "contain the contentions of the appellant and the reasons therefor, *with citation of* the authorities and *the pages of the record relied on*." (Emphasis added.) By failing to comply with the supreme court rules pertaining to appellate briefs,

respondent has forfeited this argument as well. *People v. Sprind*, 403 Ill. App. 3d 772, 779 (2010). Moreover, respondent conflates the agreement's relevance to the proceeding before the trial court generally with its relevance (or lack thereof) to the preliminary injunction.

¶ 14 Obviously, the agreement appears to be relevant to the dissolution proceeding generally. As respondent states, we recognized its likely relevance during an earlier appeal. Furthermore, recalling that at this stage, petitioner need only establish a "fair question" as to his entitlement to an injunction (*Village of Westmont*, 301 Ill. App. 3d at 1055), it simply would not be an abuse of discretion to conclude that its individual and particularized terms were not relevant to the instant proceeding. A preliminary injunction is a provisional remedy, the imposition of which has no preclusive effect on subsequent litigation. *Electronic Design & Manufacturing, Inc. v. Konopka*, 272 Ill. App. 3d 410, 415 (1995). At most, an abbreviated evidentiary hearing is required.[2] *Id.*; see also *Five Mile Capital Westin North Shore SPE, LLC v. Berkadia Commercial Mortgage, LLC*, 2012 IL App (1st) 122812, ¶ 23 ("An evidentiary hearing would not have added anything to this case or resolved any disputed issue of fact because none existed when the circuit court issued its ruling. The circuit court therefore did not err by ruling on the motion for a preliminary

[2] Here, the salient facts are that there is a dissolution action pending between the parties in Du Page County; the valuation of Bloom partners is at issue; respondent is seeking to have a document pertinent to the sale of that company construed by a foreign court; and respondent can articulate no credible purpose for the foreign suit other than to influence that local action. An evidentiary hearing was not necessary under such circumstances. What respondent fails to grasp is that what is at issue is not what were petitioner's rights and interests under the agreement; rather, the issue is which court should make that determination.

injunction without an evidentiary hearing."). Delving into the particularities of the agreement is beyond the scope of such proceedings.

¶ 15 As for petitioner's purported acknowledgment that the agreement was not relevant, respondent cites no authority as to why such a statement should be controlling. As such, it is waived. *In re County Treasurer*, 2013 IL App (1st) 130103, ¶ 41. Respondent could have attempted to establish that the statement was a judicial admission (see *Williams Nationalease, Ltd. v. Motter*, 271 Ill. App. 3d 594, 597 (1995)) or perhaps that one of the species of estoppel applied (see, *e.g.*, *People v. Pollock*, 2014 IL App (3d) 120773, ¶ 62; *Libertyville Toyota v. U.S. Bank*, 371 Ill. App. 3d 1009, 1017 (2007)). In short, respondent fails to articulate a legal theory upon which petitioner's purported acknowledgment would determine the outcome of this appeal, and we will not consider this issue any further.

¶ 16 Respondent next complains of the trial court's decision to exclude the agreement from the proceedings and to quash a subpoena issued to one of petitioner's former attorneys seeking a copy of the agreement. She claims this prevented her from arguing that a forum selection clause entered into as part of the agreement between petitioner and NASDAQ made New York the appropriate forum for her to seek declaratory relief regarding the agreement. We note that respondent made an argument based on the forum-selection clause of the agreement in her most recent previous appeal in this matter as it pertained to the TRO, so it is unclear to us why she could not make a similar argument relying on the clause at this point. Respondent further claims that Illinois Rules of Evidence 1002 and 1003 (eff. January 1, 2011) (governing the admission of documents and duplicates of documents) require her to subpoena a copy of the agreement to allow her to make an argument premised on the content of the agreement. However, this argument is premised on the relevance of the content of the agreement *to the propriety of a*

preliminary injunction. As we explained above, such an injunction is a provisional remedy and may be entered after summary proceedings. Again, we fail to see how dissecting the agreement would have been necessary at this point, and it also does not appear that respondent was precluded from making her argument based on the forum-selection clause, as she has done so twice (including once later in this appeal, which we will address below). At the very least, regardless of the content of the agreement, a fair question would exist as to whether "the issues involved in the later-filed action[—namely, the construction of the agreement and its impact on the valuation of Bloom Partners—]are of the type that can and ordinarily should be disposed of in the course of the original action." *In re Marriage of Gary*, 384 Ill. App. 3d at 987.

¶ 17 Nevertheless, respondent points out that the agreement contained a clause designating New York as the forum in which questions concerning the agreement would be litigated. Initially, we note that respondent is not a party to this agreement. This is not necessarily fatal, for, as she points out, the actual issue is whether requiring petitioner to litigate in New York would be oppressive to him. She states: "The answer should be obvious. There is nothing fraudulent, grossly wrongful, or oppressive in [petitioner] having to litigate [the agreement] in New York as he agreed." This would be plainly the case if petitioner was engaged in litigation with NASDAQ. However, here, there is already a dissolution action pending in this state. A fair question clearly exists as to whether requiring petitioner to litigate what is essentially a sub-part of this case in a foreign forum is oppressive. See *John Crane, Inc.*, 391 Ill. App. 3d at 700 ("Nonetheless, where complete relief can be had in the local forum, the institution of foreign proceedings will be regarded as vexatious and harassing of the opposite party."). Clearly, when petitioner agreed that any litigation between him and NASDAQ would occur in New York, he was not also agreeing to litigate portions of the dissolution proceeding in that forum. At the very

least, a fair question exists as to this point as well. As such, the existence of the forum selection clause does not preclude the imposition of the preliminary injunction.

¶ 18 Next, respondent claims that she is entitled to invoke the forum selection clause. Without explanation or citation to authority, she contends that we must apply New York law on this point. We note a certain circularity to respondent's position: New York law applies because it is selected in the forum-selection clause; and respondent is entitled to invoke the clause because New York law applies. Of course, ordinarily, choice of law questions are resolved by the forum court applying its own choice of law rules. *Landmark American Insurance Co. v. NIP Group, Inc.*, 2011 IL App (1st) 101155, ¶ 21. Here, New York law applies and New York is the proper forum only if petitioner's selection in his agreement with NASDAQ control in this dissolution proceeding. In turn, the forum selection clause applies only if respondent is entitled to invoke it. Since respondent's entitlement to invoke the clause is dispositive as to which state is the proper forum, we will apply our own law on these questions.[3] *Id.*

¶ 19 Turning to Illinois case law, we find the following guidance. In *Solargenix Energy, LLC v. Acciona, S.A.*, 2014 IL App (1st) 123403, ¶ 36, the court determined that nonsignatories to a contract *were bound by* a forum selection clause (we find this situation sufficiently analogous to the question of whether a nonsignatory *can invoke* such a clause as to provide sound guidance here). The court explained, "Although the Spanish defendants were not signatories to the amended cooperation agreement in the present case, courts have determined that a nonparty to a contract containing a forum selection clause can nonetheless be bound by that clause where the

[3]Our analysis of whether New York law controls the choice-of-law and forum selection questions here has no bearing upon whether New York law controls the interpretation of the agreement, should it become necessary in subsequent proceedings.

nonsignatory is ' "closely related" to the dispute such that it becomes "foreseeable" that it will be bound." ' " *Id*. (quoting *Hugel v. Corporation of Lloyd's*, 999 F.2d 206, 209 (7th Cir. 1993). In this case, it was clearly not foreseeable to petitioner that by agreeing to litigate any questions regarding the agreement with signatory NASDAQ in New York, he was also agreeing to litigate what is, in essence, a portion of the dissolution proceeding there or that respondent would be entitled to invoke the clause. As such, respondent is not closely related to the agreement such that she can invoke the forum selection clause.

¶ 20 Furthermore, New York cases cited by respondent are not on point. In *Harry Casper, Inc. v. Pines Associates, L.P.*, 53 A.D.3d 764, 765 (N.Y. Sup. Ct. 2008), the nonsignatory invoking the forum selection clause was a limited partner in a partnership that was a signatory. In *Dogmoch International Corp. v. Dresdner Bank AG*, 757 N.Y.S. 557, 558 (N.Y. Sup. Ct. 2003), a bank was the signatory and it subsidiary was allowed to invoke the clause. *Tate & Lyle Ingredients Americas, Inc. v. Whitefox Technologies USA, Inc.*, 98 A.D.3d 401, 402 (N.Y. Sup. Ct. 2012), involved a parent and a subsidiary corporations. No such relationships exist in this case. Rather, at the time the agreement was executed, respondent was the ex-wife of the seller. Respondent identifies no case law establishing that such a relationship is sufficient to allow respondent to invoke the forum selection clause. In other words, New York law provides no more support for respondent's position than Illinois law. While it is true that, as respondent states, "the overwhelming weight of authority in New York, Illinois, and in the Federal courts [indicates that] non-signatories are routinely entitled to invoke forum selection clauses," it is also true that they may do so only when certain close relationships exist, which are unlike any present in the instant case.

¶ 21 Respondent claims that she was denied an opportunity to prove that many witnesses and evidence concerning the agreement were in New York and that, therefore, litigating in New York would not have been oppressive. Again, at this stage of the proceedings, petitioner need only raise a fair question that "(a) either the parties and the legal issues involved are the same or the issues involved in the later-filed action are of the type that can and ordinarily should be disposed of in the course of the original action; and (b) there does not appear to be any proper purpose for the maintenance of the later-filed action." *In re Marriage of Gary*, 384 Ill. App. 3d at 987. Given the pendency of the dissolution proceeding here, we cannot see how the presence of certain witnesses and evidence in another state would have led to a different conclusion.

¶ 22 Without citation to the record (thereby forfeiting the issue (*Sprind*, 403 Ill. App. 3d at 779)), respondent claims that the trial court erred in that it conducted only a summary hearing on petitioner's motion for the preliminary injunction. She points out that imposing a preliminary injunction is a more significant act than simply imposing a TRO. See *Paddington Corp. v. Foremost Sales Promotions, Inc.*, 13 Ill. App. 3d 170, 174 (1973). Respondent emphasizes that a TRO is a "provisional remedy, and therefore this [c]ourt's [earlier] decision to affirm the TRO *** did not constitute the ultimate relief afforded with respect to [petitioner's] claims for injunctive relief." Of course, a preliminary injunction is also a provisional remedy (*Electronic Design & Manufacturing, Inc.*, 272 Ill. App. 3d at 415), which also does not constitute the ultimate relief in this case. As explained above, an evidentiary hearing is not always necessary prior to entering a preliminary injunction. *Five Mile Capital Westin North Shore SPE, LLC, LLC*, 2012 IL App (1st) 122812, ¶ 23. Moreover, if one is held, it is typically abbreviated in scope. *Electronic Design & Manufacturing, Inc.*, 272 Ill. App. 3d at 415. Here, respondent makes only general claims about the trial court's failure to require petitioner to put on evidence,

and she fails to identify any factual issue that would require an evidentiary hearing to resolve. As such, her attack upon the trial court's order is baseless.

¶ 23 Having considered and rejected respondent's arguments, we affirm the trial court's order imposing a preliminary injunction in this case.

¶ 24 III. SANCTIONS

¶ 25 Petitioner has moved for sanctions to be imposed against respondent and her attorney in accordance with Illinois Supreme Court Rule 341 (eff. Feb. 6, 2013) and 375 (eff. February 1, 1994). Rule 375(a) authorizes sanctions where a party or an attorney has been found to have willfully failed to comply with the Illinois Supreme Court Rules governing appeals. Rule 375(b) permits sanctions where an appeal or other action is frivolous, was not taken in good faith, or was taken for an improper purpose. The rule states that "frivolous" means "not reasonably well grounded in fact and not warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law." It states that an improper purpose is "where the primary purpose of the appeal or other action is to delay, harass, or cause needless expense." We have our reservations as to the purpose of this appeal (being the fifth appeal in approximately two years in this case). Moreover, an appeal is frivolous if it would not have been brought—in good faith—by a reasonable and prudent attorney. *Penn v. Grieg*, 334 Ill. App. 3d 345, 357 (2002). We will examine the individual issues presented by respondent to determine if these standards have been met.

¶ 26 In the first section of her argument (citing to a case that did not involve a suit to enjoin a foreign action), respondent sets forth the incorrect elements petitioner was required to establish. *Compare Lawter International, Inc. v. Carroll*, 116 Ill. App. 3d 717, 729 (1983) (cited by respondent) *with John Crane Inc.*, 391 Ill. App. 3d at 699-700. A reasonable, prudent attorney

would have ascertained the proper law on such a key point before proceeding with an appeal. Respondent then argues that petitioner's "request for a temporary restraining order was held without prior notice." She then states that, actually, respondent provided notice, but only for presentment rather than hearing. She provides no authority for this distinction (at least until belatedly, in the form of a local court rule, in her reply brief). Moreover, she later acknowledges that she participated in the hearing on the TRO, but now states that this "does not change the fact that the TRO was heard without prior notice." She fails to support this legal conclusion with authority.

¶ 27 Respondent next argues that since the TRO was (purportedly) obtained without notice, petitioner was required "to proceed with his proof" at the hearing for the preliminary injunction. The only citation made by respondent is to section 11-101 of the Code, which says nothing about whether an evidentiary hearing is required, stating only that the party seeking the injunction "shall *proceed with the application* for a preliminary injunction." (Emphasis added.) Respondent apparently reads "proceed with the application" as "present evidence." Respondent fails to acknowledge this discrepancy, much less present argument or authority in support of her interpretation.

¶ 28 Respondent also attempts to argue that the trial court found the agreement "wholly irrelevant" without identifying what portion of the ruling she is attacking. She then attempts to bind petitioner to a purported acknowledgment to the same effect without mentioning any legal theory (such as, for example, that the statement constituted a judicial admission) that would lead to such a conclusion. Subsequently, respondent claims the document was relevant to the proceeding on the preliminary injunction. She supports this claim, in part, with this court's statement in an earlier appeal that the agreement "could have consequences regarding the

pending marital dissolution action pending in this state." *In re Marriage of Bloom*, 2014 IL App (2d) 140863-U, ¶ 5. Respondent conflates relevance to the dissolution proceeding generally with relevance to the issuance of the preliminary injunction.

¶ 29 With no analysis as to why New York law should control, she states that we must apply it in construing the forum-selection clause. The New York law she cites is easily distinguishable (and includes an unpublished decision, which, under New York law, has no precedential value, beyond the possible persuasiveness of its reasoning which respondent does not explain (*Yellow Book of NY, L.P. v. Dimilia*, 729 N.Y.S. 2d 286, 287 (N.Y. Dist. Ct. 2001)). Respondent asserts that "within the overwhelming weight of authority in New York, Illinois, and in the Federal courts, non-signatories are routinely entitled to invoke forum selection clauses." However, respondent ignores the fact that these cases plainly require certain, close relationships to exist before a nonsignatory may do so. She concludes that she would have been able to show that her New York action was not oppressive to petitioner if she had been allowed to present the precise terms of the agreement,[4] but never explains how being compelled to effectively litigate a single dispute in two forums would not be oppressive. She claims that all of the evidence concerning the transaction between petitioner and NASDAQ was in New York, but does not address why

[4] We note that petitioner offered to stipulate to the content of the forum-selection clause, but respondent rejected the stipulation, stating that live testimony is more persuasive. We fail to see how live testimony *about the content of a document* would have been more persuasive (if, indeed, it was even relevant in light of the parol evidence rule (*People ex rel City of Chicago v. Le Mirage, Inc.*, 2013 IL App (1st) 093547, ¶ 54)). While respondent is technically correct that she is not required to accept a stipulation, respondent's decision to pursue a more cumbersome and time-consuming course for no real benefit raises questions about her motives as well.

such evidence would have even been admissible (or necessary) to construe the agreement in light of the parol evidence rule. See *Le Mirage, Inc.*, 2013 IL App (1st) 093547, ¶ 54; see also *West 63 Empire Associates, LLC v. Walker & Zanger, Inc.*, 968 N.Y.S. 2d 455, 457 (N.Y. App. Div. 2013).

¶ 30 Despite the fact that a preliminary injunction is a provisional remedy (*Electronic Design & Manufacturing, Inc.*, 272 Ill. App. 3d at 415), respondent argues, "Both the trial court and [petitioner] fail to understand that a temporary restraining order *** is only a provisional remedy." She complains that the preliminary injunction was entered after a summary hearing, but fails to acknowledge the well-established proposition that if an evidentiary hearing is held, it is usually "abbreviated." *Id.* She ignores case law stating one is not always required. See *e.g.*, *Five Mile Capital Westin North Shore SPE, LLC*, 2012 IL App (1st) 122812, ¶ 23. Perhaps most importantly, respondent never explains why "(a) either the parties and the legal issues involved [were not] the same or the issues involved in the later-filed action [were not] of the type that can and ordinarily should be disposed of in the course of the original action; and (b) there does [] appear to be any proper purpose for the maintenance of the later-filed action." *In re Marriage of Gary*, 384 Ill. App. 3d 979, 987 (2008). That is, respondent does not address the elements of an injunction to restrain the prosecution of a foreign action.

¶ 31 For all of the above and foregoing reasons, we agree with the petitioner that sanctions should be imposed against respondent and her appellate counsel for having filed a frivolous appeal. To paraphrase the language set forth in *Parkway Bank and Trust Co. v Korzen*, 2013 IL App (1st) 130380, ¶88, we find that this appeal, viewed as a whole, is frivolous, that it was taken for an improper purpose, and it was filed to cause an unnecessary delay and needlessly increase the cost of litigation. We impose sanctions for this conduct, finding that cases like this drain

valuable resources intended to benefit those who accept the social contract of living under a law-based system of government.

¶ 32 Since the petitioner has not yet done so, we direct the petitioner to file within 14 days a statement of reasonable expenses and attorney's fees incurred as a result of this appeal. The respondent and her attorney shall have seven days to file a response. This court will then file a supplemental order determining the amount of the sanction, which will be imposed upon the respondent and her appellate attorney.

¶ 33 IV. CONCLUSION

¶ 34 The judgment of the circuit court of Du Page County is affirmed with sanctions.

¶ 35 SUPPLEMENTAL ORDER

¶ 36 At the conclusion of our initial order in this appeal, we found that sanctions against respondent and her counsel were appropriate. We "direct[ed] the petitioner to file within 14 days a statement of reasonable expenses and attorney's fees incurred as a result of this appeal." *In re Marriage of Bloom*, 2015 IL App (2d) 141145-U, ¶ 32. Petitioner has done so, and respondent has filed an answer. Petitioner has also filed a motion to strike portions of respondent's answer as improper reargument. We deny that motion, though we find respondent's arguments ill taken. We have already held that this appeal is sanctionable, and we turn now to the appropriate sanction to be imposed.

¶ 37 This court possesses the inherent authority to impose sanctions under Illinois Supreme Court Rule 375 (eff. February 1, 1994). *First Federal Savings Bank of Proviso Township v. Drovers National Bank of Chicago*, 237 Ill. App. 3d 340, 344 (1992). Rule 375 exists to allow a court to punish the abusive conduct of attorneys and parties appearing before it. *Id*. The

imposition of sanctions pursuant to this rule is "left entirely to the discretion of the reviewing court." *Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 87.

¶ 38 Respondent makes several objections to petitioner's fee petition, most significantly regarding the specificity with which some of the fees are described. Respondent also questions the overall time spent by petitioner's counsel on preparing this appeal. Regardless, we rely on petitioner's fee petition only as a rough guide in determining an appropriate sanction. In our discretion, we deem it appropriate to enter, as damages, an award of $2,500 against petitioner and $2,500 against petitioner's counsel (*i.e.*, $5,000 severally) to offset the costs of defending this appeal.