

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

D23235  
Y/hu

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Submitted - March 10, 2009

ROBERT A. SPOLZINO, J.P.  
STEVEN W. FISHER  
HOWARD MILLER  
RUTH C. BALKIN, JJ.

2008-05994

DECISION & ORDER

In the Matter of Gonzalo Arcadio Mero, deceased.  
Godosky & Gentile, P.C., appellant; Public  
Administrator of Kings County, respondent.

(Index No. 4606/01)

Godosky & Gentile, P.C., New York, N.Y. (Brian J. Isaac of counsel), appellant pro se.

Cullen and Dykman, LLP, Brooklyn, N.Y. (Richard H. Freeman of counsel), for respondent.

In a proceeding to settle an account of the public administrator and set counsel fees pursuant to SCPA 2110, Godosky & Gentile, P.C., trial counsel to the Public Administrator of Kings County, appeals, on the ground of inadequacy, from so much of a decree and judgment (one paper) of the Surrogate's Court, Kings County (Lopez Torres, S.), dated May 19, 2008, as awarded it an attorney's fee in the principal sum of only \$436,598.23.

ORDERED that the decree and judgment is affirmed insofar as appealed from, with costs.

“[T]he Surrogate bears the ultimate responsibility of deciding what constitutes a reasonable attorney's fee” to be paid in an estate proceeding (*Matter of Szkambara*, 53 AD3d 502, 503; see *Matter of Piterniak*, 38 AD3d 780, 781; *Matter of Stern*, 227 AD2d 636; *Matter of Bobeck*, 196 AD2d 496). “The evaluation of what constitutes reasonable attorney's fees is a matter within the sound discretion of the Surrogate, who is in a far superior position to judge those factors integral

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to the fixing of counsel fees such as the time, effort and skill required” (*Matter of Drossos*, 26 AD3d 602-603, citing *Matter of Pekofsky v Estate of Cohen*, 259 AD2d 702; see *Matter of Aaron*, 30 NY2d 718, 720; see also SCPA 2110).

On the record before us, it cannot be said that the Surrogate’s determination awarding an attorney’s fee was an improvident exercise of her discretion (see *Matter of Freeman*, 34 NY2d 1, 9; *Matter of Szkambara*, 53 AD3d at 503; *Matter of Jakobson*, 304 AD2d 579).

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

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court