

**Stonebridge Capital, LLC v Brown Rudnick LLP**

2014 NY Slip Op 32174(U)

August 12, 2014

Sup Ct, NY County

Docket Number: 152259/2012

Judge: Eileen A. Rakower

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART 15

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STONEBRIDGE CAPITAL, LLC,

Plaintiff,

Index No.  
152259/2012

- v -

**DECISION  
and ORDER**

Mot. Seq. 002

BROWN RUDNICK LLP,

Defendant.

-----X  
BROWN RUDNICK LLP,

Third-Party Plaintiff,

- v -

STROOCK & STROOCK & LAVAN LLP,

Third-Party Defendant.

-----X  
HON. EILEEN A. RAKOWER, J.S.C.

Plaintiff Stonebridge Capital LLC (“Plaintiff” or “Stonebridge”) brings this action (the “Main Action”) for legal malpractice and negligence based on defendant/third-party plaintiff Brown Rudnick LP’s (“Brown Rudnick”) allegedly negligent representation of Plaintiff in connection with a note issuance transaction (the “Transaction”) executed in September 2007. Plaintiff claims to have retained Brown Rudnick in March 2006, to provide legal advice and services for negotiating and drafting documents for the Transaction. Plaintiff claims that Brown Rudnick was responsible for drafting all documents for the Transaction, and that Plaintiff suffered various damages resulting from Brown Rudnick’s allegedly negligent drafting and/or altering of the “event-of-default” language provided in those documents.

On February 26, 2014, Brown Rudnick filed a third-party action against third-party defendant Stroock & Stroock & Lavan LLP (“Stroock”), seeking indemnification and contribution from Stroock in the event that Brown Rudnick is found liable in the Main Action.

Brown Rudnick’s third-party complaint alleges that that Brown Rudnick “continuously represented” Plaintiff through the Transaction’s closing, and that, “when [Plaintiff] retained [Brown Rudnick] to provide legal services in connection with the Transaction, attorney Boris Ziser (“Ziser”), then a partner of [Brown Rudnick], was responsible for providing those services to Plaintiff.” Brown Rudnick’s third-party complaint further alleges that, on or about June 4, 2007, Ziser left Brown Rudnick to join Stroock, as a partner. The third-party complaint alleges that, Ziser, in his capacity as a partner for Stroock, also continued to represent Plaintiff in the Transaction, from the time Ziser joined Stroock through the Transaction’s closing, that Ziser, in his capacity as a partner for Stroock, actively participated in the negotiation and drafting of the final versions of documents for the Transaction. Brown Rudnick claims that Stroock had an attorney-client relationship with Plaintiff, that Plaintiff executed the final documents for the Transaction on Stroock’s advice, and that, as a result, Stroock is responsible for any alleged negligence or malpractice respecting the Transaction.

Third-party defendant Stroock now moves for an Order, pursuant to CPLR § 2201, staying the third-party action pending the completion of the arbitration between Stroock and Plaintiff (the “Arbitration”).

In support, Stroock submits the attorney affirmation of Bruce H. Schneider (Schneider), Esq.; a copy of an engagement agreement (the “Engagement Letter”) between Stroock and Stonebridge; a copy of Stonebridge’s statement of claim filed with the American Arbitration Association (“AAA”); and a copy of the Stipulation and Order Regarding the Pre-hearing schedule for the Arbitration.

Brown Rudnick opposes.

Plaintiff submits no opposition to the instant motion.

In his affirmation, Schneider states that, “on or about June 4, 2007, shortly before the anticipated closing of the Transaction, a Brown Rudnick partner involved in representing Stonebridge in connection with the Transaction left Brown Rudnick and joined Stroock as a partner. Stonebridge requested that this partner remain involved in the Transaction in an advisory and facilitative capacity, although the

principal representation remained with Brown Rudnick at least through the September 26, 2007 closing of the Transaction.” Schneider further affirms that, “on or about June 22, 2007, Stonebridge retained Stroock. At that time, Stonebridge entered into an engagement agreement with Stroock (the “Stroock Engagement Letter”) . . . The Stroock Engagement Letter provides that, in the event of a dispute arising between Stonebridge and Stroock, such dispute would be resolved by arbitration before the AAA in New York City” and that, on July 29, 2013, “in accordance with the Stroock Engagement Letter, Stonebridge commenced the Arbitration against Stroock with the AAA.”

The Statement of Claim alleges that Plaintiff incurred damages, “[a]s a direct and proximate result of the negligence of [Stroock] in connection with the advice, drafting, negotiation, preparation, editing and review of the Transaction documents.”

CPLR § 2201 provides, “[e]xcept where otherwise prescribed by law, the court in which an action is pending may grant a stay of proceedings in a proper case, upon such terms as may be just.”

Here, Brown Rudnick and Stroock do not dispute that both law firms represented Stonebridge in connection with the Transaction, or that the Arbitration relates to the legal advice and services that Plaintiff allegedly received in connection with the Transaction. Although Brown Rudnick is not a signatory to the arbitration agreement between Stroock and Stonebridge, a stay of litigation that includes non-signatories to the subject arbitration agreement may be appropriate where “the determination of the pending arbitration proceeding may well dispose of or limit the issues to be determined in this action.” (*Oxbow Calcining USA Inc. v. American Indus. Partners*, 96 A.D.3d 646, 652 [1st Dep't 2012]).

Wherefore it is hereby

ORDERED that third-party defendant Stroock & Stroock & Lavan LLP’s motion is granted; and it is further

ORDERED that the third-party action is hereby severed and all proceedings in the third-party action are hereby stayed, except for an application to vacate or modify the stay; and it is further,

ORDERED that either party to the third-party action may make an application by order to show cause to vacate or modify this stay upon the final determination of the arbitration; and it is further

ORDERED that the Main Action shall continue.

This constitutes the decision and order of the court. All other relief requested is denied.

DATED: August 12, 2014



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EILEEN A. RAKOWER, J.S.C.