

Schpoont & Cavallo, LLP v Portela
2016 NY Slip Op 30556(U)
March 22, 2016
Supreme Court, New York County
Docket Number: 650829/16
Judge: Kathryn E. Freed
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: Part 2

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Schpoont & Cavallo, LLP,

Plaintiff,

-against-

Manuel Portela, Jr.,

Defendant.

-----X
KATHRYN E. FREED, J.S.C.:

DECISION/ORDER
Index No. 650829/16
Seq. No. 001

RECITATION, AS REQUIRED BY CPLR 2219 (a), OF THE PAPERS CONSIDERED IN THE REVIEW OF THIS PETITION.

PAPERS	NUMBERED
NOTICE OF PETITION AND PETITION	1, 2 (Ex. A)

UPON THE FOREGOING CITED PAPERS, THIS DECISION/ORDER ON THE PETITION IS AS FOLLOWS:

Plaintiff Schpoont & Cavallo, LLP moves, pursuant to CPLR 7510, for an order confirming an award issued to it on December 8, 2015 in a fee dispute arbitration proceeding conducted between it and defendant Manuel Portela, Jr. In that proceeding, a panel of arbitrators awarded plaintiff the amount of \$ 14,380.93. After a review of plaintiff's papers and the relevant statutes and case law, the petition, which is unopposed, is **granted**.

FACTUAL AND PROCEDURAL BACKGROUND :

In its verified petition, plaintiff, Schpoont & Cavallo, LLP ("S & C"), a law firm, asserts that, in 2015, it was retained by defendant to represent him in a matrimonial matter. The retainer

agreement provided for fee arbitration pursuant to 22 NYCRR 137 et seq. Following a breakdown

of the attorney-client relationship, plaintiff was relieved as counsel for defendant. Plaintiff subsequently sought, in vain, to recover the fees owed by defendant and ultimately submitted the matter to the Arbitration Committee at the New York County Lawyer's Association.

On December 8, 2015, a panel of three arbitrators issued a written arbitration award finding S & C entitled to \$14,380.93 in damages. Ex. A to Petition. In reaching this conclusion, the arbitrators found that the amount in dispute was \$37,257.19, that the total amount in dispute to which S & C was entitled was \$34,380.93, that S & C had already been paid \$20,000, and that this thus left \$14,380.93 due and owing to S & C. Id.

The arbitration award reflected that it would be mailed to each party. Id. A notice of arbitration award dated December 9, 2015 reflected that it was to be mailed with the arbitration award. Id. The notice of arbitration award instructed that a party dissatisfied with the award could move for a trial *de novo* within 30 days after the arbitration award was mailed or could seek to vacate the award within 90 days pursuant to CPLR 7510. Id. The notice of arbitration award and arbitration award were emailed by S & C to defendant on or about December 14, 2015.

POSITION OF THE PETITIONER:

Plaintiff asserts that the arbitration award should be confirmed since defendant has neither moved for a trial *de novo* nor moved to vacate the arbitration award.

LEGAL CONCLUSIONS:

CPLR 7510 provides that a "court shall confirm an arbitration award upon application of a party made within one year after its delivery . . . unless the award is vacated or modified upon a

ground specified in section 7511.” A party has 90 days from the date of the delivery of the arbitral award to move to vacate the same. CPLR 7511 (a). CPLR 7514 provides that “[a] judgment shall be entered upon the confirmation of an award.” Arbitration awards are accorded “substantial deference” and are provided extremely limited judicial review. *Wien & Malkin LLP v Helmsley-Spear, Inc.*, 6 NY3d 471, 475 (2006). An arbitration award will be upheld provided there is “even a barely colorable justification for the outcome reached.” *Wien & Malkin LLP v Helmsley-Spear, Inc.*, 6 NY3d at 479, *supra* at 479, quoting *Andros Compania Maritima, S.A. v Marc Rich & Co. A.G.*, 579 F2d 691 (2d Cir 1978).

Here, it is evident from the arbitration award that the arbitrators who rendered the award carefully calculated the damages owed to S & C. Ex. A to Petition. Therefore, the conclusion reached by the arbitrators was well-reasoned. Additionally, since defendant did not move to vacate or modify the award within 90 days of its mailing, and the instant petition to confirm the award has been made well within one year of December 8, 2015, the date of the arbitration award, and the petition is unopposed, the petition to confirm the award must be granted.

Additionally, the petition must be granted because defendant failed to seek a trial *de novo* within 30 days of the mailing of the arbitration award. *See* 22 NYCRR 137 *et seq.*

Therefore, in accordance with the foregoing, it is hereby:


[* 4]

ORDERED AND ADJUDGED that the notice of petition by plaintiff Schpoont & Cavallo, LLP to confirm the arbitration award in the amount of \$14,380.93, plus costs and disbursements associated with the enforcement of said award, is granted; and it is further,

ORDERED that this constitutes the decision and order of the Court.

DATED: March 22, 2016

ENTER:



Hon. Kathryn E. Freed, J.S.C.

**HON. KATHRYN FREED
JUSTICE OF SUPREME COURT**