

**Grayco Alternative Partners II, LP v 5 Stone Green
Capital LLC**

2026 NY Slip Op 31101(U)

March 20, 2026

Supreme Court, New York County

Docket Number: Index No. 652377/2021

Judge: Andrea Masley

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

-----X

GRAYCO ALTERNATIVE PARTNERS II, LP,	INDEX NO.	<u>652377/2021</u>
Petitioner,	MOTION DATE	_____
- v -	MOTION SEQ. NO.	<u>001</u>
5 STONE GREEN CAPITAL LLC, 5 STONE GREEN CAPITAL - BAINBRIDGE GP LLC, 5 STONE GREEN CAPITAL - BAINBRIDGE REAL ESTATE FUND LP, DOUGLAS LAWRENCE, LEWIS JONES, and ANTHONY ROBERTS,	ORDER - INTERIM (MOTION RELATED)	
Respondents.		

-----X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 8, 9, 10, 11, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 49, 50, 51, 54, 57, 58, 59, 60, 142, 144, 145, 149, 150, 151, 152, 153

were read on this motion to/for CONFIRM/DISAPPROVE AWARD/REPORT.

In motion sequence number 001, petitioner Grayco Alternative Partners II, LP (Grayco) seeks to confirm the arbitration award issued in New York, NY on March 8, 2021, by Retired Judge Helen E. Freedman of JAMS. (See NYSCEF Doc. No. [NYSCEF] 16, Notice of Amended Petition; NYSCEF 18, Arbitration Award.) On June 23, 2023, Judge Robert. R. Reed granted the motion against Respondents. (NYSCEF 46, June 23, 2023 Decision and Order.) The Clerk entered judgment on August 17, 2023. (NYSCEF 53.)

On March 27, 2025, the Appellate Division, First Department, reversed this court's order denying respondents' motion to vacate the judgment. (NYSCEF 140, Appellate Division Decision and Order; see *also* NYSCEF 84, March 11, 2024 Decision and Order [mot. seq. no. 2 at 8.]) The judgment was subsequently vacated. (NYSCEF

142, April 8, 2025 Order; NYSCEF 148, Judgment Vacated.) Upon vacating the August 17, 2023 judgment, the court directed the parties to submit updated briefing. (NYSCEF 142, April 8, 2025 Order at 2.)

The parties do not dispute that petitioner is entitled to the arbitration award in the principal amount of \$3,941,094.72. (*Compare* NYSCEF 50, Proposed Judgment *with* NYSCEF 150, Proposed Counter-Judgment.) Instead, the parties disagree on whether petitioner is entitled to (i) pre-judgment interest, (ii) post-judgement interest, and (iii) costs and disbursements.

Pre-Judgment Interest

Respondents argue that petitioner is not entitled to post-judgment interest under CPLR 5001, 5003, and 5004 because neither the arbitration award nor Judge Reed's decision award such interest. Petitioner argues that pre-judgment interest at 9% is mandated by statute.

The law is clear that "on a motion to confirm an arbitration award, if the award is silent on the question of prejudgment interest, a court is not entitled to award such interest. Rather, upon confirmation of an arbitrator's award, interest should be provided from the date of the award." (*Gruberg v Cortell Group, Inc.*, 143 AD2d 39, 39 [1st Dept 1988] [internal quotation marks and citations omitted].) Here, the arbitration award is silent on the question of prejudgment interest. (See NYSCEF 18, Arbitration Award.) Thus, Respondents' argument that petitioner is not entitled to pre-judgment interest because Judge Reed's decision did not award such interest fails; Judge Reed was not permitted to award such interest. However, upon Judge Reed's confirmation of the arbitration award (NYSCEF 46, June 23, 2023 Decision and Order), petitioner became

entitled to interest from the date of the award, March 8, 2021. (See NYSCEF 18, Arbitration Award.)

“Under CPLR 5001-5004 the court may grant interest at a rate of 9% annually upon a ‘sum awarded ... unless in an action of an equitable nature.’” (*TCR Sports Broadcasting Holding, LLP v WN Partner, LLC*, 2019 NY Slip Op 52186[U], *9 [Sup Ct, NY County 2019].) Respondents argue that the interest rate applied should not be 9% but, instead, the 6% rate specified in the arbitration award. (*NML Capital v Republic of Argentina*, 17 NY3d 250, 258 [2011] “[w]hen a claim is predicated on a breach of contract, the applicable rate of prejudgment interest varies depending on the nature and terms of the contract.”.) In the arbitration award, Judge Freedman awarded petitioner \$3,547,800 “plus interest from July 31, 2019 at 6% compounded annually for a total of \$3,911,094.” (NYSCEF 18, Arbitration Award at 22.) Respondents argue that this same interest rate should be applied to calculate pre-judgment interest. The court rejects this argument as there is no language in the arbitration award to suggest that the 6% interest rate applies to a calculation of pre-judgment interest. When the arbitration award is silent on the question of prejudgment interest, the statute governs. (See *Kavares v Motor Vehicle Acci. Indemnification Corp.*, 29 AD2d 68, 70 [1st Dept 1967] “[i]nterest under CPLR 5002 is a matter of right and is not dependent upon the court’s discretion or a specific demand for it in the complaint”.)

Respondents further argue that pre-judgment interest shall be tolled as of December 2021 on the grounds that the First Department noted in its decision that “the proceedings were automatically stayed in December 2021 when [respondents’] counsel of record died during the pendency of the action.” (NYSCEF 140, Appellate Division

Decision and Order at 1.) “Courts have declined to award prejudgment interest only in a narrow set of cases where the parties either contracted around the statute, punitive damages had been awarded or where interest would amount to a windfall to the non-breaching party.” (*Vigilant Ins. Co. v MF Global Fin. USA Inc.*, 215 AD3d 578, 581 [1st Dept 2023] [citations omitted].) None of these circumstances are present here.¹

Accordingly, the court finds that petitioner is entitled to pre-judgment interest at a rate of 9% from March 8, 2021 through the entry of judgment.

Post-Judgment Interest

Respondents argue that petitioner is not entitled to post-judgment interest because the prior judgment was vacated and a new judgment has yet to be entered. Petitioner appears to agree that “the request for post-judgment interest would apply only to further delay in payment following entry of the new judgment, not interest accrued thus far.” (NYSCEF 153, Petitioner’s Reply MOL at 6.) Accordingly, the court finds that no post-judgement interest has yet accrued.

Costs and Disbursements

Respondents argue that petitioner is not entitled to costs and disbursements because Judge Reed did not grant petitioner costs and disbursement in this action and petitioner has further failed to properly document the amounts set forth in the proposed bill of costs (NYSCEF 51). Petitioner counters that costs are warranted pursuant to the CPLR.

¹ The court also notes that to the extent Respondents may argue that it should not be penalized for the courts’ delay in entering a new judgment, Respondents are not challenging the principal amount of the arbitration award, and could, therefore, have elected to pay the undisputed principal amount to avoid excessive interest payments.

Though respondents are correct that Judge Reed's decision did not explicitly award petitioner costs and disbursements (NYSCEF 46, June 23, 2023 Decision and Order), this is not controlling. CPLR 8101 provides that "[t]he party in whose favor a judgment is entered is entitled to costs in the action, unless otherwise provided by statute or unless the court determines that to so allow costs would not be equitable, under all of the circumstances." Here, respondents have not identified any law barring petitioner from collecting costs and disbursements. Similarly, there is nothing in Judge Reed's decision precluding petitioner from seeking such costs and disbursements. Therefore, the court finds that petitioner is entitled to costs and disbursements in the amount of \$2,233.47 as set forth in the proposed bill of costs. (NYSCEF 51, Proposed Bill of Costs.²)

Accordingly, it is

ORDERED that petitioner is entitled to pre-judgment interest at a rate of 9% from March 8, 2021, through the entry of judgment; and it is further

ORDERED that post-judgment interest has yet to accrue; and it is further

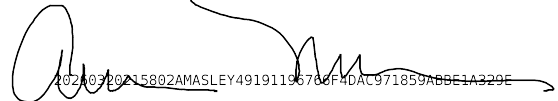
ORDERED that petitioner is entitled to costs and disbursements in the amount of \$2,233.47; and it is further

ADJUDGED that petitioner GrayCo with an address at 3344 Peachtree Road NE, Suite 800, Atlanta, GA 30326, has judgment against and do recover from respondents 5 Stone Green Capital, LLC with an address at 208 E 51st Street, Suite 312, New York, NY 10022, 5 Stone Green Capital - Bainbridge Real Estate Fund LP (also known as 5

² Petitioner relies on the applicable sections in the CPLR for the proposed cost, fee, and disbursement amounts.

Stone Green Capital Real Estate Fund LP) with an address at 208 E 51st Street, Suite 312, New York, NY 10022, 5 Stone Green Capital - Bainbridge GP LLC (also known as 5 Stone Green Capital GP LLC) with an address at 208 E 51st Street, Suite 312, New York, NY 10022, Douglas Lawrence with an address at 208 East 51st Street, Suite 312, New York, New York 10022, Lewis Jones with an address at 2500 Johnson Avenue, Bronx, New York 10463, and Anthony Roberts with an address at 3050 Potomac River Parkway, Charlotte, North Carolina 28217, in the principal amount of \$3,941,094.72, plus pre-judgment interest at the statutory rate of 9% per annum from March 8, 2021 in the amount of \$ _____, as calculated by the Clerk of the Court, plus costs of \$2,233.47, for a total amount of \$ _____; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment in favor of petitioner and against respondents in the sums set forth above.



20240320215802AMASLEY49191196786FIDAC971859ABBE1A229E

3/20/2026
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED
 GRANTED DENIED

NON-FINAL DISPOSITION
 GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER
 INCLUDES TRANSFER/REASSIGN

SUBMIT ORDER
 FIDUCIARY APPOINTMENT

REFERENCE

CHECK IF APPROPRIATE: