

**Valleysoft, Inc. v Topps Co., Inc.**

2014 NY Slip Op 31697(U)

June 30, 2014

Sup Ct, NY County

Docket Number: 151228/13

Judge: Anil C. Singh

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART 61

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VALLEYSOFT, INC.,

Plaintiff,

DECISION AND  
ORDER

-against-

Index No.  
151228/13

THE TOPPS COMPANY, INC.,

Defendant.

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HON. ANIL C. SINGH, J.:

Plaintiff moves for summary judgment on the amended verified complaint under CPLR 3016(f), contending that defendant’s verified answer fails to indicate specifically those items defendant disputes as enumerated in plaintiff’s complaint. In the alternative, plaintiff moves for an order limiting the issues of fact for trial pursuant to CPLR 3212(g), and to bar all discovery under CPLR 3103(a). Defendant opposes the motion.

Plaintiff, Valleysoft, Inc., and defendant The Topps Company, Inc., entered into a written Master Services Agreement on August 9, 2011. The agreement states that defendant is “engaged in the business of sports collectibles and goods manufacturing,” and that plaintiff is “engaged in the business of IT Consulting & Services” (Motion, exhibit A).

The first section of the agreement under the heading “Scope of Services” states

as follows:

The terms of this agreement apply to a situation where Contractor agrees to provide software professionals, contractor or full time, or other specialized services as an independent contractor directly to the Client according to the job requirement, skills, abilities and experience required by the Client. The scope of engagement and related details provided in the form of Exhibit A (Scope of Work) based on the client engagement on a case to case basis.

(Motion, exhibit A).

Plaintiff commenced the instant action by filing a summons and complaint on February 8, 2013. Subsequently, plaintiff filed an amended verified complaint under CPLR 3016(f) on October 4, 2013.

The amended verified complaint asserts three causes of action. The first cause of action alleges breach of contract. The second cause of action enumerates the items of plaintiff's claim under CPLR 3016(f). The third cause of action alleges an account stated.

Defendant filed a verified answer on October 24, 2013, asserting a general denial and seven affirmative defenses.

CPLR 3016(f) states as follows:

In an action involving the sale and delivery of goods, or the performing of labor or services, or the furnishing of materials, the plaintiff may set forth and number in his verified complaint the items of his claim and the reasonable value or agreed price of each. Thereupon the defendant by his verified answer shall indicate specifically those items he disputes and whether in respect of delivery or performance, reasonable value or agreed price.

In the Practice Commentary, Professor Siegel writes:

CPLR 3016(f) carries forth the procedure that enables a party pleading certain causes of action to compel the responding party to address items individually. It may be used wherever a plaintiff, P, has sold goods, furnished materials, or rendered services in significant quantity. P may draw up a detailed schedule of those goods or services, listing each one individually along with the date of sale or rendition, the agreed value or price of each, etc. If P does this, the defendant, D, must specifically dispute items on the list individually and indicate in exactly what regard D disputes them: a blanket address to all of them in the answer, such as a general denial, will not succeed. The general denial in the CPLR 3016(f) situation is insufficient to raise any triable issues.

(Siegel, Practice Commentaries, McKinney's Cons Laws of NY, Book 7B, CPLR C3016:9).

The amended complaint in the instant matter asserts that an individual named Venkat Paruchuri provided "temporary consulting services" to defendant at an agreed rate of \$115 per hour, and Paruchuri worked 384 hours for defendant from the week ending September 18, 2011, through November 16, 2011, for a total agreed price of \$44,160. The services are enumerated under paragraph 16 of the amended complaint as follows:

Item 1: 120 hours of the labor of Venkat Paruchuri during the 3 weeks ending Sep. 18, Sep. 25, and Oct. 2, 2011, billed by the invoice dated Oct. 5, 2011. Agreed price and fair and reasonable value: \$13,800

Item 2: 80 hours of the labor of Venkat Paruchuri during the weeks ending Oct. 9 and Oct. 16, 2011, billed by invoice dated Oct. 18, 2011. Agreed price and fair and reasonable value: \$9200.

Item 3: 80 hours of the labor of Venkat Paruchuri during the week

ending Oct. 23 and Oct. 30, 2011, billed by invoice dated Nov. 3, 2011. Agreed price and fair and reasonable value: \$9200.

Item 4: 104 hours of the labor of Venkat Paruchuri during the weeks ending Nov. 6 and Nov. 13, 2011 and the three additional days of Nov. 14, 15 and 16, 2011, billed by invoice dated Nov. 30, 2011. Agreed price and fair and reasonable value: \$11,960.

Item 5: 10 working day fee for Venkat Paruchuri under the 10 working-day notice provision of Article 2 of the contract. Agreed price and fair and reasonable value: \$9200.

(Amended Complaint, para. 16).

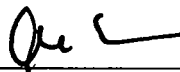
After careful consideration, the Court finds that the amended complaint does not satisfy CPLR 3016(f). None of the invoices are annexed to the complaint, nor does the complaint specify in precise detail what Venkat Paruchuri did. In the absence of such exact information, the requirement of specific denials under CPLR 3016(f) was not triggered. The general denials contained in defendant's verified answer are, therefore, sufficient.

Accordingly, it is

ORDERED that the motion is denied in its entirety.

The foregoing constitutes the decision and order of the court.

Date: 6/30/11  
New York, New York



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Anil C. Singh

**HON. ANIL C. SINGH**  
**SUPREME COURT JUSTICE**