

Matter of Goodman

2018 NY Slip Op 34578(U)

November 30, 2018

Surrogate's Court, Queens County

Docket Number: File No. 2010-4830/P

Judge: Peter J. Kelly

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This opinion is uncorrected and not selected for official publication.

Present: HON. PETER J. KELLY
SURROGATE

SURROGATE'S COURT: QUEENS COUNTY

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In the Matter of the Accounting by Suzanne
Napolitano Goodman as the Trustee of the

VLADIMIR BLASKOVIC
IRREVOCABLE TRUST,

File No. 2010-4830/P

Estate of
VLADIMIR BLASKOVIC,

Deceased.
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In this proceeding for the judicial settlement of the final account of Suzanne Napolitano Goodman as former trustee of the Vladimir Blaskovic Irrevocable Trust, the guardian ad litem for the infant beneficiary has filed a report wherein he recommends that the Court approve and authorize him to sign a stipulation of settlement dated June 15, 2018 with the petitioner and the objectant, the current trustee Isabelle Kosmic.

The stipulation provides, *inter alia*, that the sum of \$198,709.61 be paid to Isabelle Kosmic's attorneys, Hartmann, Doherty, Rosa, Berman & Bulbulia LLC, for their legal services rendered in this proceeding and in a prior proceeding to remove petitioner as the trustee of the trust, together with an additional \$5,379.36 for "costs" incurred by the attorneys in the two proceedings.

The matter was set down for a hearing concerning the legal fees, at which time the parties agreed to have the matter submitted on the Affidavit in Support of Respondent/Objectant's Claim For Legal Fees and exhibits annexed thereto.

The Surrogate bears the ultimate responsibility to determine what constitutes reasonable compensation regardless of the existence of a fee agreement or the consent of all parties to the requested fee (see: Estate of Verplanck, 151 A.D.2d 767; Matter of Phelan, 173 AD2d 621).

While there is no hard and fast rule to calculate reasonable compensation to an attorney in every case, the Surrogate is required to exercise his authority "with reason, proper discretion and not arbitrarily" (Matter of Brehm, 37 AD2d 95; See: Matter of Wilhelm, 88 AD2d 6). The reasonableness of the attorney's claim for services should be determined by reference to the following factors: time and labor required, the difficulty of the questions involved, and the skill required to handle the problems presented; the lawyer's experience, ability and reputation; the amount involved and benefit resulting to the client from the services; the customary fee charged by the bar for similar services; the contingency or certainty of compensation; the results obtained; and the responsibility involved (Matter of Freeman, 34 NY2d 1; Estate of Von Hofe, 145 AD2d 424). The burden with respect to establishing the reasonable value of legal services performed rests on the attorney performing those services (Matter of Potts, 213 AD 59, *aff'd* 241 NY 593).

Upon a review of the affidavit submitted herein, it is clear that time spent was the predominant factor the attorneys used in calculating their fee. Although there were some duplication of time spent in attorneys meeting with each other and conducting research which is normally not compensable, it is clear the attorneys spent a great deal of time in the two proceedings. It is well-settled, however, that time spent is the least important factor considered by a court in fixing reasonable compensation (see Matter of Snell, 17 AD2d 490).

The Court notes that the legal services benefitted the trust and, thus, benefitted the infant beneficiary of the trust in having the trustee removed and the return of \$755,000.00 of an alleged \$886,608.66 taken(see: In re Baxter, 196 AD2d 186). Additionally, the Court notes that the law firm has given “discounts” on their fees amounting to over \$30,000.00.

After reviewing all of the evidence presented and applying the factors set forth in Matter of Freeman, *supra*, and Matter of Potts, *supra*, the Court finds that the just and reasonable compensation for legal services rendered by the law firm of Hartmann, Doherty, Rosa, Berman & Bulbulia LLC in the representation of respondent/objectant Isabelle Kosmic in this proceeding and the proceeding to remove the trustee shall be fixed in the amount of \$180,000.00.

Disbursements are allowed in the amount of \$1,784.00. Disbursements for calendar watching services, photocopying, per diem services, travel, parking,

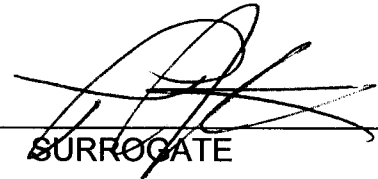
research and mail are considered normal law office overhead and are disallowed (see, CPLR § 8301).

The Court finds that the stipulation entered into among the parties dated June 15, 2018, as modified by this decision, is just and reasonable. Accordingly, the stipulation is approved and the guardian ad litem is authorized to enter into same.

The guardian ad litem herein shall file a supplemental report within 60 days from the date of the decree to be signed hereon showing whether the decree has been complied with insofar as it affects his ward.

Settle decree.

Dated: November 30, 2018



SURROGATE