

Murphy v Williams
2021 NY Slip Op 32619(U)
December 8, 2021
Supreme Court, New York County
Docket Number: Index No. 157441/2019
Judge: Erika M. Edwards
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ERIKA EDWARDS

PART 11

Justice

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JEFFREY MURPHY and KATHERINE DILLON

INDEX NO. 157441/2019

Plaintiffs,

- v -

MICHAEL STEVEN C. WILLIAMS,

Defendant.

**DECISION AND ORDER
AFTER INQUEST
(NON-MOTION)**

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In an Amended Decision and Order, dated August 5, 2021, (NYSCEF Doc. No. 66) the court granted Plaintiffs Jeffrey Murphy's and Katherine Dillon's (collectively "Plaintiffs") motion for summary judgment in their favor on their First Cause of Action for breach of contract against Defendant Michael Steven C. Williams ("Defendant") in the amount of \$57,193.20, plus interest, reasonable attorney's fees, costs and disbursements.

Plaintiffs alleged in substance that Defendant failed to pay an additional New York City Real Property Transfer Tax assessed by the City of New York on property Plaintiffs purchased from Defendant on February 2, 2015. The court previously determined that Plaintiffs demonstrated that the agreement between the parties required Defendant to indemnify and hold harmless Plaintiffs from any liabilities or claims made against Plaintiffs related to the New York City Transfer Tax, and from and against "all losses, liabilities, judgments, damages, costs and expenses, including but not limited to, reasonable attorney fees and disbursements" that Plaintiffs actually incurred as a result of Defendant underpaying the New York City Transfer Tax at the closing of the sale of the property.

The court scheduled the inquest to determine the reasonable amount of attorney's fees, costs and disbursements on October 18, 2021, but Defendant requested an adjournment. The court granted Defendant's request and adjourned the matter to December 8, 2021.

The court conducted the inquest on December 8, 2021, via Microsoft Teams. Defendant continued to appear pro se. Plaintiffs' counsel, Peter Moulinos, Esq. of Moulinos & Associates, LLC, testified in substance that the total amount of reasonable attorney's fees, costs and disbursements is \$29,537.63, which includes legal work conducted from May 21, 2019 to October 28, 2021, plus approximately \$450 not yet billed and anticipated additional time spent to attend the inquest and prepare additional documents if requested by the court. Plaintiffs provided two documents in support of their claim:

- 1) Plaintiffs' Exhibit 1 (NYSCEF Doc. No. 71)-Account Activity-summary of the total amount of each invoice sent to Plaintiffs for legal work conducted in this matter; and
- 2) Plaintiffs' Exhibit 2 (NYSCEF Doc. No. 72)-copies of all invoices sent to Plaintiffs.

Defendant had an opportunity to cross-examine Mr. Moulinos and the court asked several questions.

Courts have the discretion to determine what constitutes reasonable attorney's fees. Courts have long considered the difficulty of the issues raised; the skill required to resolve them; the attorney's experience, ability and reputation; the time and labor expended; the amount and benefit resulting to the client from the services; and the customary fee charged for similar services (*Matter of Freeman*, 34 NY2d 1, 9 [1974]; *Navigators Ins. Co. v Sterling Infosystems, Inc.*, 2016 NY Misc LEXIS 1262, *3-4, 2016 NY Slip Op 30609[U] [Sup Ct, NY County 2016]).

This court applies the multifactor lodestar method by multiplying a reasonable billing rate by a reasonable number of hours spent by counsel, excluding duplicative, excessive or

unnecessary hours from this calculation, and applying the *Johnson* factors to adjust the calculation upward or downward based on the facts and circumstances of the case (*Johnson v Georgia Highway Express, Inc.*, 488 F2d 714, 717-19 [5th Cir. 1974]). These factors include “(1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to the acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation and ability of the attorneys; (10) the ‘undesirability’ of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases” (*Bell v Helmsley*, 2003 NY Misc LEXIS 537, 2003 NY Slip Op 50866[U], *3 [Sup Ct, NY County 2003]; citing *United States Football League v National Football League*, 887 F2d 408, 415 [2d Cir 1989]; *Johnson*, 488 F2d at 717-719).

Based upon these considerations and a review of the evidence, for the reasons set forth orally on the record at the inquest, the court grants Plaintiffs’ application in part to the extent that the court determines that Plaintiffs demonstrated that the reasonable amount of their attorney’s fees, costs and disbursements associated with this action is \$26,623.61.

The court deducted late fees in the total amount of \$159.02 and amounts related to billing entries which appear to have been work conducted primarily to collect the outstanding attorney’s fees (“fees on fees”) as per the following entries:

July 9, 2021	\$112.50
August 2, 2021	\$137.50
August 17, 2021	\$137.50
October 13, 2021	\$275.00
October 15, 2021	\$385.00
October 18, 2021	\$495.00
October 19, 2021	\$112.50
TOTAL	\$1,655.00

Additionally, the court declines to award Plaintiffs' attorney's fees which have not been billed and which relate to anticipated on-going work conducted for the inquest. However, since Plaintiffs continue to incur legal expenses related to collection of the judgments in this matter, the amount of Plaintiffs' legal expenses for which Defendant is responsible is expected to increase.

Therefore, the court determines that Plaintiffs are entitled to a judgment against Defendant for reasonable attorney's fees, costs and disbursements in the amount of \$26,623.61 (\$28,437.63-\$159.02 [late fees]-\$1,655.00 [fees on fees]).

As such, it is hereby

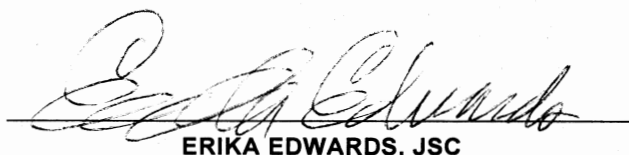
ORDERED that after conducting an inquest in this matter, the court grants in part Plaintiffs Jeffrey Murphy's and Katherine Dillon's application for reasonable attorney's fees, costs and disbursements in the amount of \$26,623.61; and it is further

ORDERED that the Clerk of the Court is directed to enter judgment in favor of Plaintiffs Jeffrey Murphy and Katherine Dillon as against Defendant Michael Steven C. Williams in the amount of \$26,623.61; and it is further

ORDERED that counsel for Plaintiffs must serve a copy of this order with notice of entry upon Defendant and upon the Clerk of the General Clerk's Office (60 Centre Street, Room 119), who is directed to enter judgment accordingly; and it is further

ORDERED that such service upon the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh).

This constitutes the decision and order of the court.



ERIKA EDWARDS, JSC

DATE: 12/8/2021

Check One:

☒

Case Disposed

☐

Non-Final Disposition

Check if Appropriate:

☐

Other (Specify

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