

<b>Harlem 133 Lender, LLC v Balkany</b>
2022 NY Slip Op 31245(U)
April 13, 2022
Supreme Court, New York County
Docket Number: Index No. 656666/2020
Judge: Andrea Masley
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SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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HARLEM 133 LENDER, LLC,	<b>INDEX NO.</b>	<u>656666/2020</u>
Plaintiff,	<b>MOTION DATE</b>	<u>N/A</u>
- v -	<b>MOTION SEQ. NO.</b>	<u>004</u>
LEVI BALKANY,	<b>ORDER - SUPPLEMENTAL</b>	
Defendant.		

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 004) 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 117, 118  
 were read on this motion to/for DISCOVERY.

On February 14, 2022, the court granted plaintiff’s motion to compel (i) defendant, Levi Balkany, to respond to plaintiff’s September 17, 2021, Information Subpoena, (ii) Balkany to respond to plaintiff’s October 12, 2021 Subpoena Duces Tecum, and (iii) nonparty Happy Living Development, LLC (HLD) to respond to plaintiff’s September 17, 2021 Subpoena Duces Tecum. (NYSCEF Doc. No. [NYSCEF] 101, Decision and Order [mot. seq. no. 004].) The court held that plaintiff is entitled to attorney’s fees and directed plaintiff’s counsel to submit an affirmation of services including firm biographies or resumes, rates and explanation of services provided. (*Id.*) There is no opposition to this motion.

Plaintiff seeks \$35,328.55 in attorneys’ fees in connection with preparing its motion to compel. (NYSCEF 117, Laffey aff ¶ 4.) In support of plaintiff’s application, plaintiff’s counsel, Casey Laffey, Esq., of the law firm Reed Smith LLP (Reed Smith), submits an affirmation identifying the attorneys and staff involved on this motion, their

detailed biographies and experience, and their hourly rates. (*See generally id.*) The attorneys and staff that worked on plaintiff's motion are: Laffey, vice chair of Reed Smith's Global Commercial Disputes Group; Joseph Tusso, partner in Reed Smith's Financial Industry Group; Zachary Kaye, senior associate in Reed Smith's Global Commercial Disputes Group; Christopher LoBosco, law clerk in Reed Smith's Global Commercial Disputes Group; and Jose Castillo, senior paralegal in Reed Smith's Financial Industry Group. (*Id.* ¶¶ 6-10.) Redacted copies of plaintiff's December 2021 and January 2022 invoices concerning plaintiff's work on the motion are attached to Laffey's affirmation which detail the tasks performed, who performed those tasks, and hours spent. (*See generally* NYSCEF 118, Invoices.)

To determine the reasonableness of the requested fee, the court is guided by the following factors: (1) "the time and labor required, the difficulty of the questions involved, and the skill required to handle the problems presented"; (2) "the lawyer's experience, ability, and reputation"; (3) "the amount involved and benefit resulting to the client from the services"; (4) "the customary fee charged by the Bar for similar services;" (5) "the contingency or certainty of compensation"; (6) "the results obtained"; and (7) "the responsibility involved." (*Matter of Freeman*, 34 NY2d 1, 9 [1974].) These factors apply in commercial cases. (Commercial Litigation in New York, 4th ed., 2015, § 53:7, Court-Awarded Attorneys' Fees.) The court also relies on its own knowledge of hourly rates charged by private firms which practice in the Commercial Division, New York County. (*See Miele v New York State Teamster Conference Pension & Retirement Fund*, 831 F2d 407, 409 [2d Cir 1987].)

The court finds that the rates charged by the Reed Smith attorneys and staff are usual and customary for commercial law firms in New York City (Laffey's rate: \$1,070.00/hour; Tuso's rate: \$1,040.00/hour; Kaye's rate: \$715.00/hour; LoBosco's rate: \$635.00/hour; Castillo's rate: \$230.00/hour). (NYSCEF 117, Laffey aff ¶¶ 6-10.) Laffey and Tuso's rates are reasonable for commercial litigators with 17 and 21 years of experience, respectively. Kaye and LoBosco's rates are reasonable for a senior associate and a law clerk who is in the process of applying for admission to the New York State Bar Association, respectively. Castillo's rate, as a senior paralegal with extensive litigation experience is reasonable. Additionally, the rates for the attorneys and staff working on this motion were then discounted by fifteen percent (15%) as a courtesy to plaintiff. (*Id.*)

This motion concerned the non-compliance of post-judgment subpoenas, which sought information concerning Balkany's assets, by Balkany and nonparty HLD. A majority of the work was performed by Kaye and LoBosco, taking on tasks related to drafting, researching, revising and reviewing initial drafts memoranda and affirmations, and communicating internally and with opposing counsel. (See, e.g., NYSCEF 118, Invoices at 7-8<sup>1</sup>.) Laffey and Tuso were primarily involved in finalizing drafts of the motion and affirmations and preparing for deposition deadlines. (*Id.* at 10-12.) There is no total calculation of the numbers of hours expended by the Reed Smith attorneys and staff on this motion. However, based on the submitted invoices and the detailed description of the task performed, the court finds that the time spent on each identified task is reasonable. (See *generally* NYSCEF 118, Invoices.)

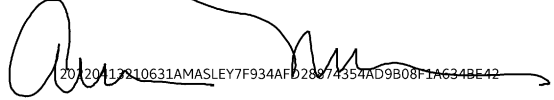
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<sup>1</sup> Pages cited refer to NYSCEF generated pagination.  
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The court also finds that the remaining relevant factors have been satisfied.

Accordingly, it is

ORDERED that plaintiff is awarded \$35,328.55 in attorneys' fees.

  
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4/13/2022

DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE