

<b>Giabourani v Anastasiou</b>
2023 NY Slip Op 30183(U)
January 9, 2023
Supreme Court, New York County
Docket Number: Index No. 657000/2020
Judge: Erika M. Edwards
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT:** HON. ERIKA M. EDWARDS **PART** 10M  
*Justice*  
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ANNA GIABOURANI,

Plaintiff,

- v -

NIKOLAOS ANASTASIOU and EPEXYL USA, INC.,

Defendants.

**INDEX NO.** 657000/2020

**DECISION  
AND  
ORDER  
AFTER  
INQUEST**

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Following an inquest for the assessment of damages held before this court on January 6, 2023, for the reasons stated on the record and discussed herein, the court awards judgment in favor of Plaintiff Anna Giabourani (“Plaintiff”) against Defendants Nikolaos Anastasiou (“Anastasiou”) and Epexyl USA, Inc. (“Epexyl”) (collectively, “Defendants”), jointly and severally, in the amount of \$72,337.50, with prejudgment interest as of March 31, 2020.

Plaintiff brought this action against Defendants for Defendants’ alleged failure to pay Plaintiff’s outstanding legal fees in the amount of \$73,387.50. Plaintiff’s complaint included causes of action for breach of contract, unjust enrichment and quantum meruit. In a previous decision and order, dated November 16, 2022 (NYSCEF Doc. No. 66), the court struck Defendants’ Verified Answer, dismissed their Counterclaims and granted default judgment in Plaintiff’s favor as against both Defendants for Defendants’ failure to comply with the court’s directives in a decision and order, dated October 5, 2022, and for Defendants’ failure to appear for a court-ordered conference on November 18, 2022. The court ordered the parties to appear for an inquest for the assessment of damages on January 6, 2023, at 9:30 a.m. and directed

Plaintiff to serve Defendants with a copy of the court's Decision and Order with Notice of Entry via email and certified mail on or before December 2, 2022.

Plaintiff filed Affidavits of Service demonstrating that Defendants were properly and timely served with the Decision and Order with Notice of Entry. Neither Defendant appeared for the inquest. Additionally, Defendants failed to retain substitute counsel, Defendant Anastasiou failed to advise the court as to whether he intended to proceed *pro se* or whether he required additional time to retain counsel, and neither Defendant contacted the court to request an adjournment or request an opportunity to convert the proceeding from in person appearance to a virtual appearance.

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]).

The court conducted the inquest on January 6, 2023, and the court awarded judgment in favor of Plaintiff in the reduced amount of \$72,337.50. Plaintiff testified and introduced four invoices and email communications between Plaintiff and Defendant Anastasiou. All invoices were due upon receipt.

The first invoice, dated March 24, 2020, was for a total of \$43,687.50. It included legal work performed from January 9, 2018 to July 16, 2018, for a total of 115.9 hours at \$375/hour. The total amount for legal fees was \$43,462.50, plus \$225.00 for administrative charges at \$45.00/month from January 2020 to May 2020.

The second invoice, dated March 25, 2020, was for a total of \$14,512.50. It included legal work performed from January 20, 2019 to December 20, 2019, for a total of 37.7 hours at \$375/hour. The total amount for legal fees was \$14,137.50, plus \$375.00 for administrative charges at \$75.00/month for April 2019 and from September 2019 to December 2019.

The third invoice, dated March 26, 2020, was for a total of \$7,950.00. It included legal work performed from January 10, 2020 to March 25, 2020, for a total of 20.2 hours at \$375/hour. The total amount for legal fees was \$7,575.00, plus \$375.00 for administrative charges at \$125.00/month from January 2020 to March 2020.

The fourth invoice, dated March 31, 2020, was for a total of \$7,237.50. It included legal work performed from March 26, 2020 to March 31, 2020, for a total of 19.10 hours at \$375/hour. The total amount for legal fees was \$7,162.50, plus \$75.00 for administrative charges.

The total amount of the legal work performed was \$72,337.50 and the total amount of administrative charges was \$1,050.00, for a total amount allegedly due of \$73,387.50.

The court finds that Plaintiff demonstrated in substance that at all relevant times Defendant Anastasiou operated and controlled Epexyl and Epexyl S.A., a non-party Greek entity and that Epexyl never operated as a true corporation. Plaintiff also demonstrated that the funds in Epexyl's bank account in the United States originated from and were commingled with monies from accounts operated by Defendant Anastasiou and/or Epexyl S.A., that Defendant Anastasiou withdrew funds from Epexyl's account for personal expenses and that Defendant Anastasiou retained Plaintiff's services, agreed to pay for such services at the agreed upon hourly rate of \$375/hour and remained personally liable for paying Plaintiff's attorney's fees. Additionally, Plaintiff demonstrated that Defendants were properly served with each invoice and that Defendant Anastasiou repeatedly assured Plaintiff that he would pay her for her legal work

performed at the agreed upon hourly rate. Plaintiff also adequately explained her delay in sending Defendants the invoices and demonstrated that she had communicated with Defendant Anastasiou on several occasions about payment of her legal fees before and after sending the invoices. Despite Plaintiff's efforts to get paid, Defendants failed to pay any of the invoices.

Therefore, the court finds that Plaintiff demonstrated that she performed legal services for Defendants, including the period beginning on January 9, 2018 to March 31, 2020, for a total amount of 192.9 hours, at a rate of \$375/hour, for a total amount due of \$72,337.50. Plaintiff also demonstrated that such hours, hourly rate and services performed were reasonable under these circumstances.

Additionally, the court grants Plaintiff's request for prejudgment interest and awards prejudgment interest at the statutory rate beginning on March 31, 2020, which was the date of the final invoice.

However, the court finds that Plaintiff failed to demonstrate her entitlement to \$1,050.00 worth of administrative charges for additional services performed for Defendants at various monthly flat fees ranging from \$45/month to \$125/month. Plaintiff failed to demonstrate that Defendants retained Plaintiff to perform these additional administrative services or that they agreed upon such monthly flat rates for the applicable time periods. Therefore, the court denies this portion of Plaintiff's claim.

Therefore, the court awards judgment in favor of Plaintiff against Defendants, jointly and severally, in the amount of \$72,337.50, with prejudgment interest as of March 31, 2020 until entry of the judgment.

As such, it is hereby

ORDERED that after an inquest for the assessment of damages held on January 6, 2023, the court awards judgment in favor of Plaintiff Anna Giabourani against Defendants Nikolaos Anastasiou and Epexyl USA, Inc., jointly and severally, in the amount of \$72,337.50, plus pre-judgment interest as of March 31, 2020 until the entry of judgment; and it is hereby

ORDERED that the court directs the Clerk of the Court to enter judgment in favor of Plaintiff Anna Giabourani against Defendants Nikolaos Anastasiou and Epexyl USA, Inc., jointly and severally, in the sum of \$72,337.50, with interest at the statutory rate from March 31, 2020, until entry of judgment, as calculated by the Clerk; and it is further

ORDERED that a copy of this order with notice of entry shall be served by Plaintiff Anna Giabourani upon Defendants Nikolaos Anastasiou and Epexyl USA, Inc., 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](http://www.nycourts.gov/supctmanh)).

This constitutes the decision and order of the court.

  
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DATE: 1/9/2023

ERIKA M. EDWARDS, JSC

Check One:

Case Disposed

Non-Final Disposition

Check if Appropriate:

Other (Specify \_\_\_\_\_ )