

3868 Broadway Realty LLC v Armynavydeals.com Corp.

2023 NY Slip Op 30528(U)

February 21, 2023

Supreme Court, New York County

Docket Number: Index No. 654467/2020

Judge: Frank P. Nervo

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. FRANK P. NERVO PART 4

Justice

-----X

3868 BROADWAY REALTY LLC,

INDEX NO. 654467/2020

Plaintiff,

- v -

**DECISION AFTER INQUEST -
ATTORNEY FEE**

ARMYNAVYDEALS.COM CORP., RICHARD GEIST

Defendant.

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The Court held an inquest on paper submissions in this matter, awarding plaintiff \$88,553.36 for breach of the parties' lease agreement; however, the Court did not award plaintiff's counsel's fees for want of evidence of same and directed further submissions in support of counsel's fees (NYSCEF Doc. No. 19). The Court has received a further affidavit from plaintiff's counsel setting forth the total number of hours expended in this matter and hourly rate charged for same (NYSCEF Doc. No. 20). Notably, the affidavit does not provide individualized hourly entries for each task performed, but rather sets forth the total number of hours expended in the entirety of this matter.

As the Court previously discussed in its Amended Decision and Order After Inquest (NYSCEF Doc. No. 19), where an attorney's fees are sought, the fee sought must be reasonable; where the fee is unreasonable, inflated, or

OTHER ORDER – NON-MOTION

needlessly incurred, the Court may dismiss the claim for attorney's fees (*American Motorists Ins. Co. v. Napco Sec. Systems Inc.*, 244 AD2d 197 [1st Dept 1997]). In determining the reasonableness of attorney's fees, the Court considers the attorney's affidavit and submissions to elicit the "difficult of the issues and the skill required to resolve them; the lawyers' experience, ability and reputation; the time and labor required; the amount involved and benefit resulting to the client from the services; the customary fee charged for similar services; the contingency or certainty of compensation; the results obtained and the responsibility involved" (*Bankers Federal Sav. Bank FSB v. Off West Broadway Developers*, 224 AD2d 376 [1st Dept 1996]).

Where an attorney's records reflect block-billing, the grouping of several tasks in single billing entry, a reduction of the amount billed is generally appropriate; however, there is no set "maximum or minimum that block-billed fees should be reduced to account for unnecessary work" (*Community Counseling & Mediation Services v. Chera*, 115 AD3d 589 [1st Dept 2014]) and the use of block billing "does not render the invoiced amounts per se unreasonable" (*Freidman v. Yakov*, 138 AD3d 554 [1st Dept 2016] [internal quotation omitted]). Put simply, whether a block-billed invoice will be reduced is necessarily a fact specific inquiry, as is the percentage of any reduction (*see e.g. 546-552 W. 146th St. LLC v.*

Arfa, 99 AD3d 117 [1st Dept 2012]; *Community Counseling & Mediation Services v. Chera*, 115 AD3d 589 [1st Dept 2014]; *RMP Capital Corp. v. Victory Jet, LLC*, 139 AD3d 836 [2d Dept 2016]).

Here, on these unopposed papers, the Court finds the attorney's fees sought for completed work reasonable, and grants the award of attorney's fees for 52 hours at \$400/hr for a total of \$20,800.00.


Therefore, it is

ORDERED and ADJUDGED that ALTSCHUL & ALTSCHUL, 18 East 12th Street New York, NY 10003, shall have judgment as against defendants ARMYNAVYDEALS.COM CORP., 33 West 8th Street New York, NY 10001, and RICHARD GEIST, 18 West 12th Street New York, NY 10011, jointly and severally, in the amount of \$20,800.00 with interest from October 21, 2021, as calculated by the Clerk of the Court, and together with costs and disbursements as taxed by the Clerk of the Court; and it is further
[continued on following page]

ORDERED that judgment shall be submitted to the Clerk of the Court,
unless directed otherwise by that office, and not to chambers.

THIS CONSTITUTES THE ORDER AND JUDGMENT OF THE COURT

DATE: 2/21/2023



HON. FRANK P. NERVO
J.S.C.

Check One: Case Disposed Non-Final Disposition
Check if Appropriate: Other (Specify _____)