

Georgitsi Realty, LLC v Armory Plaza, Inc.

2023 NY Slip Op 30882(U)

January 20, 2023

Supreme Court, Kings County

Docket Number: Index No. 45669/2007

Judge: Wayne Saitta

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This opinion is uncorrected and not selected for official publication.

At an IAS Term, Part 29 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 20th day of January 2023.

P R E S E N T:

HON. WAYNE SAITTA, Justice.

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GEORGITSI REALTY, LLC, 1504 REALTY LLC, ARTHUR STRIMLING, LISA SEGAL, TIMOTHY PETRZAK, CATHERINE SHANNON, BORIS GILZON, MARTIN ZOLTOWSKI, MEMORIAL BAPTIST CHURCH OF BROOKLYN, and NEW HAMPSHIRE INSURANCE COMPANY a/s/o 1504 REALTY LLC,

Plaintiff

-against-

Index No. 45669/2007

DECISION, ORDER and JUDGMENT

ARMORY PLAZA, INC., ARMORY HEIGHTS, LLC, JACK LOCICERO, LORENZO LOCICERO, BRICOLAGE DESIGNERS, INC., HENRY RADUSKY, DOUGLAS PULASKI, SANCHEZ ASSOCIATES P.C., LOUIS SANCHEZ, ABRAHAM HERTZBERG, WONGOOD CONSTRUCTION, XINGJIAN CONSTRUCTION, INC., IMMOBILIARIA BUILDERS CORP., DIAMOND POINT EXCAVATING CORP., d/b/a DIAMOND POINT EXCAVATION CORP., JAFCO GROUP INC., ABC INC./CORP./LLC/LP/ PARTNERS 1-9, and JOHN/JANE DOES 1-50,

Defendants

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The following papers read on this motion:

Notice of Motion/Order to Show Cause/
Petition/Affidavits (Affirmations) and Exhibits

Cross-motions Affidavits (Affirmations) and Exhibits

Answering Affidavit (Affirmation)

Reply Affidavit (Affirmation)

Supplemental Affidavit (Affirmation)

NYSCEF Doc Nos

941-948

1004-1005

1048

Plaintiffs ARTHUR STRIMLING, LISA SEGAL, TIMOTHY PETRZAK, CATHERINE SHANNON, BORIS GILZON, MARTIN ZOLTOWSKI, MEMORIAL BAPTIST CHURCH OF BROOKLYN, (the STRIMLING Plaintiffs) moved to reargue a portion of the Decision and Order of this Court dated January 27, 2022, which awarded the attorneys incurred in making the two contempt motions against Defendants ARMORY PLAZA, INC., ARMORY HEIGHTS, LLC, JACK LOCICERO, LORENZO LOCICERO, (the ARMORY Defendants). The STRIMLING Plaintiffs ask that the award of reasonable attorneys' fees, costs and disbursements also include attorneys' fees, costs and disbursements incurred in analyzing the ARMORY Defendants' accountings of income and expenditures, which they argue was necessary in order to bring the contempt motions. However, the motion to reargue is moot as the Decision and Order already provided for the relief requested.

The Decision and Order of January 27, 2022, provided for "an award of reasonable attorneys' fees incurred in making the motions upon the submission of affidavits of legal services provided by their counsel."

The provision in the Decision and Order of "an award of attorneys' fees incurred in making the motions" included, among other things, the investigation of the Defendants' accountings which formed the underlying basis for the motions, time spend in the preparation for the contempt hearing, the time spent at the hearing, and the fee application, and disbursements. However, the costs incurred in making this motion to reargue are not included in the award.

Plaintiffs also submitted as part of this motion a breakdown of the attorneys' fees and disbursements, as provided for in the order of January 27, 2022. The request was for

\$30,628 in attorneys fees, representing 197.80 hours, plus \$1,258.32 in disbursements for a total of \$31,886.32.

The ARMORY Defendants raise an objection to hours spent on a third contempt motion questioning whether there was a third contempt motion. There were in fact three contempt motions brought by the Strimling Plaintiffs: Motion Sequences 62, 64, and 73. Motion Sequence 62 was for contempt for Defendant JACK LOCICERO's failure to appear at ordered depositions. Motion sequence 64 was for failure to give ordered accountings, and motion sequence 73 was for making expenditures in violation of the Court's order.

While the Court did not find Defendant JACK LOCICERO in contempt for failing to appear at a deposition (MS 62), Plaintiffs' breakdown of attorneys' fees did not include the work on that contempt motion. The breakdown includes hours from June 11, 2019, onwards, while motion sequence 62, and opposition to that motion, were filed in May of 2019.

The breakdown of hours and fees submitted by Plaintiffs' attorneys show the fees and disbursements of \$ \$31,886.32 to be reasonable, given the voluminous accountings to be reviewed and the length of the multi day hearing on the motions.

WHREFORE, it is hereby ORDERED, that that portion of the motion seeking to reargue the order of January 27 2022, is denied and it is further ORDERED, and ADJUDGED that Plaintiffs ARTHUR STRIMLING having an address at 399 16th Street Brooklyn New York 11215, LISA SEGAL having an address at 399 16th Street Brooklyn New York 11215, TIMOTHY PETRZAK having an address at 389 16th Street Brooklyn New York 11215, CATHERINE SHANNON having an address at 389 16th Street Brooklyn New York 11215, BORIS GILZON having an address at 391 16th Street Brooklyn New York 11215, MARTIN ZOLTOWSKI having an address at 393 16th Street Brooklyn New York

11215, and MEMORIAL BAPTIST CHURCH OF BROOKLYN having an address at 401 16th Street Brooklyn New York 11215, are awarded a judgment against Defendants ARMORY HEIGHTS LLC, having an address at 148 20 Street, Brooklyn, New York 11232, and LORENZO LOCICERO having an address at 8219 Narrows Avenue, Brooklyn, New York 11209, jointly and severally, in the sum of \$500 in civil contempt damages, and the sum of \$30,628 for reasonable attorney fees, together with \$1,258.32 for costs and disbursements for a total judgment of \$32,386.32.

ENTER:



JSC

Nancy P. Susheri
CLERK

FILED

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KINGS COUNTY CLERK

FEE _____