

**Norddeutsche Landesbank Girozentrale v Tilton**

2023 NY Slip Op 31892(U)

June 5, 2023

Supreme Court, New York County

Docket Number: Index No. 651695/2015

Judge: Joel M. Cohen

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

-----X	
NORDDEUTSCHE LANDESBANK GIROZENTRALE, HANNOVER FUNDING COMPANY LLC,	INDEX NO. <u>651695/2015</u>
Plaintiffs,	MOTION DATE <u>N/A</u>
- v -	MOTION SEQ. NO. <u>031</u>
LYNN TILTON, PATRIARCH PARTNERS, LLC, PATRIARCH PARTNERS XIV, LLC, PATRIARCH PARTNERS XV, LLC,	<b>DECISION + ORDER ON MOTION</b>
Defendants.	
-----X	

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 031) 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294

were read on this motion for COSTS AND DISBURSEMENTS.

Defendants Lynn Tilton, Patriarch Partners, LLC, Patriarch Partners XIV, LLC and Patriarch Partners XV, LLC (“Defendants”) move for an order directing the Clerk of the Court to tax costs and disbursements incurred in this action (NYSCEF 1279). Plaintiffs Norddeutsche Landesbank Girozentrale and Hannover Funding Company LLC (“Plaintiffs”) object in part to Defendants’ request (*see* NYSCEF 1293). Specifically, Plaintiffs object to Defendants’ request to recover costs and disbursements attributed to “Computerized Legal Research,” “Photocopying Costs,” and “Costs Associated with the Trial Transcripts” (*id.*).

For the following reasons, the Court determines that Defendants are entitled to costs and disbursements in the amount of \$37,388.57.

“Recovery of costs and disbursements in an action and on appeal is dependent on the statutory authorization in CPLR 8301(a)” (*North Oyster Bay Baymen’s Ass’n. v Town of Oyster Bay*, 150 AD3d 865, 868 [2d Dept 2017]). With respect to the computerized legal research and

photocopying costs, Defendants seek recovery pursuant to CPLR 8301(a)(13) which permits recovery on “such other reasonable and necessary expenses as are taxable according to the course and practice of the court, by express provision of the law or by order of the court.” Claims for taxable disbursements under CPLR 8301(a)(13) are “left to the discretion of the individual judge” (§ 415. Disbursement, Siegel, N.Y. Prac. § 415 [6<sup>th</sup> ed.]). Regarding the costs associated with the trial transcripts, Defendants seek recovery pursuant to CPLR 8301(a)(6), which enables recovery for “[t]he reasonable expenses of printing the papers for a hearing, when required.”

*a. Computerized Legal Research*

Defendants seek to “recoup computerized legal research costs in the amount of \$621,229.04” (NYSCEF 1279 ¶ 23). Traditionally, “legal research is what counsel does in order to earn a fee” and “whether performed by computer or with published, hard copy legal resources, [it] is merely a substitute for an attorney’s time and is not a separate taxable item” (*Matter of Rosa-Myers*, 63 Misc3d 251, 254 [Sur. Ct. Queens Cnty. 2019]). Moreover, the record indicates that the law firms pay for the computerized research at an annual flat rate or aggregate discount (*see e.g.*, NYSCEF 1290 ¶6, 1288 ¶4). Thus, the expense at issue here is akin to an overhead cost to the firm.

Defendants’ request for taxation on the costs and disbursements related to computerized legal research in the amount of \$621,229.04 is denied.

*b. Photocopying Expenses*

Similarly, “[p]hotocopying expenses have generally not been allowed as taxable disbursements” (*Clickner v Shanley*, 141 Misc2d 600, 605-606 [Sup. Ct. Rensselaer Cnty. 1988]; *see also In re City of New York*, 30 Misc3d 816, 834-35 [Sup. Ct. Kings Cnty. 2010] [finding “an

award of expenses incurred for copying and messenger services fall within the attorneys' base fee" and is not compensable]; *Matter of Graham*, 238 AD2d 682, 687 [3d Dept 1997]).

Defendants' request for \$39,451.66 in photocopying costs is denied.

*c. Trial Transcripts*

Finally, Defendants are entitled to reimbursement of \$36,388.57 for purchasing daily trial transcripts pursuant to CPLR 8301(a)(6). As noted by Defendants, this Court's rules require that the parties order a daily copy of the transcript during trial (*see also Lipton v Mitchell*, 145 Misc2d 444, 445 [Civ. Ct. NY Cnty. 1989] [permitting recovery of "stenographic fees for a transcript of the trial" citing CPLR 8301(a)(6) and Civil Court Rules enabling recovery]).

\* \* \* \* \*

Accordingly, it is,

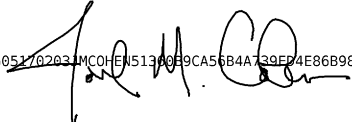
**ORDERED** that Defendants' motion is **granted** insofar as it seeks taxation for costs and disbursements made in connection with purchasing deposition transcripts and trial transcripts, and in connection with defending the claims pursuant to CPLR 8201, and **denied** in all other respects; and it is further

**ORDERED** that Defendants are entitled to reimbursement for costs and disbursements in the total amount of \$37,338.57<sup>1</sup> and the Clerk of the Court is directed to tax costs and disbursements in accordance with this Decision and Order.

---

<sup>1</sup> This amount reflects the sum of the \$36,388.57 in disbursements from the trial transcripts; \$250 in disbursements from making deposition transcripts (*see* CPLR 8301(a)(9); *see also* NYSCEF 1279 ¶ 7); and \$700 in costs pursuant to CPLR 8201 (*see* NYSCEF 1279 ¶ 5).

This constitutes the Decision and Order of the Court.

202306051702031MCOHEN51360E9CA56B4A739E74E86B98C7B0BA  
  
\_\_\_\_\_  
JOEL M. COHEN, J.S.C.

6/5/2023  
DATE

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED		
<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER		
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		

<input type="checkbox"/>	NON-FINAL DISPOSITION		
<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: