

**EXRP 14 Holdings LLC v LS-14 Ave LLC**

2024 NY Slip Op 33155(U)

September 5, 2024

Supreme Court, New York County

Docket Number: Index No. 652698/2022

Judge: Melissa A. Crane

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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. MELISSA A. CRANE

PART 60M

*Justice*

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EXRP 14 HOLDINGS LLC

INDEX NO. 652698/2022

Plaintiff,

- v -

LS-14 AVE LLC,

**DECISION AFTER  
INQUEST**

Defendant.

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The court presumes familiarity with the facts underlying this case but provides the following background as relevant to this inquest on attorneys’ fees.

On 10/31/23, the court granted plaintiff’s motion for sanctions and, among other relief, ruled that given defendant’s “pattern of willful non-compliance, the court orders defendant to reimburse plaintiff for the reasonable costs in making motion 6” (Doc 186 [Decision + Order on MS 006 and 007]). The court also directed plaintiff to “serve defendant and the court with a breakdown of attorney hours and billing rates for motion 6 by November 15, 2023” (Doc 186 [Decision + Order on MS 006 and 007]).

On 11/16/23, the court denied plaintiff’s fee application, without prejudice, because plaintiff’s “Breakdown of Attorney Hours,” that plaintiff emailed to the court and to counsel on 11/15/23, did not include invoices or any supporting documentation and was not e-filed (Doc 191 [Supplemental Decision + Order]). As such, the court permitted plaintiff to e-file a renewed fee application, made on proper papers (Doc 191 [Supplemental Decision + Order]).

Now, plaintiff seeks a total of \$83,019.60, representing the attorneys' fees it incurred in preparing and presenting Motion Sequence No. 006. As discussed in further detail below, the court declines to award the full amount plaintiff seeks.

### Discussion

An award of reasonable attorneys' fees is within the sound discretion of the court (*see Diakrousis v Malanga*, 61 AD3d 469 [1st Dept 2009]). When evaluating the reasonableness of attorneys' fees, the court examines several factors, "including the time and labor required, the difficulty of the issues involved, and the skill and effectiveness of counsel...reduc[ing] the amount requested to eliminate work that was duplicative or was unnecessarily performed by an attorney, rather than a secretary or paralegal" (*JK Two LLC v Garber*, 171 AD3d 496, 496 [1st Dept 2019]; *S.T.A. Parking Corp. v Lancer Ins. Co.*, 128 AD3d 479, 480 [1st Dept 2015]). The burden of proving the reasonableness of the requested fees is on the requesting party (*EVUNP Holdings LLC v Frydman*, 154 AD3d 558, 559 [1st Dept 2017]).

The court may reduce fees that are excessive (*see Solow Management Corp. v Tanger*, 43 AD3d 691 [1st Dept 2007]). The court may also reduce fees where the amount requested lacks proof (*Josefsson v Keller*, 141 AD2d 700 [1st Dept 1988]). Additionally, a fee award may be reduced where there is block billing – the practice of lumping multiple charges together in a single billing entry (*see Matter of Silverstein v Goodman*, 113 AD3d 539, 540 [1st Dept 2014]; *RMP Capital Corp. v Victory Jet, LLC*, 139 AD3d 836, 840 [2d Dept 2016] [25% reduction of fee award "due to the use of block billing, including vague and nonspecific billing entries, and the nature of th[e] lawsuit"]). Specifically, courts may reduce requested fees when the use of block billing makes it "makes it exceedingly difficult for the court to identify whether the amount of time spent

on a particular task is reasonable” (546-552 W. 146th St. LLC v Arfa, 99 AD3d 117, 123 [1st Dept 2012]).

Here, the court declines to award the full \$83,019.60 in fees that plaintiff seeks with regard to making its sanctions motion.

First, the submitted time records contain instances of clear block billing. For instance, on 9/27/23, Mr. Fattaruso inputted a 3-hour entry that stated: “Plan & prepare for oral argument on sanctions motion; review & analyze key documents & authority re: same; teleconfs. w/ CF team re: same; attend court hearing re: same” (Doc 263 [Affirmation of Attorneys’ Fees] at 17). Additionally, on 9/27/23, Ms. Levine inputted a 3.10-hour entry that stated: “Preparation for court conference and court conference and follow-up regarding same.” (Doc 263 [Affirmation of Attorneys’ Fees] at 17). Furthermore, on 8/28/23, Mr. Fattaruso inputted a 3.30-hour entry that stated: “Review & revise reply brief in support of sanctions motion and review & analyze key documents, authority, & correspondence re: same.” (Doc 263 [Affirmation of Attorneys’ Fees] at 13). These block-billed entries prevent the court from determining the reasonableness of the requested attorneys’ fees, as it is impossible to differentiate or specify how much time plaintiff’s counsel spent on each of the tasks that are listed. In addition, from what the court can glean from these block-billed time entries, moving counsel appears to have billed excessively.

Under these circumstances, the court finds that a 50% reduction to the amount plaintiff requested is appropriate (*see e.g. Matter of Silverstein v Goodman*, 113 AD3d 539, 540 [1st Dept 2014]; *RMP Capital Corp. v Victory Jet, LLC*, 139 AD3d 836, 840 [2d Dept 2016]).

### **Conclusion**

Thus, the court declines to award plaintiffs the full amount requested [\$83,019.60]. Specifically, the court exercises its discretion to reduce the requested amount by 50% [\$41,509.80]

to account for block-billed, duplicative, and excessive/unreasonable entries. As such, the court awards plaintiff attorneys' fees in the amount of \$41,509.80.

The court has considered the parties' remaining arguments and finds them unavailing.

Accordingly, it is

ORDERED that the Clerk is directed to enter judgment, in favor of plaintiff, and as against defendant, in the amount of \$41,509.80.



DATE: 9/5/2024

MELISSA A. CRANE, JSC

Check One:

Case Disposed

Non-Final Disposition

Check if Appropriate:

Other (Specify

Decision After Inquest

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