

**Atalaya Asset Income Fund II LLP v Ringel**

2025 NY Slip Op 30746(U)

March 2, 2025

Supreme Court, New York County

Docket Number: Index No. 654299/2019

Judge: Joel M. Cohen

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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

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<p>ATALAYA ASSET INCOME FUND II LLP,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">- v -</p> <p>BENJAMIN RINGEL, YAEL RINGEL, BCR REALTY INVESTMENT II, LLC, SAGG MAIN INV LLC,</p> <p style="text-align: center;">Defendants.</p>	<p>INDEX NO. <u>654299/2019</u></p> <p>MOTION DATE <u>12/17/2024</u></p> <p>MOTION SEQ. NO. <u>020</u></p> <p style="text-align: center;"><b>DECISION + ORDER ON MOTION</b></p>
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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 020) 76, 78, 79, 82, 83, 84, 85, 86, 87, 88, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 571, 573, 574, 578

were read on this motion to SUBSTITUTE PARTY, TRANSFER RECEIVER, AWARD FEES.

JDWC Fund IV, LLC (“JDWC”), an assignee of Plaintiff Atalaya Asset Income Fund II, LLP (“Atalaya”), moves for an order substituting JDWC Fund for Atalaya in this action, transferring the appointment of Atalaya as Receiver to JDWC, and awarding fees and costs incurred by Atalaya. The motion is unopposed. For the reasons discussed below, the motion is **granted**.

Atalaya has assigned to JDWC its interest in the judgment this Court previously entered in favor of Atalaya (NYSCEF 32, 558), as well as its interest in the guaranty upon which the judgment was based (NYSCEF 559). Accordingly, JDWC’s motion to be substituted for Atalaya is granted. For the same reasons, JDWC’s motion to transfer the appointment of Atalaya as Receiver (NYSCEF 511) is also granted.

The guaranty provides that “[i]n the event that Guarantor should breach or fail to timely perform any provisions of this Guaranty, Guarantor shall, immediately upon demand by Lender,

pay Lender all costs and expenses (including court costs and reasonable attorneys' fees) incurred by Lender in the enforcement hereof or the preservation of Lender's rights hereunder" (NYSCEF 14 [Guaranty] § 1.8). "The determination of what constitutes a reasonable attorney's fee is a matter within the sound discretion of the Supreme Court" (*Lancer Indem. Co. v JKH Realty Group, LLC*, 127 AD3d 1035, 1035-36 [2d Dept 2015]). "The attorney bears the burden of establishing the reasonable value of the services rendered, based upon a showing of the hours reasonably expended and the prevailing hourly rate for similar legal work in the community" (*id.* at 1036). Appropriate factors include "the time and labor required, the difficulty of the issues involved, and the skill and effectiveness of counsel" (*JK Two LLC v Garber*, 171 AD3d 496, 496 [1st Dept 2019], citing *In re Estate of Freeman*, 34 NY2d 1, 9 [1974]). When reviewing the overall reasonableness of a fee application, the "court is not required to set forth item-by-item findings concerning what may be countless objections to individual billing items[.]" (*Reveyoso v Town Sports Int'l. LLC*, 2018 NY Slip Op 32939[U], \*7 [Sup Ct, NY County 2018] [internal citations and quotations omitted]).

JDWC submits a bill of costs in the amount of \$426,184.40, representing more than 1,200 hours spent litigating seven motions, appearing in at least six legal proceedings in New Jersey and multiple U.S. Bankruptcy Courts,<sup>1</sup> and performing other tasks in furtherance of collecting the amount owed and carrying out responsibilities related to the receivership (NYSCEF 564 [Bill

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<sup>1</sup> The Bankruptcy Court in the Eastern District of New York approved a stipulation of settlement entered between Defendant Benjamin Ringel (the Chapter 7 Debtor), JDWC, Atalaya, and other creditors (NYSCEF 561 ["Approval Order"]). The Approval Order modifies the automatic stay to allow the Trustee, JDWC, Atalaya, and another creditor to effect the provisions of the settlement (*id.*). The settlement provides that the Receiver (Atalaya) is permitted to sell certain properties to satisfy enumerated obligations, including "full satisfaction of Atalaya balance due, plus interest, legal fees and other costs to be accrued subject to New York Court approval" (NYSCEF 560).

of Costs]; NYSCEF 563 [Attorney Invoices]). The bill of costs also reflects that the sum sought was discounted from the amount billed by approximately 40% (NYSCEF 564). In light of the substantial amount of time reasonably spent pursuing satisfaction of the judgment across multiple forums, and upon review of the contemporaneous invoices submitted (NYSCEF 563), the Court concludes that the fee award sought is reasonable.

JDWC also seeks attorneys' fees and costs in the amount of \$12,326.49 pursuant to this Court's prior decision awarding fees incurred in connection with Atalaya's motion to compel (Mot. Seq. 2) (NYSCEF 76). Having reviewed Plaintiff's bill of costs for that motion and supporting documentation (NYSCEF 82-87), the Court concludes that an additional award of attorneys' fees and costs in the amount of \$12,326.49 is reasonable.

Accordingly, it is

**ORDERED** that Motion Sequence 20 is **GRANTED**; it is further

**ORDERED** that JDWC Fund IV, LLC shall be substituted into the caption in the place and stead of the captioned plaintiff, and JDWC Fund IV, LLC shall serve a copy of this order on the Clerk of the Court, and that the Clerk of the Court shall amend the docket and electronic docket of the Court accordingly; it is further

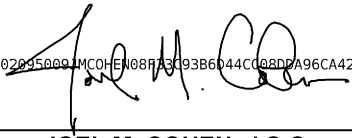
**ORDERED** that JDWC Fund IV, LLC shall be substituted for Atalaya Asset Income Fund II, LLP as the Receiver appointed pursuant to this Court's decision and order filed as NYSCEF Document Number 511; it is further

**ORDERED** that Defendants Benjamin Ringel, Yael Ringel, and BCR Realty Investments II, LLC, jointly and severally, shall reimburse Plaintiff for attorneys' fees and costs in the amount of \$438,510.89; it is further

**ORDERED** that payment of these costs shall be delivered to counsel for Plaintiff and written proof of such payment shall be provided to the Clerk of Part 3 within 30 days after service of a copy of this order with notice of entry; and it is further

**ORDERED** that proof of payment shall be provided to the Clerk of the Part and such service upon the Clerk of the Court 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).

This constitutes the decision and order of the Court.

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JOEL M. COHEN, J.S.C.

3/2/2025  
DATE

CHECK ONE:

CASE DISPOSED  
GRANTED

DENIED

NON-FINAL DISPOSITION  
GRANTED IN PART  
SUBMIT ORDER

OTHER

APPLICATION:

SETTLE ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE