

**Matter of Surveillance Tech. Oversight Project v New
York City Police Dept.**

2025 NY Slip Op 31288(U)

April 10, 2025

Supreme Court, New York County

Docket Number: Index No. 153402/2023

Judge: Shahabuddeen A. Ally

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. SHAHABUDDEN A. ALLY
Justice

PART 16

In the Matter of
SURVEILLANCE TECHNOLOGY OVERSIGHT PROJECT,
Petitioner,
For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules,
-against-
NEW YORK CITY POLICE DEPARTMENT,
Respondent.

INDEX NO. 153402/2023
MOTION DATE 04/30/2024
MOTION SEQ. NO. 002

DECISION & ORDER

The following e-filed documents, listed by NYSCEF document number, were read on this motion (Seq. No. 2) to/for ATTORNEY - FEES: 46-59

In this Article 78 proceeding, which was commenced on April 13, 2023, pursuant to Verified Petition, petitioner SURVEILLANCE TECHNOLOGY OVERSIGHT PROGRAM ("S.T.O.P.") sought an order and judgment: (1) directing respondent NEW YORK CITY POLICE DEPARTMENT (the "NYPD"), to comply with its duty under New York's Freedom of Information Law ("FOIL") and to disclose the records sought by S.T.O.P. in its May 17, 2022 FOIL request (the "Request"); (2) awarding reasonable attorneys' fees and litigation costs as allowed under New York Public Officers Law ("POL") § 89(4)(c); and (3) granting such other relief as the Court deems just and proper. (Verified Pet., dated April 13, 2023 ("Pet.") (NYSCEF Doc. 1)) On February 6, 2024, the parties executed a stipulation of partial settlement. Notably, the the stipulation did not finalize agreement concerning payment of attorney's fees and costs. On April 30, 2024, S.T.O.P. filed the instant motion, which seeks an order and judgment directing the NYPD to pay reasonable attorney's fees and litigation costs in the amount of \$41,324.86, pursuant to POL § 89(4)(c)(ii).

(Notice of Pet'r's Mot. for Att'y's Fees, dated April 30, 2024 ("Notice") (NYSCEF Doc. 47)) On May 10, 2024, the NYPD opposed the motion and requested that the Court deny S.T.O.P.'s motion for attorney's fees. (Affirm. in Opp'n to Pet'r's Mot. for Att'y's Fees, dated May 10, 2024 ("Resp't's Opp'n") (NYSCEF Doc. 54))

For the reasons discussed below, S.T.O.P.'s motion is **GRANTED**.

I. BACKGROUND

S.T.O.P. is a nonprofit public interest, advocacy, and legal services organization, which aims to curtail state and local governments' widespread use of surveillance technology. On May 17, 2022, S.T.O.P. submitted the Request to the NYPD in search of records relating to the NYPD's Gun Recidivist Investigation Program List ("GRIP List"), "used by the NYPD to identify and track individuals involved in shooting incidents or offenses involving guns." (Pet. ¶ 14; *id.*, Ex. A (NYSCEF Doc. 2))

On May 18, 2022, the NYPD acknowledged receipt of the Request and provided the estimated response date of September 30, 2022, accompanied by the disclaimer: "Due to issues caused by the COVID-19 pandemic there may be extensive delays, lasting up to one year, in determining your request." (Pet. ¶ 15; *id.*, Ex. B (NYSCEF Doc. 3))

On October 2, 2023, two days after the response date originally provided, the NYPD extended the estimated response date to February 14, 2023, and noted that "[t]his Foil request is processed and currently waiting for the response from the custodian units." (Pet. ¶ 16; *id.*, Ex. C (NYSCEF Doc. 4))

Claiming that this delay constituted a constructive denial of the Request, S.T.O.P. administratively appealed the denial on November 18, 2022. (Pet. ¶ 17; *id.*, Ex. D (NYSCEF Doc. 5)) In response, on November 21, 2022, the NYPD denied the appeal as premature, stating that "the search for the records responsive to [S.T.O.P.'s] request remains ongoing and it is estimated that the RAO will issue a determination upon receipt of the records and after a thorough review of any possible exemptions." (Pet. ¶ 18; *id.*, Ex. E (NYSCEF Doc. 6))

On November 22, 2022, the NYPD disclosed two responsive documents to S.T.O.P., denied access to the rest of the requested records, and closed the Request. (Pet. ¶ 19; *id.*, Exs. F-G (NYSCEF Docs. 7-8))

On December 1, 2022, S.T.O.P. administratively appealed this partial denial. (Pet. ¶ 20; *id.*, Ex. H (NYSCEF Doc. 9)) On December 14, 2022, the NYPD denied the second administrative appeal. (Pet. ¶ 21; *id.*, Ex. I (NYSCEF Doc. 10))

On April 13, 2023, S.T.O.P. commenced the instant Article 78 proceeding seeking judicial review of the Request's denial. (Pet.)

On October 17, 2023, after attempts by the parties to hold discussions narrowing the scope and setting timelines for the search ceased, the NYPD submitted a cross-motion to dismiss the Verified Petition. (NYSCEF Docs. 25-37)

On February 7, 2024, the parties entered a stipulation of partial settlement declaring that the Request had been satisfied but leaving open the matter of attorney's fees and costs. (*Id.* Doc. 43) The stipulation provides "that Petitioner reserves the right to seek attorney's fees and costs, and Respondent reserves all defenses to any such potential application." (*Id.* at 2)

After the parties' negotiations failed to reach an agreement concerning attorney's fees and costs, S.T.O.P. filed the instant motion (on April 30, 2024, requesting a judgment of \$41,324.86. (*See* Notice) S.T.O.P. claims that this amount results from a 35% voluntary reduction in total fees and costs made in the interest of promoting good faith and cooperation, while the NYPD alleges that S.T.O.P. is only entitled to \$12,273.97. (Resp't's Opp'n ¶ 7; Reply Mem. of Law in Supp. of Pet'r's Mot. for Att'y's Fees, dated May 21, 2024 ("Reply") (NYSCEF Doc. 57))

II. DISCUSSION

POL § 89(4)(c)(ii) provides that within a FOIL proceeding, the court "shall assess, against such agency involved, reasonable attorney's fees and other litigation costs reasonably incurred by such person in any case under the provisions of this section in which such person has substantially prevailed and the court finds that the agency had no reasonable basis for denying access." The Court of Appeals further clarified this rule, stating:

Pursuant to FOIL's fee-shifting provision, a court may award reasonable counsel fees and litigation costs to a party that "substantially prevailed" in the proceeding if the court finds that (1) "the record involved was, in fact, of clearly significant interest to the general public," and (2) "the agency lacked a reasonable basis in law for withholding the record" . . . Only after a court finds that the statutory prerequisites have been satisfied may it exercise its discretion to award or decline attorneys' fees.

Beechwood Restorative Care Ctr. v. Signor, 5 N.Y.3d 435, 441 (2005) (quoting POL § 89(4)(c)).

In 2017, an amendment to the POL fees provision made certain awards of fees mandatory, as opposed to discretionary. See *Reiburn v. N.Y.C. Dep't of Parks & Recreation*, 171 A.D.3d 670, 671 (1st Dep't 2019). Now, (1) where a party substantially prevails in a FOIL case, (2) after the opposing party did not have a reasonable basis for withholding the record sought, the court *must* award petitioner reasonable attorney's fees and costs incurred from the proceeding. See *N.Y. Times Co. v. City of N.Y. Office of Mayor*, 194 A.D.3d 157, 166 (1st Dep't 2021); see also *Reiburn*, 171 A.D.3d at 671. The legislature instituted this change "to give more teeth to the public's right of access under FOIL," *N.Y. Times Co.*, 194 A.D.3d at 166, as "people simply cannot afford to take a government agency to trial to exercise their right to access public information" *Reiburn*, 171 A.D.3d at 671 (internal quotation marks and citations omitted). Attorney's fees aim to "encourage compliance with FOIL and to minimize the burdens of cost and time from bringing a judicial proceeding." *Id.* (internal quotation marks and citations omitted).

It remains uncontested that S.T.O.P. substantially prevailed here.¹ The NYPD, however, asserts that S.T.O.P.'s POL § 89(4)(c)(ii) analysis falters at the second stage and maintains that the

¹ A party "'substantially prevails' within the meaning of [POL § 89(4)(c)] when the commencement of the CPLR article 78 proceeding ultimately succeeds in obtaining the records responsive to the FOIL request, whether by court order or by voluntary disclosure." *McDevitt v. Suffolk Cnty.*, 183 A.D.3d 826, 828 (2d Dep't 2020). Despite the initial delays in response to the Request and the blanket denials of materials, the NYPD eventually provided S.T.O.P. with the documents they sought in the initial Request. Though these materials were freely provided by the NYPD, the aim of the proceeding—disclosure of the requested materials—was fulfilled. Critically, the voluntary disclosure of responsive materials without need for further judicial intervention does not prevent the requesting party from substantially prevailing in a FOIL action. See *N.Y.S. Defenders Ass'n v. N.Y.S. Police*, 87 A.D.3d 193, 195 (3d Dep't 2011). In fact, "the 'voluntariness' of such disclosure is irrelevant to the issue of whether petitioner substantially prevailed . . . [as] to allow a respondent to automatically forestall an award of counsel fees simply by releasing requested documents before asserting a defense would contravene the very purposes of FOIL's fee-shifting provision." *Id.* Generally, for a party to substantially prevail in a FOIL proceeding, they must simply receive the records requested. See *Powhida v. City of Albany*, 147 A.D.2d 236, 238-39 (3d Dep't 1989); see also *N.Y.S. Defenders Ass'n*, 87 A.D. at 195-96.

Request's "unduly burdensome" nature justified the delays and the decision to withhold requested materials. (Resp't's Opp'n 54 ¶ 5)

"A pertinent consideration in determining whether an agency had a reasonable basis for denying a FOIL request is whether the agency reasonably claimed the records were exempt from disclosure under [POL § 87(2)], although the denial may still have been reasonable even if the records are ultimately deemed not to be exempt." *Prisoners' Legal Servs. of N.Y. v. N.Y.S. Dep't of Corr. & Cmty. Supervision*, 211 A.D.3d 1382, 1383 (3d Dep't 2022). Exemptions from FOIL's duty to disclose must be "narrowly interpreted" and can only be maintained when the agency proves with particularity that the materials "fall squarely within an exemption to disclosure." *Rauh v. de Blasio*, 161 A.D.3d 120, 125 (1st Dep't 2018) (citing *N.Y. Comm. for Occupational Safety & Health v. Bloomberg*, 72 A.D.3d 153, 158 (1st Dep't 2010)). "[M]erely parroting the statutory language and otherwise failing to provide any adequate sort of harm risked by disclosure, [fails] to meet [the] burden." *Cohen v. Alois*, 201 A.D.3d 1104, 1106 (3d Dep't 2022).

Initially, the NYPD applied several POL § 87(2) disclosure exemptions but failed to apply them narrowly. As a result, the claimed exemptions did not prevent the eventual disclosure of responsive materials. While acknowledging that these exemptions failed to hold up against the duty to disclose, the NYPD maintains that

it was reasonable at the time for the RAO and Appeals Officer to invoke additional exemptions based on invading personal privacy, endangering the life and safety of involved parties, and revealing non-routine criminal investigative techniques. It was not until Petitioner filed its petition that it clarified that it was seeking general information concerning the policy, standards, and implementation of the GRIP List, and not a copy of the GRIP List itself which contains detailed information about individuals.

(Resp't's Opp'n ¶ 26)

Instead of qualifying these exemptions with particularity—as is statutorily required—the NYPD merely restated categories exempted under POL § 87(2), broadly attributing each one to their alleged misunderstanding that S.T.O.P. sought a copy of the GRIP List itself. Despite this, the plain language of the Request clearly sought "any and all records . . . relating to . . . [or] all records . . . pertaining to the GRIP list" and further clarified:

GRIP list as used herein refers to the list used by the NYPD to identify and track individuals involved in shooting accidents or offenses involving guns.

Records, as used herein, includes, but is not limited to, all agency records including memoranda, correspondence, analyses, interview notes, logs, charts, and other written records as well as records maintained on computers, electronic communications, videotapes, audio recordings, or any other format.

(Pet., Ex. A)

The wording within both the Request and the NYPD's acknowledgement letters indicates that all parties understood that the materials sought were not limited to the GRIP List itself but extended to all documents related to the list's creation, purpose, and enforcement. Furthermore, even if the claimed exemptions are applicable, they cannot be applied in a blanket manner, as "blanket exemptions for particular types of documents are inimical to FOIL's policy of open government." *Legal Aid Soc. v. N.Y.C. Police Dep't*, 274 A.D.2d 207, 209 (1st Dep't 2000) (quoting *Gould v. N.Y.C. Police Dep't*, 89 N.Y.2d 267, 273 (1996)). Bearing the burden of "articulating a particularized and specific justification for denying access" to each requested record, the NYPD's "broad allegation . . . that the files contained exempt material is insufficient to overcome the presumption that the records are open for inspection . . . [and to categorically] deny petitioner all access to the requested material." *Konigsberg v. Coughlin*, 68 N.Y.2d 245, 251 (1986). Accordingly, while POL §§ 87(2)(b), (f), and (g) and Criminal Procedure Law § 160.50 could have justified redactions of information prior to disclosure, these exemptions do not reasonably support the complete denial of the Request.

Even though POL § 87(2)(e)(i)—serving as an exception to this rule—may be applied in a blanket fashion, the NYPD failed to prove that all responsive materials, if disclosed, would "interfere with law enforcement investigations or judicial proceedings." As a result, this statutory provision cannot be relied upon to justify a categorical denial.

The NYPD also maintains that an award of attorney's fees is not mandatory because the "unduly burdensome" nature of the Request rendered their initial denial reasonable. (Resp't's Opp'n ¶ 24) Specifically, the NYPD cites the large quantity of responsive materials that resulted

from keyword searches containing the phrases “Gun Recidivist Investigation Program” or “GRIP List.” (*Id.* ¶¶ 24-26) According to the NYPD, “[a]ccessing, reviewing, redacting, and producing” the volume of 165,617 emails and attachments that purportedly arose from their initial search presented so great a burden that the denial of the Request was justified. (*Id.* ¶¶ 25-26)

Pursuant to POL § 89(3):

An agency shall not deny a request on the basis that the request is voluminous or that locating or reviewing the requested records or providing the requested copies is burdensome because the agency lacks sufficient staffing or on any other basis if the agency may engage an outside professional service to provide copying, programming or other services required to provide the copy.

The NYPD claims that the scope of the Request was unreasonably burdensome, yet they fail to establish either a lack in staffing or an inability to engage outside professional service, as is required by the statute. If the scope and terms of a FOIL request are “reasonably described,” thereby providing sufficient guidance for the agency to locate the documents sought, “respondents cannot evade the broad disclosure provisions of [the] statute . . . upon naked allegation that the request will require review of thousands of documents.” *Konigsberg*, 68 N.Y.2d at 249. Furthermore, technological advancements have significantly lessened the burdens attributed to locating and recovering materials, as noted by the Court of Appeals: “if the records are maintained electronically by an agency and are retrievable with reasonable effort, that agency is required to disclose the information.” *Data Tree, LLC v. Romaine*, 9 N.Y.3d 454, 464 (2007). Since the documents requested by S.T.O.P. were stored within specifically identifiable electronic databases, the NYPD’s burden of retrieval was considerably diminished.

Though preliminary searches for S.T.O.P.’s requested materials may have produced a large volume of responsive documents, the keywords and defined parameters included in the Request provided sufficient particularity to effectively aid the agency in its search. Additionally, unlike the FOIL request in *Jewish Press v. New York City Police Department*, wherein the First Department held that the undefined scope of time within the petitioner’s request provided a reasonable basis for denial, the Request was appropriately limited to records from January 1, 2021, to May 17, 2022. The Request was, therefore, reasonably limited in scope and did not present the

NYPD with an unduly burdensome task. Additionally, the simple fact that the NYPD disclosed responsive materials after the commencement of the instant Article 78 proceeding further supports the contention that the Request was not unduly burdensome.

Because the NYPD's total denial of the Request is not reasonably supported by any of the claimed POL § 87(2) or § 89(3) exemptions, the Court finds that the second prong of POL § 89(4)(c)(ii) is fulfilled. Accordingly, as the statutory prerequisites for an award of attorney's fees are satisfied, the NYPD must cover the fees and costs accumulated by S.T.O.P. throughout this proceeding.

Concerning the monetary amount to be satisfied by the award, S.T.O.P. claims that it voluntarily reduced the total calculated amount of \$62,959.38 in standard attorney's fees and costs by 35% and now requests \$41,324.86. To support the legitimacy of their charges, S.T.O.P. provided itemized timecards (reflecting schedules and costs), affidavits of attorneys, and CVs of those attorneys. (NYSCEF Docs. 47-53, 58-59) Despite this, the NYPD maintains objections to several of the itemized fees and costs, alleging that S.T.O.P. is only entitled to \$12,273.97. (Resp't's Opp'n ¶ 7)

"Although an award of counsel fees is within the discretion of the court, such award must be based upon a showing of 'the hours reasonably expended . . . and the prevailing hourly rate for similar legal work in the community.'" *O'Malley v. Town of Vestal Police Dep't*, 226 A.D.3d 1204, 1205-06 (3d Dep't 2024) (quoting *Gutierrez v. Direct Mktg. Credit Servs.*, 267 A.D.2d 427, 428 (1999)). When determining the amount to award in counsel fees, a court should consider the *Freeman* factors, described by the Court of Appeals as:

[T]ime and labor required, the difficulty of the questions involved, and the skill required to handle the problems presented; the lawyer's experience, ability and reputation; the amount involved and benefit resulting to the client from the services; the customary fee charged by the Bar for similar services; the contingency or certainty of compensation; the results obtained; and the responsibility involved.

In re Freeman's Est., 34 N.Y.2d 1, 311 (1974).

During this case, S.T.O.P. utilized both in-house attorneys and attorneys from the law firm Quinn Emanuel Urquhart & Sullivan, LLP. The NYPD disputes S.T.O.P.'s reported fee rates (pertaining to both the Quinn Emanuel and in-house S.T.O.P. attorneys); the number of hours billed; and the costs accumulated throughout litigation. (Resp't's Opp'n ¶ 6) First, the Court finds that hourly rates submitted by S.T.O.P. are reasonable. As "one of the top litigation firms in the country," Quinn Emanuel's rates are deemed reasonable in comparison to those charged by firms of a similar stature and ability, and there exists "no reason, in the absence of any evidentiary challenge, to reduce the plaintiff's counsel's normal rate." *Clark v. Castor & Pollux Ltd. Liability Co.*, No. 655446/2017, 2019 WL 4467117, at *19 (N.Y. Sup. Ct. N.Y. Cnty. Sept. 18, 2019) (quoting *Getty Petrol. Corp. v. G.M. Tripple S. Corp.*, 187 A.D.2d 483, 484 (2d Dep't 1992)). Additionally, Quinn Emanuel's team voluntarily discounted the standard billing hours for their work on this case, which further repudiates the need to reduce the fees submitted. *See id.* Furthermore, representing S.T.O.P. "pro bono . . . does not impact its ability to recover reasonable attorneys' fees . . . [as] courts routinely award legal fees to pro bono attorneys." *Id.* at *20 (internal quotation marks and citation omitted).

The NYPD also claims that the hourly rates of the in-house S.T.O.P. attorneys were unreasonably inflated, since "no novel issues of law were presented . . . and no complex set of facts were involved." (Resp't's Opp'n ¶ 35) The calculation of attorney's fees, however, is not necessarily based upon on the complexity or novelty of the issues presented. Instead, the Court may also consider the degree of time and labor required by the attorneys, as well as the "recalcitrant conduct" of the respondent party. *See Clark*, 2019 WL 4467117, at *18. In *Clark*, the Court held that when a respondent party's failure to respond in good faith or comply with proper procedure drives up litigation costs, their conduct supports an award of fees for petitioner. *See id.* As in *Clark*, the litigation at issue could have been altogether avoided if the NYPD had reasonably complied with its FOIL duties. In fact, the Quinn Emanuel team was only procured when S.T.O.P. commenced the instant Article 78 proceeding. As a result, the NYPD's own conduct played a role in bringing about S.T.O.P.'s requested fees. By contrast, S.T.O.P., in an act of good-faith compromise, already voluntarily reduced its standard billing rates by 20% during settlement discussions.

Accordingly, upon consideration of the submitted materials and application of the *Free-man* factors, the Court finds that S.T.O.P. provided satisfactory evidence to support the reasonableness of their requested fees.

The NYPD also takes issue with 8.75 of the hours billed by S.T.O.P.'s legal team. Regarding 7.75 of these hours,² the NYPD alleges that attorneys are not entitled to an award of fees for any work relating to administrative FOIL requests and appeals, citing the decision in *Buzzfeed v. NYPD*, wherein the court declined to award attorney's fees for amounts expended on the administrative portions of the matter. *See* Index No. 161249/2018, Dkt. 25 (N.Y. Sup. Ct. N.Y. Cnty. Nov. 15, 2019). (NYSCEF Doc. 55) Other courts have, however, awarded fees including administrative portions of FOIL matters; for example, in separate case between the very parties involved in the instant matter. In *S.T.O.P. v. NYPD*, Index No. 151747/2023, Dkt. 44 at 2 n.1 (N.Y. Sup. Ct. N.Y. Cnty. Jan. 24, 2024), the court explained:

At oral argument, there was argument by respondent that all the administrative fees should be removed from the attorney's fee award. The Court disagrees, as should the respondent provided the documents at the time of the making of the original FOIL request, as they later did, the appeal would not have been necessary.

As in the prior *S.T.O.P. v. NYPD* case, the NYPD's initial failure to comply with FOIL in the instant matter is also what imposed the need for litigation and its accompanying "administrative" work. As such, the NYPD should not evade payment of this portion of the fee. Other New York courts have also included administrative portions within attorney's fees awards, generally maintaining that "respondent shall pay the reasonable costs, including reasonable attorney's fees, incurred by petitioner after the initial denials by respondent, as such expenses pertain to all its requests for documents and information described in this decision, at both the administrative appeals and court levels." *Newsday LLC v. Nassau Cnty. Police Dep't*, 42 Misc. 3d 1215(A), at *10 (N.Y. Sup. Ct. Nassau Cnty. Jan. 16, 2014). Contrary to the NYPD's contention, there exists no bright-line rule that prohibits the reasonable inclusion of administrative portions within awards

² The 7.75 "administrative" billed hours contested by the NYPD are comprised of: (1) the 5.2 hours billed by Mr. Siffert for drafting and filing the FOIL request and appeals between April 28, 2022, and December 14, 2022; and (2) the 2.5 hours expended by Ms. Loshkajian while drafting the FOIL request on May 12, 2022; drafting the second appeal on November 30, 2022; and revising the second appeal on December 1, 2022. (*Resp't's Opp'n* ¶¶ 40, 43)

of attorney's fees. Consequently, the Court finds that S.T.O.P. must be compensated for these 5.25 hours of administrative work.

The remaining contested hour—which comprises thirty minutes of work by Mr. Siffert and thirty minutes of work by Mr. Enzer—is contested by the NYPD on the grounds that the necessity of the work has not been adequately proven. (Resp't's Opp'n ¶¶ 41, 44) S.T.O.P. maintains that, regardless of the substance of this allegation, "such time has more than been eclipsed by the reduction in hours voluntarily made by S.T.O.P.," (Reply at 10-11), and the Court agrees. The two thirty-minute increments disputed by the NYPD make up a small portion of the total time expended and are dwarfed by the voluntary fee reductions applied by S.T.O.P. Consequently, the Court finds that S.T.O.P.'s claimed attorney's fees are reasonable and must be covered by the award.

Finally, the NYPD objects to a host of costs expended by S.T.O.P. throughout this proceeding. First, the NYPD alleges that the Westlaw charge should be lowered from \$3,796.00 to \$516.00, claiming that there is insufficient evidence that the Quinn Emanuel attorney, Mr. Ip, conducted case-specific legal research on all the dates listed. (Resp't's Opp'n ¶¶ 47-49) Noted by S.T.O.P., however, these disputed research periods were not specifically billed as "legal research," but were instead attributed to "drafting memorandum of law," for which "[a]ny prudent attorney would engage in legal research in parallel and in conjunction with such drafting." (Reply at 11) S.T.O.P. admits that the cost of a single Westlaw search (incurred on April 28, 2023) occurred on a day wherein no timecard was submitted but submits that this cost was "eclipsed by S.T.O.P.'s voluntary reduction in costs claimed." (*Id.* at 12) On both these points, the Court agrees and finds that the awarded fees should cover Westlaw charges in the amount of \$3,796.00.

Second, the NYPD claims there are insufficient records to support an award of fees covering charges attributed to document hyperlinking insert links, word processing, and document reproduction, as the "narrative" descriptions within S.T.O.P.'s billing statement are inadequately detailed. (Resp't's Opp'n ¶ 51) S.T.O.P. responds that the billed services and their accompanying narratives are "self-explanatory on their face and require no further elaboration." (Reply at 13) Upon review of the submitted timecards and cost schedules, this Court agrees with S.T.O.P.

Further, the NYPD asserts that, pursuant to *In re City of New York*, 30 Misc. 3d 816, _ (N.Y. Sup. Ct. Kings Cnty. 2010), “expenses incurred for copying and messenger services fall within the attorneys’ base fee and [are] accordingly not compensable.” (Resp’t’s Opp’n ¶¶ 51-53) Noted by S.T.O.P., however, *In re City of New York* concerned EDPL § 701, which requires costs covered be “necessary to achieve just and adequate compensation,” whereas POL § 89(4)(c) instead covers “reasonable attorney’s fees and other litigation costs reasonably incurred.” (Reply at 12-13) Upon application of the relevant latter standard, this Court finds that these contested costs—including the use of “Wordpro Coordinator,” Westlaw’s “Drafting Assistant Insert Links,” and document reproduction—constitute reasonably incurred expenses and remain within the scope of compensation pursuant to POL § 89(4)(c).

Lastly, the NYPD takes issue with S.T.O.P.’s subscription to “CourtAlert,” as it claims that the \$71.37 payment for the program was unnecessary and that notifications provided by the New York State Uniform Court System should be accessed free of charge via eCourts. (Resp’t’s Opp’n ¶ 50) S.T.O.P. contests this argument, however, pointing out that the free program is only available to attorneys who have filed notices of appearance. For S.T.O.P., the use of CourtAlert was reasonable to keep all non-appearing members of both the Quinn Emanuel and the in-house legal teams apprised of filing updates. (Reply at 13) Applying the POL § 89(4)(c) standard, the Court finds that the CourtAlert subscription charge falls within the category of “other litigation costs reasonably incurred.”

For the aforementioned reasons, the Court finds that all S.T.O.P.’s claimed costs are reasonable and must be covered by the award.

The Court has considered the additional contentions of the parties not specifically addressed herein. To the extent that any relief requested by the parties was not addressed by the Court, it is hereby denied.

Accordingly, it is hereby,

ORDERED and ADJUDGED that S.T.O.P.’s Motion for Attorney’s Fees (Seq. No. 2) is **GRANTED**; and it is further

ORDERED and ADJUDGED that the NYPD shall pay to S.T.O.P. its attorney’s fees and costs reasonably incurred during this proceeding, in the amount of \$41,324.86, within thirty (30) days following service of this Decision and Order with notice of entry; and it is further

ORDERED that the NYPD shall serve a copy of this Decision and Order upon S.T.O.P. and the Clerk of the General Clerk’s Office with notice of entry within twenty (20) days thereof; and it is further

ORDERED that service upon the Clerk of Court shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (Revised August 15, 2019);³ and it is further


ORDERED that any requested relief not expressly addressed herein has been considered and is denied; and it is further

ORDERED that the Clerk shall mark Motion Sequence 2 decided in all court records; and it is further

ORDERED that the Clerk shall mark this proceeding disposed in all court records.

This constitutes the decision, order, and judgment of the Court

April 10, 2025
DATE


SHAHABUDDIN A. ALLY, A.J.S.C.

CHECK ONE:

MOTION:

CHECK IF APPROPRIATE:

<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
		<input type="checkbox"/>	FIDUCIARY APPOINTMENT
		<input type="checkbox"/>	OTHER
		<input type="checkbox"/>	STAY CASE
		<input type="checkbox"/>	REFERENCE

³ The protocols are available at <https://www.nycourts.gov/LegacyPDFS/courts/ljd/suptctmanh/Efil-protocol.pdf>.