Carter v Sweeney

2025 NY Slip Op 34004(U)

October 14, 2025

Supreme Court, New York County

Docket Number: Index No. 151067/2019

Judge: James E. d'Auguste

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **Hon. James d'Auguste** **PART 55**

Justice

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CARTER, JR., DWAYNE M.

Plaintiff,

- v -

SWEENEY, RONALD E.

Defendant.

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INDEX NO. 151067/2019

MOTION DATE 02/11/2022, 03/29/2024, 06/11/2024, 06/17/2025

MOTION SEQ. NO. 006 008 009 010

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 006) 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 120, 121, 122, 123, 124, 131, 227, 230, 239, 240, 241, 244, 247, 248

were read on this motion to/for DISMISSAL.

The following e-filed documents, listed by NYSCEF document number (Motion 008) 153, 154, 155, 156, 157, 158, 159, 160, 161, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 242, 245, 249, 250

were read on this motion to/for QUASH SUBPOENA, FIX CONDITIONS.

The following e-filed documents, listed by NYSCEF document number (Motion 009) 178, 179, 180, 181, 182, 183, 184, 185, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 243, 246, 251, 252

were read on this motion to/for DISCOVERY.

The following e-filed documents, listed by NYSCEF document number (Motion 010) 232, 233, 234, 235, 236, 237, 238

were read on this motion to/for EXTEND - TIME.

I. PROCEDURAL POSTURE

This action arises after the end of a 13-year relationship in which defendant Ronald Sweeney ("Sweeney") provided legal and other services to plaintiff Dwayne Michael Carter, Jr., p/k/a Lil Wayne ("Carter"). Carter terminated his relationship with Sweeney on September 18, 2018. On

January 30, 2019, Carter commenced this action against Sweeney and defendant Avant Garde Management, Inc. ("AGM"), asserting 10 causes of action that sought to recoup fees that Carter paid to them during those 13 years. NYSCEF Doc. No. 2. Sweeney and AGM moved to dismiss the First Amended Complaint ("FAC") (NYSCEF Doc. No. 5), and the Court granted the motion with respect to all claims except for Carter's claim seeking a declaratory judgment regarding "whether and to what extent Sweeney is entitled to unpaid amounts now or in the future pursuant to any purported oral contingency agreement." NYSCEF Doc. No. 49 at 7.

Almost two years after Carter commenced this action, Sweeney and others sued Carter and Carter-controlled entities in California state court, which was removed to California federal court (the "California Action"). The California federal court thereafter dismissed the California Action due to lack of personal jurisdiction over the defendants.

As a result of that dismissal, Sweeney and AGM ("Defendants/Counterclaim Plaintiffs") filed counterclaims against Carter similar to the claims they had asserted in the California Action. NYSCEF Doc. No. 95.

II. RELEVANT ALLEGATIONS AND UNDISPUTED FACT

In their counterclaims, Defendants/Counterclaim Plaintiffs allege that Sweeney is the principal owner and president of AGM (*id.* Ctrclms. ¶ 8) and that, during their relationship, Sweeney represented Carter as his attorney as well as manager. *Id.* ¶ 6; *see also* Ans. ¶ 1. Defendants/Counterclaim Plaintiffs further allege that there was an oral contingency fee agreement between Carter and Sweeney: "Carter and Sweeney agreed that, in exchange for his services, Sweeney would be paid 10% of the gross income on deals Sweeney negotiated or managed for Carter and his affiliated Young Money entities." *Id.* ¶ 11. Carter agrees that he and

Sweeney operated under an oral contingency fee agreement (NYSCEF Doc. No. 5, FAC ¶ 19) though: (1) he emphasizes, and the Court has agreed (NYSCEF Doc. No. 49 at 7), that the agreement was voidable; and (2) he alleges slightly (and for purposes of this motion, not materially) different payment terms, *i.e.* that Sweeney would be paid "a contingency fee of 10% of the income from any 'deals he closed' for" Carter. NYSCEF Doc. No. 5, FAC ¶ 19.

Pursuant to the oral contingency fee agreement, during their attorney-client relationship, Carter paid Sweeney approximately $20 million in fees. NYSCEF Doc. No. 95, Ans. ¶ 40. Carter terminated his relationship with Sweeney on September 18, 2018. *Id.* ¶ 3. Defendants/Counterclaim Plaintiffs concede that "until September 2018, Carter honored the agreements between them …." *Id.* Ctrclms. ¶ 15.

Defendants/Counterclaim Plaintiffs allege that Sweeney negotiated transactions between Carter and Cash Money Records ("Cash Money") (*id.* ¶ 20) and between Carter and Universal-SoundExchange ("Universal"). *Id.* ¶ 26. Claiming that he was owed money pursuant to these transactions, Carter brought litigations against Cash Money and against Universal (the "Cash Money/Universal Litigations"). *Id.* ¶¶ 25, 26. Although not Carter's litigation counsel, Defendants/Counterclaim Plaintiffs allege that Sweeney "oversaw" the Cash Money/Universal Litigations, which were both settled in May 2018 (the "Cash Money/Universal Settlements"). *Id.* ¶¶ 27-28. Defendants/Counterclaim Plaintiffs allege that Carter is liable to them for 10% of these settlement amounts. *Id.* ¶¶ 37, 42, 43.

Defendants/Counterclaim Plaintiffs also allege that "[u]pon information and belief, in or about June 2020, Carter sold the Young Money master recordings to Universal Music Group for more than $100 million." *id.* ¶ 33. The further allege that, although that sale (the "Master

Recordings Sale") was entered into almost two years after Carter terminated his relationship with Sweeney, Carter is nonetheless liable to Defendants/Counterclaim Plaintiffs for 10% of the sale proceeds. *Id.* ¶¶ 37, 42, 43.

In connection with the foregoing allegations, Defendants/Counterclaim Plaintiffs assert six counterclaims against Carter for breach of contract, unjust enrichment, quantum meruit, an accounting, breach of the implied covenant of good faith and fair dealing, and imposition of a constructive trust.

III. ANALYSIS - MOTION NO. 006

A. Applicable Law

"New York choice of law principles require a court to apply the law of the state with the most significant relationship with the particular issue in conflict." *Indosuez Int'l Fin. B.V. v. Nat'l Res. Bank*, 98 N.Y.2d 238, 245 (2002). There can be little question that California is the state with the most significant relationship to the remaining claims herein.

As noted, Carter's sole remaining claim in his action seeks a declaratory judgment regarding "whether and to what extent Sweeney is entitled to unpaid amounts now or in the future pursuant to any purported oral contingency agreement," which the Court previously held was an issue governed by Cal. Bus. & Prof. Code § 6147 ("Section 6147"). NYSCEF Doc. No. 49 at 7. Similarly, the counterclaims seek, pursuant to breach of contract and quasi-contract theories, the unpaid amounts under the oral contingency fee agreement that are allegedly owed now or in the future. NYCSEF Doc. No. 95, Ctrclms. ¶¶ 36-70. Accordingly, the factual and legal issues arising from Carter's remaining claim substantially overlaps with Defendants/Counterclaim Plaintiffs' counterclaims.

As an initial matter, it must be noted that Defendants/Counterclaim Plaintiffs have previously conceded that: "California is the center of gravity of this dispute, not only because California law is central to the resolution, but also because that was where Carter retained Sweeney and where both Sweeney and Avant Garde reside. By contrast, New York has little or no connection to any party to the case, and no obvious interest in the rights and entitlement of the parties in the wake of Sweeney's discharge by Carter in 2018." NYSCEF Doc. No. 55 at 3. Now, however, after strenuously emphasizing to this Court "the paramount interest of California" in this action (NYSCEF Doc. No. 84 at 1), Defendants/Counterclaim Plaintiffs attempt to reverse course and argue that New York's interests are, in fact, the most significant.

Despite Defendants/Counterclaim Plaintiffs' about-face, the focus of the attorney-client and contractual relationship between Carter and Defendants/Counterclaim Plaintiffs was California. Sweeney was at all relevant times a lawyer licensed only in the State of California. NYSCEF Doc. No. 122 ¶¶ 5, 19 ("I constantly reminded Lil Wayne that I was only authorized to practice law in California"). Sweeney first met with Carter and was retained by him in California. *Id.* ¶¶ 8, 18. The bulk of Sweeney's work for Carter, including meetings with Carter, took place in California. *Id.* ¶ 17 ("approximately 75% of [Sweeney's] time spent managing [Carter] was conducted from California …. [T]he majority of the time when I communicated directly with Lil Wayne … I was communicating with him from California."); *id.* ¶ 18 ("I would frequently meet with Lil Wayne whenever he was in Los Angeles").

Sweeney resided in California during his relationship with Carter. NYSCEF Doc. No. 95, Ans. ¶¶ 13, 28; *see also* NYSCEF Doc. No. 8 ¶ 5 and 103 ¶ 5 ("From approximately 2000 to 2018, my primary residence was 31532 Victoria Malibu, CA 90265 and I paid taxes as a resident

of California, maintained a California license, and was registered to vote in California."); NYSCEF Doc. No. 122 ¶ 17 ("Throughout my nearly 14-year tenure with Lil Wayne, I was at all times a California resident"); *Id.* ¶ 18 ("I made Lil Wayne well aware of the fact that I lived in Malibu, California, and that I am a California attorney"); *Id.* ¶ 22 ("I have filed and paid taxes in the State of California for the last 20 years"). AGM is a California corporation. *Id.* ¶ 23. Carter himself resides in Florida. NYSCEF Doc. No. 5, ¶ 12.

In 2016, Sweeney submitted to Carter a draft agreement (which Carter never signed) that attempted to put into writing their existing oral contingency fee agreement. NYSCEF Doc. No. 8 ¶ 20 ("In January 2016, [Sweeney] sent Carter … a written fee agreement reflecting the terms Carter and [Sweeney] had agreed upon in 2005"); NYSCEF Doc. No. 12 ¶ 8 ("you hereby acknowledge that the terms set forth herein are the same terms that have applied to our business relationship since our firm first began representing you on or about January 1, 2005"). That draft agreement, in accordance with Section 6147, included a California arbitration clause and acknowledged the application of the California Rules of Professional Conduct. NYSCEF Doc. No. 12 ¶¶ 7, 9.

As a matter of law, California has a very strong interest in the conduct and contracts of the lawyers licensed in that state, as well as the protection of those lawyers' clients. Illustrative in this regard is *Hoiles v. Alioto*, 461 F.3d 1224 (10th Cir. 2006), a dispute arising out of a contingent fee agreement in which the court compared the relative interests of Colorado, where the client resided, and California, where the lawyer was licensed.

> Colorado's interest in protecting its citizens is attenuated in this case [] because Hoiles traveled outside of Colorado to solicit representation by an attorney who resides in, and is licensed to practice law in, California. Colorado's interest is further

> diluted because California also has enacted statutes to protect clients, regardless of their state of residence, who enter into contingent fee agreements with attorneys licensed to practice law in California. Cal. Bus. & Prof. Code § 6147; *see also Alderman v. Hamilton*, 205 Cal. App. 3d 1033, 252 Cal. Rptr. 845, 847-48 (1988). Moreover, California has an interest in enforcing these rules against attorneys licensed to practice law in California. California's interest is especially compelling where, as here, the attorney does not leave the state to solicit business and performs the majority of the services required by the agreement in California. Colorado, on the other hand, has no significant interest in enforcing its rules regulating contingent fee agreements against attorneys who are not licensed to practice law in Colorado, do not solicit business in Colorado, and do not perform legal services in Colorado.

Id. at 1231-32. Given the fact that the *Hoiles* court held that the lawyer's licensing state, California, held a greater interest in the fee dispute than Colorado, the client's state of residence, California law obviously has a significantly greater interest in the instant fee dispute than does New York, where Carter is not even a resident.

In light of the foregoing facts and law, Defendants/Counterclaim Plaintiffs' arguments seeking to apply New York law fall far short. For example, Defendants/Counterclaim Plaintiffs point to the dismissal of the California Action due to California's lack of personal jurisdiction over Carter, a Florida resident. But Carter's lack of relevant connections to California sufficient to hale him into court in that state hardly establishes facts showing that New York's interests in the *disputed issues* predominate over California's interests in regulating its lawyers and protecting their clients' rights. Defendants/Counterclaim Plaintiffs further point to Carter's initial assertion of several New York statutory and common law claims, as well as Carter's citation to some New York law in connection therewith. However, all of Carter's New York-specific claims have been dismissed (NYSCEF Doc. No. 49) and Carter's only remaining claim, as well as Defendants/Counterclaim Plaintiffs' counterclaims, are centered around Section 6147, a California statute. And Carter's citation to New York procedural law, which governs procedural issues in this case regardless of the application of foreign state substantive law, has no

bearing on the proper choice of substantive law. *See* Restatement (Second) of Conflict of Laws § 122 ("A court usually applies its own local law rules prescribing how litigation shall be conducted even when it applies the local substantive rules of another state to resolve issues in the case.").

Here, Carter went to California to meet with Sweeney, a California lawyer living in California, whereupon they entered into an oral contingency fee agreement in California pursuant to which Sweeney performed the bulk of his services in California. When Sweeney later attempted to put the terms of their oral agreement into writing, that writing acknowledged the applicability of California law to their fee agreement.

Thus, there can be no reasonable dispute that California law should apply to the claim and the counterclaims in this action.

B. Motion to Dismiss Counterclaims

Pursuant to CPLR 3211, a party may move to dismiss claims when the pleading fails to state a cause of action or when documentary evidence establishes a defense to the claims as a matter of law. CPLR 3211(a)(1), (a)(7). The material facts and factual allegations relevant to the determination of this motion are undisputed.

1. Breach of Contract

In support of their first cause of action for breach of contract, Defendants/Counterclaim Plaintiffs allege that "Sweeney and Carter agreed that Carter would pay 10 percent of the gross proceeds of various transactions and other matters that Sweeney handled for Carter." NYSCEF Doc. No. 95, Ctrclm. ¶ 37. That agreement, however, has been voided by Carter (NYSCEF 49 at

7) and, accordingly, Sweeney is entitled only to a "reasonable fee" for relevant work that he has performed but for which he has not already been paid. Cal. Bus. & Prof. Code § 6147(b).

Defendants/Counterclaim Plaintiffs have consistently conceded that Sweeney "acted as an attorney and manager" for Carter pursuant to the oral contingency agreement between them. NYSCEF Doc. No. 241 at 2. California law is clear that oral contracts for the provision of both legal and non-legal services are subject to, and voidable under, Section 6147. *Britton v. Riggs*, No. B303446, 2021 WL 5935729 (Cal. Ct. App. Dec. 16, 2021); *see also Libarian v. State Bar of Cal.*, 21 Cal.2d 862, 865 (1943); *Fergus v. Songer*, 150 Cal. App. 4th 552, 573 (Cal. Ct. App. 2007). Defendants/Counterclaim Plaintiffs have failed to cite any on-point case law contrary to the recent *Britton* case, in which a California appellate court held that, where there existed an attorney-client relationship, the client may void a contract that is not compliant with Section 6147 even if the lawyer also provided non-legal services. *Id.* at *15.

Defendants/Counterclaim Plaintiffs contend that clients may waive their right under Section 6147 to void an oral contingency contract by making payments thereunder. Putting aside the fact that the Court has already ruled that Carter in fact voided the contract when he terminated the relationship (NYSCEF Doc. No. 49 at 7), California courts have consistently rejected the idea that clients, by payment, waive their right to void non-compliant fee contracts *in futuro*. *E.g.*, *Bonavida v. Fahs*, No. B287053, 2019 WL 4254267, at *10 (Cal. Ct. App. Sept. 9, 2019); *Depp v. Bloom Hergott Diemer Rosenthal La Violette Feldman Schenkman & Goldman, LLP* (Slip Op.), BC680066, 2018 WL 4344241 at 7-8 (Cal. Super. Ct. Aug. 28, 2018); *Fergus*, 150 Cal. App. 4th at 571.

The question thus becomes: what are the legal ramifications where a client voids a non-compliant attorney fee agreement pursuant to which the lawyer has provided some services that have been already paid for and some services that have not? The answer lies in the case of *Alderman v. Hamilton*, 205 Cal. App. 3d 1033 (Cal. Ct. App. 1988), which was cited by both parties.

In *Alderman*, the plaintiff attorney filed suit for fees relating to his work on a will contest and the sale of a joint tenancy property. The defendant clients, the Hamiltons, acknowledged that fees were owing for work Alderman performed in resolving the will contest, but objected to paying a percentage of the joint tenancy proceeds because, *inter alia*, the fee contract was in violation of Section 6147. The California appellate court, agreeing that the fee contract violated Section 6147, first noted that the defendant clients "had an absolute right to void the contract before or after services were performed." *Id.* at 1037-38; *see also Fracasse v. Brent*, 6 Cal.3d 784 (1972) ("a client should have both the power and the right at any time to discharge his attorney with or without cause.... Such a discharge does not constitute a breach of contract for the reason that it is a basic term of the contract, implied by law into it by reason of the special relationship between the contracting parties, that the client may terminate that contract at will. It would be anomalous and unjust to hold the client liable in damages for exercising that basic implied right."). The *Alderman* court then held:

> Although the Hamiltons waived their right to void the entire contract by agreeing to pay the contingency fee relating to the will contest, the Hamiltons were free to and did exercise their absolute right to void the contract provision regarding the joint tenancy property. The Hamiltons exercised this right when they denied that the contract was enforceable and refused to pay any moneys to Alderman after the sale of the real property.

Id. at 1038. Thus, the appellate court affirmed the trial court, which had factually determined a reasonable fee under Section 6147 based upon the limited amount of work Alderman expended on the sale of the joint tenancy property.

The *Alderman* case is largely on all fours with the instant case. Here, Carter terminated and voided the fee contract on September 18, 2018, raising a dispute and confirming his earlier refusal to pay Defendants/Counterclaim Plaintiffs in connection with the Cash Money/Universal Settlements. However, as in *Alderman*, Carter "waived [his] right to void the entire contract by agreeing to pay the contingency fee relating to the" previously entered-into transactions negotiated by Sweeney. As this Court noted in the portion of its opinion dismissing Carter's claim for unjust enrichment, "Carter assented by deeds over a 13-year period to the oral agreement between the parties," paying, without objection, $20 million to Sweeney to negotiate deals pursuant to which Carter received some $200 million. NYSCEF Doc. No. 49 at 5.

Here, Carter terminated his relationship with Sweeney and voided the oral contingency fee agreement and also refused (both before and after the termination) to pay Sweeney any fees in connection with the Cash Money/Universal Settlements and Master Recordings Sale. Accordingly, as in *Alderman*, there is no existing contract on which Defendants/Counterclaim Plaintiffs may base any contract claims and, as such, their breach of contract claim must be dismissed. However, as in *Alderman*, Sweeney is entitled, pursuant to Section 6147 and in lieu of a breach of contract claim, to receive a "reasonable fee" for any work he performed in connection with those matters for which he has not already been paid. Because Section 6147 precludes Defendants/Counterclaim Plaintiffs' breach of contract claim, the Court need not reach

the issue, raised by Carter, of whether the oral contingency fee agreement constitutes illegal fee-splitting between Sweeney and AGM.

Accordingly, Defendants/Counterclaim Plaintiffs' first cause of action is dismissed.

2. Unjust Enrichment

In support of their second cause of action for unjust enrichment, Defendants/ Counterclaim Plaintiffs complain that "Sweeney rendered services to Carter on various matters in expectation of receiving an agreed-upon 10 percent fee" but that Carter has not paid Sweeney in connection with his income from the Master Recordings Sale and Cash Money/Universal Settlements. NYSCEF Doc. No. 95, Ctrclms. ¶¶ 45, 47.

It is noteworthy that Carter only glancingly attacks the unjust enrichment counterclaim (NYSCEF Doc. No. 105 at 14) and that Defendants/Counterclaim Plaintiffs do not exert substantial efforts to sustain it as an independent claim. That may be because, as an initial matter, "there is no cause of action in California for unjust enrichment." *Melchior v. New Line Prods.*, 106 Cal.App.4th 779 (2003). Rather, "[u]njust enrichment is a general principle, underlying various legal doctrines and remedies, rather than a remedy itself." *Id.* (internal quotes omitted).

Yet even if Defendants/Counterclaim Plaintiffs' unjust enrichment claim were a potential independent claim under California law, it would not be viable because the California Supreme Court has held that, even where an attorney was discharged by his client "without cause," the client has an "absolute right to discharge his attorney at any time, and [] the attorney *should be limited to a quantum meruit recovery* for the reasonable value of his services …." *Fracasse*, 6

Cal.3d at 786 (emphasis added). With the enactment of Section 6147, the California Legislature has enshrined, in statutory form, quantum meruit as Defendants/Counterclaim Plaintiffs' exclusive remedy. Defendants/Counterclaim Plaintiffs' unjust enrichment claim is therefore precluded because it would constitute an impermissible circumvention of, and indeed is preempted by, Section 6147. *See Melchior*, 106 Cal.App.4th at 779 (unjust enrichment claim preempted by statute providing exclusive remedy).

Accordingly, Defendants/Counterclaim Plaintiffs' second cause of action is dismissed.

3. Breach of the Implied Covenant of Good Faith and Fair Dealing

Because the oral contingency fee agreement has been voided and is not operative in connection with remaining legal dispute between the parties, Defendants/Counterclaim Plaintiffs' fifth cause of action for breach of the implied covenant of good faith and fair dealing must be dismissed. *See Fireman's Fund Ins. Co. v. Md. Cas. Co.*, 21 Cal. App. 4th 1586, 1590 (1994) (prerequisite for implied covenant claim is the "existence of a contractual relationship between the parties"); *Oyefule v. Countrywide Home Loans, Inc.*, No. B218962, 2010 WL 4457710, at *4 (Cal. Ct. App. Nov. 9, 2010).

Defendants/Counterclaim Plaintiffs try to escape this blackletter law by arguing that their breach of the implied covenant claim "relies on additional facts that extend beyond the pleaded terms of the contract" and that the claim "principally alleges Carter's bad faith scheme to prevent Sweeney from receiving what he was owed." NYSCEF Doc. No. 107 at 17. That argument is unavailing for a number of reasons. First, Defendants/Counterclaim Plaintiffs logically fail to explain how a claim for the breach of a covenant *implied in a contract* can survive where the contract itself has been voided. *Fireman's Fund*, 21 Cal. App. 4th at 1590 ("Without a

contractual underpinning, there is no independent claim for breach of the implied covenant"). Indeed Defendants/Counterclaim Plaintiffs have failed to cite a single case in which an implied covenant claim under California law survived the voiding of the contract in similar, or indeed any, circumstances.

And while Defendants/Counterclaim Plaintiffs contend (NYSCEF Doc. No. 107 at 17) that their implied covenant claim is based on Counterclaim ¶¶ 23-28 (NYSCEF Doc. No. 95), those paragraphs, as best deciphered, appear to attempt to allege a claim of bad faith breach of an express contractual covenant, which would be irrelevant here because the contract was voided. Those paragraphs do not allege, let alone allege with sufficient factual support, that Carter exercised his rights under the oral contingency fee agreement in order to deprive Defendants/Counterclaim Plaintiffs of the fruits of the contract. *E.g.*, *Love v. Fire Ins. Exchange*, 221 Cal. App. 3d 1136, 1153 (1990) ("the covenant is implied … to prevent a contracting party from engaging in conduct which (while not technically transgressing the express covenants) frustrates the other party's rights to the benefits of the contract."); *Egan v. Mutual of Omaha Ins. Co.*, 24 Cal. 3d 809, 818 (1979).

Finally, any claim breach of the implied covenant of good faith and fair dealing would be precluded as an end-run around the exclusive quantum meruit remedy provided by Section 6147.

Accordingly, Defendants/Counterclaim Plaintiffs' fifth cause of action is dismissed.

4. Constructive trust

Defendants/Counterclaim Plaintiffs' sixth cause of action seeks the imposition of a constructive trust. However, the imposition of a constructive trust under California law does not

constitute a separate cause of action but rather may be an appropriate remedy where a plaintiff proves liability under an independent cause of action. *E.g.*, *Larocque v. Franz*, No. LC105233, Minute Order (Cal. Super. Ct. Dec. 7, 2020) at 8, 21 ("A constructive trust is an equitable remedy, not a substantive claim for relief."); *Am. Master Lease LLC v. Idanta Partners, Ltd.*, 225 Cal. App. 4th 1451, 1485 (2014).

However, even if Defendants/Counterclaim Plaintiffs' sixth cause of action were a genuine independent cause of action, it would fail to state a claim for relief. Under California law "a constructive trust may only be imposed where the following three conditions are satisfied: (1) the existence of a res …; (2) the right of a complaining party to that res; and (3) some wrongful acquisition or detention of the res by another party who is not entitled to it." *Communist Party v. 522 Valencia, Inc.*, 35 Cal.App.4th 980, 990 (1995). Defendants/Counterclaim Plaintiffs allege that they are entitled to the imposition of a constructive trust because they "entered into agreements under which [they] performed various services for Carter" but Carter did not pay them under the contract such that "Carter has no legal or equitable ... interest in monies earned by" them and he "has wrongfully retained and continues to retain monies belonging to" them. NYSCEF Doc. No. 95, Ctrclm. ¶¶ 66-69. However, the oral contingent fee agreement that Defendants/Counterclaim Plaintiffs rely on has been voided, thereby precluding their argument that those monies were "earned by" or "belong[] to" them under the voided agreement.

In addition, Section 6147 requires that an attorney's legal recovery in connection with a contract voided thereunder is limited to a "reasonable fee." Cal. Bus. & Prof. Code § 6147(b); *Fracasse*, 6 Cal.3d (reaffirming "client's absolute right to discharge his attorney at any time, and

that the attorney should be limited to a quantum meruit recovery for the reasonable value of his services"). Defendants/Counterclaim Plaintiffs may not circumvent that statute under the guise of seeking the imposition of a constructive trust.

In light of the above, Defendants/Counterclaim Plaintiffs' sixth cause of action is dismissed.

5. Quantum Meruit and Accounting

The "reasonable fee" permitted under Section 6147(b) is often described as a "quantum meruit" claim and, as such, Defendants/Counterclaim Plaintiffs' third cause of action is sustained. Nonetheless, the Court notes that the sustained claim is statutory in nature and arises in the specific context of attorneys who have provided services pursuant to a fee agreement that was later voided pursuant to Section 6147. Accordingly, Defendants/Counterclaim Plaintiffs' third cause of action, as sustained, may differ in certain respects from a California common law claim for quantum meruit, which is preempted to the extent that it varies from the statute-based claim.

In addition to their quantum meruit claim, Defendants/Counterclaim Plaintiffs also assert their fourth cause of action for an accounting. In connection with that claim Defendants/Counterclaim Plaintiffs allege that "[t]he parties had a trust-based relationship whereby [they] would be compensated for services provided to Carter" and that "[t]he exact amount due to [them] is unknown and cannot be ascertained without an accounting, in part because the information necessary to determine that amount is within the exclusive knowledge of Carter, including the amounts received from the" Master Recordings Sale and Cash Money/Universal Settlements. NYSCEF Doc. No. 95, Ctrclms. ¶¶ 58-59.

As an initial matter, while the Court agrees that the parties' attorney-client relationship was "a trust-based relationship," the Court notes that the fiduciary and other professional duties arising from an attorney-client relationship are generally owed by the attorney to the client, not the reverse. Moreover, Carter's termination of the attorney-client relationship and voiding of the oral contingency fee agreement due to Sweeney's violation of Section 6147 would seem to have canceled any continuing duty of Carter to provide an accounting to Sweeney.

In addition, Defendants/Counterclaim Plaintiffs' cause of action for an accounting specifically seeks information from Carter regarding "the precise amounts received from the" Master Recordings Sale and Cash Money/Universal Settlements (NYSCEF Doc. No. 95, Ctrclms. ¶ 59). Accordingly, in order to determine whether or not Defendants/Counterclaim Plaintiffs' fourth cause of action for an accounting, as pled, should be dismissed, the Court should first determine whether they would, under any circumstances, be entitled to a full accounting (as opposed to a reasonable quantum of discovery) regarding that information.

Regarding the measurement of a "reasonable fee," the California Court of Appeal has helpfully explained:

> Where, as here, a client exercises his right to void a contingency fee agreement, section 6147 does not permit the trier of fact to consider the contingent nature of the fee arrangement in determining a reasonable fee. If the contingency fee agreement is void, there is no contingency fee arrangement....
>
> The deterrent and protective purposes of ... section 6147 would be impaired if an attorney who was barred from enforcing a contingency fee agreement would nevertheless be entitled to a percentage of the recovery based on the contingent risk factor. The attorney would in effect be receiving a contingency fee even though the contingency fee agreement had been voided by the client.

Fergus, 150 Cal. App. 4th at 573. Thus, *Fergus* makes it clear that Defendants/Counterclaim Plaintiffs may not receive, as a "reasonable fee," a percentage of Carter's recovery based on a contingent risk factor. Accordingly, Defendants/Counterclaim Plaintiffs are not entitled to a full accounting of the Master Recordings Sale and Cash Money/Universal Settlements, not least in part because their recovery, if any, under Section 6147 will not be based on those figures. For these reasons, Defendants/Counterclaim Plaintiffs' fourth cause of action is dismissed.

IV. MOTION SEQ. NOS. 008, 009, and 010

Carter has filed a motion asking the Court, *inter alia*, to quash a subpoena and enter a protective order in connection with Defendants/Counterclaim Plaintiffs' attempt to seek certain discovery, in particular with regard to the monies received by Carter in connection with the Master Recordings Sale and the Cash Money/Universal Settlements. NYSCEF Motion Sequence No. 008. Defendants/Counterclaim Plaintiffs have filed a related motion seeking to compel discovery with regard to the monies received by Carter in connection with the Master Recordings Sale and Cash Money/Universal Settlements. NYSCEF Motion Sequence No. 009. Carter has further filed a motion requesting an extension of discovery. NYSCEF Motion Sequence No. 010.

All of these motions, as well as the underlying discovery requests, have been mooted or made obsolete by the rulings herein. As held above, Defendants/Counterclaim Plaintiffs may not, under Section 6147, receive a contingency fee, as contemplated by the voided oral contingency fee agreement or otherwise. Accordingly, they are not entitled to discovery regarding the monies received by Carter in connection with the Master Recordings Sale and Cash Money/Universal Settlements in order to factually support a claim for a "reasonable fee" based

on those monetary figures. This is not to say, however, that Defendants/Counterclaim Plaintiffs will not be afforded some reasonable quantum of discovery regarding those monetary figures if they can show during the remainder of discovery that such figures may be relevant to the case for purposes other than those barred by *Fergus*.

In addition, although *Fergus* makes it clear that Defendants/Counterclaim Plaintiffs may not recover a contingency fee pursuant to Section 6147, the Court notes that it is not persuaded, as Carter urges, that California state law categorically "*never* permits a *multiplier* or *enhancement* when calculating 'a reasonable fee.'" NYCSEF Doc. No. 251 at 17 (emphasis in original). Rather, the courts in the cases cited by both parties appear to attempt to determine the attorney's "reasonable fee" based on the specific factual circumstances in each case. And, while all of the pertinent case law appears to ground the determination of the "reasonable fee" with reference to the amount of hours worked and efforts exerted by the attorneys, there does not appear to be a strict rule limiting the "reasonable fee" exclusively to the lawyers' standard hourly rates. Indeed, if the measurement were that simple, the statute could easily have mandated same, but it does not.

Accordingly, it remains possible, upon completion of relevant discovery on the remaining issues in the case, that the factual circumstances could permit Defendants/Counterclaim Plaintiffs to viably assert that a "reasonable fee" under Section 6147 would include hourly rates in excess of Sweeney's standard hourly rate. Such circumstances could theoretically include, for example, any extraordinary efforts made by Sweeney, his utilization of rare or exceptional skills, his unique access to valuable connections, or other special services provided to Carter.

In light of these holdings, as well as the advanced stage of this case and the mooting of the prior discovery requests and the motion for an extension of discovery: (1) the parties are directed to provide to the Court within 45 days hereof a joint proposed scheduling order to govern the remaining matters to be completed in the case; (2) should any party wish to serve upon the other party and any non-parties revised discovery requests in lieu of the mooted discovery requests and in accordance with the limited issues remaining in this case as set forth herein, that party is directed to serve such discovery requests upon the other party and any non-parties within 45 days hereof; and (3) should any party receive any discovery requests in accordance with the foregoing subparagraph, such recipient party shall respond to any such discovery requests within 45 days of receipt thereof. The Court urges the parties to work cooperatively, in accordance with the Court's reasoning and rulings herein, to submit the joint proposed scheduling order and to resolve among themselves any discovery disputes that may arise in connection with the limited issues remaining in this case.

V. ORDERS

Accordingly, it is hereby

ORDERED that plaintiff Carter's motion to dismiss the Counterclaims is granted with respect to the first, second, fourth, fifth and sixth causes of action; and it is further

ORDERED that plaintiff Carter's motion to dismiss the Counterclaims is denied with respect to the third cause of action as set forth herein; and it is further

ORDERED that plaintiff Carter's motion to quash subpoena and enter a protective order is denied as moot; and it is further

ORDERED that Defendants/Counterclaim Plaintiffs' motion to compel discovery is denied as moot; and it is further

ORDERED that Carter's motion to for an extension of discovery is denied as moot; and it is further

ORDERED that the parties provide to the Court within 45 days hereof a joint proposed scheduling order to govern the remaining matters to be completed in the case; and it is further

ORDERED that any party seeking further discovery shall serve new discovery requests, drafted in accordance with the rulings of this decision and order, upon the other party and any non-parties within 45 days hereof, and any party receiving such new discovery requests shall respond to such discovery requests within 45 days of receipt thereof.[1]

10/14/2025
DATE

James d'Auguste, J.S.C.

CHECK ONE:		CASE DISPOSED		X	NON-FINAL DISPOSITION		
		GRANTED	DENIED	X	GRANTED IN PART		OTHER
APPLICATION:		SETTLE ORDER			SUBMIT ORDER		
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN			FIDUCIARY APPOINTMENT		REFERENCE

[1] The undersigned appreciates the invaluable assistance of court attorney Andrew Lorin, Esq.