

Corcoran v Huggins-Boyd
2026 NY Slip Op 30590(U)
February 17, 2026
Supreme Court, New York County
Docket Number: Index No. 160077/2019
Judge: Hasa A. Kingo
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. HASA A. KINGO PART 65M

Justice

INDEX NO. 160077/2019
MOTION DATE 01/20/2026
MOTION SEQ. NO. 003

Thomas Corcoran,
Suzanne Knabe

Petitioners,

- v -

Tiombe Huggins-Boyd,
New York City Transit Authority

Respondents.

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 003) 50, 51, 52, 53, 54, 55, 56

were read on this motion for ATTORNEY - FEES

By Order to Show Cause, counsel for plaintiffs, Meyer, Suozzi, English & Klein, P.C. ("MSEK"), seeks an order allocating and directing distribution of the contingency fee earned upon settlement of this personal injury action in the gross amount of \$1,600,000.00 (NYSCEF Doc. No. 51, ¶ 6).

Specifically, MSEK seeks judicial approval of a proposed stipulation allocating the one-third contingency fee of \$533,333.33 as follows: 75 percent to MSEK in the amount of \$400,000.00, and 25 percent to the prior attorneys collectively in the amount of \$133,333.33 (NYSCEF Doc. No. 51, ¶ 24). The proposed order further directs distribution of the prior attorneys' share among Kenneth Marder, PLLC, Frank Eskesen, Esq., and Leonard J. Wiener, Esq., pursuant to their respective agreements (NYSCEF Doc. No. 51, ¶¶ 25-27).

BACKGROUND AND PROCEDURAL HISTORY

This negligence action arises from a motor vehicle accident that occurred on August 17, 2019 (NYSCEF Doc. No. 51, ¶ 5). Plaintiff Thomas Corcoran alleged, inter alia, a traumatic brain injury and orthopedic injuries to the cervical and lumbar spine and right shoulder. Plaintiffs initially retained the firm of Marder, Eskesen & Nass on or about August 22, 2019 pursuant to a written contingency retainer providing for a fee of 33 1/3 percent of the gross recovery (NYSCEF Doc. No. 51, ¶ 9). Following dissolution of that firm, plaintiffs retained Marder, Nass & Wiener, PLLC on or about December 5, 2019 (id., ¶ 10). On or about March 9, 2022, plaintiffs retained MSEK after Mr. Wiener secured employment there (id., ¶ 11).

It is undisputed that Mr. Wiener was the primary handling attorney on this matter at each firm (id., ¶ 12), and that extensive services were rendered in prosecuting the action, including pre-suit investigation, service of a Notice of Claim, motion practice, discovery, expert retention, trial

preparation, jury selection, and presentation of plaintiff's case at trial before settlement during trial (*id.*, ¶ 13).

On December 15, 2025, the parties agreed to settle the action for \$1,600,000.00 (*id.*, ¶ 6). The attorneys' fee under the retainer agreements is \$533,333.33 (*id.*, ¶ 8). Because Marder, Eskesen & Nass has been dissolved, and because the first attorney of record is no longer an existing entity, MSEK seeks a judicial allocation and direction as to distribution of the earned fee (*id.*, ¶ 3). The former partners, Kenneth Marder, Esq., and Frank Eskesen, Esq., have each submitted affirmations consenting to the proposed allocation and distribution (NYSCEF Doc. Nos. 53, 54).

ARGUMENT

MSEK contends that judicial intervention is necessary to avoid any uncertainty in the distribution of the contingency fee in light of the dissolution of the original firm (NYSCEF Doc. No. 51, ¶ 21). MSEK further represents that all interested attorneys have agreed to allocate 25 percent of the fee to the prior attorneys collectively and 75 percent to MSEK (*id.*, ¶ 16), and that the internal division among the prior attorneys is governed by agreements between them (*id.*, ¶¶ 15–17).

Kenneth Marder, Esq., confirms that he and Mr. Eskesen were the only partners of the dissolved firm and that no other persons are interested in the fee (NYSCEF Doc. No. 53, ¶¶ 3, 12). Mr. Eskesen similarly affirms that no other persons or entities have an interest (NYSCEF Doc. No. 54, ¶ 9). Each consents to the proposed allocation and waives any further claim upon receipt of the specified sums.

The application is unopposed.

DISCUSSION

The New York State Supreme Court possesses inherent authority to supervise the conduct of attorneys appearing before it and to determine disputes concerning attorneys' fees arising out of actions pending before it (*see* Judiciary Law § 475; *Matter of Cohen v Grainger, Tesoriero & Bell*, 81 NY2d 655, 658 [1993]; *Lai Ling Cheng v Modansky Leasing Co.*, 73 NY2d 454, 458–459 [1989]).

Under Judiciary Law § 475, an attorney who appears for a party has a charging lien upon the client's cause of action and its proceeds, which "attaches to a verdict, report, determination, decision, judgment or final order in his client's favor, and the proceeds thereof" (Judiciary Law § 475). The statute codifies the equitable principle that an attorney who creates a fund through professional services is entitled to have his or her compensation secured against that fund (*Matter of Heinsheimer*, 214 NY 361, 365 [1915]).

Where successive attorneys represent a plaintiff in a contingent fee matter, and the case results in a recovery, the discharged or substituted attorney is entitled to compensation either in *quantum meruit* or pursuant to agreement (*Lai Ling Cheng*, 73 NY2d at 457–458; *Cohen*, 81 NY2d at 658). When attorneys agree upon apportionment, courts will generally enforce such agreements absent fraud, overreaching, or violation of public policy (*see Benjamin v Koeppel*, 85 NY2d 549, 556–557 [1995]).

It is well settled that the dissolution of a law firm does not extinguish its entitlement to fees earned on matters originating prior to dissolution. Rather, fees generated by cases pending at the time of dissolution are considered assets of the dissolved firm and must be distributed according to the partners' agreements and governing law (*see Shandell v Katz*, 217 AD2d 472, 473 [1st Dept 1995]; *Santalucia v Sebright Transp., Inc.*, 232 F3d 293, 298 [2d Cir 2000] [applying New York law]).

Here, Marder, Eskesen & Nass has been dissolved (NYSCEF Doc. No. 53, ¶ 1; NYSCEF Doc. No. 54, ¶ 5). Both former partners have appeared and affirmatively consented to the proposed allocation. They further confirm that no other individuals or entities have an interest in the prior firm's fee (NYSCEF Doc. No. 53, ¶ 12; NYSCEF Doc. No. 54, ¶ 9). Accordingly, the Court is satisfied that all persons with a potential claim to the prior firm's portion of the fee are before the court and have consented.

Where a contingency fee case is handled by successive counsel, and there is no discharge for cause, the proper measure of compensation is generally *quantum meruit*, considering the time spent, labor performed, difficulty of the matter, skill required, and the results achieved (*Lai Ling Cheng*, 73 NY2d at 457–458; *Sequa Corp. v GBJ Corp.*, 156 F3d 136, 148–149 [2d Cir 1998]). However, parties are free to enter into agreements governing the division of fees, and courts will enforce such agreements where they are fair and reasonable (*Benjamin*, 85 NY2d at 556).

In this case, the attorneys have agreed that 25 percent of the fee shall be allocated to the prior attorneys and 75 percent to MSEK (NYSCEF Doc. No. 51, ¶ 16). The record reflects that Mr. Wiener was the primary handling attorney throughout the litigation (*id.*, ¶ 12), and that the case proceeded through trial before settlement (*id.*, ¶ 13). The substantial labor expended, including trial preparation and presentation, supports the reasonableness of allocating the majority of the fee to current counsel who carried the matter through trial.

At the same time, the prior attorneys were retained at inception, originated the case, and participated in early prosecution. Their entitlement to a portion of the fee is thus consistent with the equitable principles embodied in Judiciary Law § 475 and the case law governing successive representation.

Given the unanimity of consent, the absence of any dispute, and the facial reasonableness of the proposed allocation in light of the work performed and the stage at which each firm was involved, the court finds the allocation to be fair, reasonable, and consistent with governing law.

The record further establishes that Mr. Wiener originated the case to Marder, Eskesen & Nass and is contractually entitled to an origination fee equal to one-half of the prior firm's fee (NYSCEF Doc. No. 51, ¶ 25; NYSCEF Doc. No. 53, ¶ 4; NYSCEF Doc. No. 54, ¶ 4). Both Mr. Marder and Mr. Eskesen consent to payment of that origination amount to MSEK for remittance to Mr. Wiener (NYSCEF Doc. No. 53, ¶ 15; NYSCEF Doc. No. 54, ¶ 12). New York courts recognize and enforce fee-sharing arrangements among attorneys, provided they comply with ethical requirements and are not prohibited by law (*see* Rules of Professional Conduct [22 NYCRR § 1200.0] rule 1.5[g]; *Benjamin*, 85 NY2d at 556–557). There is no indication in this record of any ethical infirmity or impropriety. All affected attorneys have provided sworn affirmations consenting to the arrangement and waiving further claims upon payment.

The interested attorneys have also agreed to waive any fee from the amount received for the property damage portion of the claim (NYSCEF Doc. No. 51, ¶ 29; NYSCEF Doc. No. 53, ¶ 17; NYSCEF Doc. No. 54, ¶ 14). Such waiver is permissible and does not contravene any statutory or ethical mandate.

The court is satisfied that: 1.) All persons with a potential interest in the contingency fee are before the court and have consented; 2.) The proposed allocation is fair, reasonable, and consistent with Judiciary Law § 475 and the governing case law; and 3.) Judicial approval is appropriate in light of the dissolution of the original firm and the need to direct escrow distribution.

Accordingly, it is hereby

ORDERED that the motion is granted; and it is further

ORDERED that the attorneys' fee of \$533,333.33 shall be allocated as follows: 75 percent to Meyer, Suozzi, English & Klein, P.C. in the amount of \$400,000.00, and 25 percent to the prior attorneys collectively in the amount of \$133,333.33; and it is further

ORDERED that Meyer, Suozzi, English & Klein, P.C., upon receipt of the settlement funds, shall distribute the attorneys' fee as follows:

- a. \$32,542.01 to Kenneth Marder, PLLC;
- b. \$34,124.65 to Frank Eskesen, Esq.; and
- c. \$466,666.67 to Meyer, Suozzi, English & Klein, P.C., inclusive of the origination fee payable to Leonard J. Wiener, Esq.; and it is further

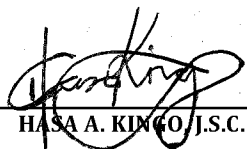
ORDERED that upon receipt of the foregoing amounts, Kenneth Marder, PLLC and Frank Eskesen, Esq., shall have no further claim to any attorneys' fees, disbursements, or other funds arising from this action; and it is further

ORDERED that all attorneys' fees attributable to the property damage portion of the claim are waived; and it is further

ORDERED that this ruling conforms to the annexed so-ordered stipulation that has been endorsed by the court.

This constitutes the decision and order of the court.

02/17/2026
DATE


HASA A. KING, J.S.C.

CHECK ONE: CASE DISPOSED DENIED NON-FINAL DISPOSITION

APPLICATION: GRANTED SETTLE ORDER SUBMIT ORDER OTHER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
THOMAS CORCORAN and SUZANNE KNABE,

Plaintiffs,

Index No.: 160077/2019

- against -

STIPULATION

TIOMBE A. HUGGINS-BOYD and NEW YORK CITY
TRANSIT AUTHORITY,

Mot. Seq. 003

Defendants.

-----X

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys as current and prior counsel to the plaintiffs in this matter, that the motion by order to show cause by Meyer, Suozzi, English & Klein, P.C. regarding the allocation and distribution of the attorneys' fee is hereby settled and resolved as follows:

1. The attorneys' fee in this matter is allocated as follows:
 - a. Meyer, Suozzi, English & Klein, P.C. is entitled to 75% of the attorneys' fee, or \$400,000.00.
 - b. The Prior Attorneys, which includes Kenneth Marder PLLC f/k/a Marder, Nass and Wiener, PLLC and Marder, Eskesen & Nass, are collectively entitled to 25% of the attorneys' fee, or \$133,333.33.

2. That Meyer, Suozzi, English & Klein, P.C. shall distribute the attorneys' fee from the settlement funds received in this matter as follows:

- a. \$32,542.01 to Kenneth Marder, PLLC, as and for its net share of the fee allocated to The Prior Attorneys;
- b. \$34,124.65 to Frank Eskesen, Esq. as and for his net share of the fee allocated to The Prior Attorneys; and

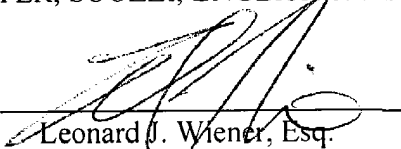
c. \$466,666.67 to Meyer, Suozzi, English & Klein, P.C., as and for its net share of the attorneys' fee and that portion of The Prior Attorney's fee owed to Leonard J. Wiener, Esq. as and for his origination fee;

IT IS FURTHER STIPULATED AND AGREED, that this Stipulation may be executed in counterparts and facsimile signatures shall be deemed originals for the purpose of this stipulation.

Dated: Garden City, New York
January 16, 2025

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

By: _____


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990 Stewart Avenue, Suite 300
Garden City, New York 11530
516-592-5722
Current Attorneys for Plaintiffs

KENNETH MARDER, PLLC f/k/a
MARDER, NASS & WIENER, PLLC

By: _____

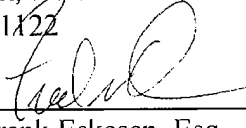
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Prior Attorneys for Plaintiffs

MARDER, ESKESEN & NASS, by and
through its former partners
Prior Attorneys for Plaintiffs

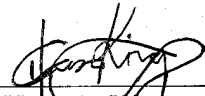
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By: _____


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So Ordered:



Hon. Hasa A. Kingo