

Kasowitz LLP v Press
2026 NY Slip Op 31703(U)
April 17, 2026
Supreme Court, New York County
Docket Number: Index No. 654292/2025
Judge: Lyle E. Frank
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

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KASOWITZ LLP

Plaintiff,

- v -

ROBERT PRESS,

Defendant.

-----X

INDEX NO. 654292/2025

MOTION DATE 10/23/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28

were read on this motion to/for SUMMARY JUDGMENT(BEFORE JOIND).

Upon the foregoing documents, the motion is granted.

Background

This motion for summary judgment arises out of a dispute over legal fees. Plaintiff is a law firm that entered into a written retainer agreement with Defendant in September of 2021 relating to litigation between Defendant and his business associate. According to Defendant, in early 2020 he met with Plaintiff’s founding partner and expressed worry over the potential size of legal fees and was told that they would “work something out at the end of the case.” Over the course of the three-year litigation and representation, Plaintiff issued eighteen invoices to Defendant, who has made three partial payments towards the balance owed. According to Plaintiff, the unpaid amount owed is \$664,408.20. Over the course of the parties’ communications over the unpaid balance, Defendant offered shares in his company towards the balance, and this offer was rejected. Plaintiff commenced this proceeding in July of 2025, pleading claims for breach of contract, quantum meruit, and account stated. Defendant has answered, and Plaintiff now moves for summary judgment.

Standard of Review

Under CPLR § 3212, a party may move for summary judgment and the motion “shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party.” CPLR § 3212(b). Once the movant makes a showing of a prima facie entitlement to judgment as a matter of law, the burden then shifts to the opponent to “produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action.” *Stonehill Capital Mgt. LLC v. Bank of the W.*, 28 N.Y.3d 439, 448 [2016]. The facts must be viewed in the light most favorable to the non-moving party, but conclusory statements are insufficient to defeat summary judgment. *Id.*

Discussion

Plaintiff is moving for summary judgment in the amount of \$664,408.20, together with interest from the date of the last invoice. Defendant opposes on the grounds that 1) the breach of contract claim fails because the billing rate schedule was omitted from the retention agreement provided to him; 2) the quantum meruit claim is precluded due to issues of fact going to the reasonableness of the fees; and 3) the account stated claim is rebutted by the alleged statement by Plaintiff’s founder that they would work out the fees at the conclusion of the litigation. For the reasons that follow, Plaintiff has met its burden on the account stated claim and Defendant has failed to rebut it.

An account stated claim “is an account, balanced and rendered, with an assent to the balance either express or implied.” *Abbott, Duncan & Wiener v. Ragusa*, 214 A.D.2d 412, 413 [1st Dept. 1995]. The receipt of law firm invoices with a failure to object within a reasonable time gives rise to a valid claim for account stated and can support summary judgment. *Ruskin*,

Moscou, Evans, & Faltischek, P.C. v. FGH Realty Credit Corp., 228 A.D.2d 294, 295 [1st Dept. 1996]. Either the “retention of bills without objection or partial payment may give rise to an account stated.” *Morrison Cohen Singer & Weinstein, LLP v. Waters*, 13 A.D.3d 51, 52 [1st Dept. 2004]. The failure to object “raises a presumption of correctness which may be rebutted by proof of any circumstances tending to a contrary inference.” *James Talcott, Inc. v. United States Tel. Co.*, 52 A.D.2d 197, 200 [1st Dept. 1976].

Plaintiff Has Established Entitlement to Summary Judgment on the Account Stated Claim and Defendant Has Failed to Rebut that Showing

Here, Defendant offers two reasons why the account stated claim fails: 1) that he relied on the vague statements made in an alleged meeting the year before the retainer agreement that the legal fees would be “worked out” at the end of the case; and 2) certain emails from Defendant could be interpreted as a protest. Neither argument prevails. First, a reliance on vague statements about an intent to figure out legal fees at the end of the case does not rebut the assumption created by the retention of specific invoices without objection or the partial payment on said invoices. *See, e.g., Miller v. Nadler*, 60 A.D.3d 499, 499 [1st Dept. 2009] (“self-serving, bald allegations of oral protest” does not raise a triable issue of fact on an account stated claim).

Secondly, the emails in question which Defendant “ostensibly does not object” to, support Plaintiff’s position rather than Defendant’s. In response to an email from Plaintiff sent after the close of the case seeking payment of the unpaid balance, Defendant stated that “I have never questioned the firms bills to date although I do think parts were excessive and unnecessarily duplicative.” Defendant also offered shares in his company as payment and asked that the legal team who worked on the case be thanked. A mere statement that some parts of the bill are considered to be excessive does not rise to the level of an objection, particularly when

combined with a partial payment offer and the statement that the bills have never been questioned to date. Because Defendant has not raised a material issue of fact that would defeat summary judgment on the account stated claim, Plaintiff is entitled to summary judgment. And a hearing on the reasonableness of the fees is not necessary because “it is not necessary to establish the reasonableness of the fee since the client’s act of holding the statement without objection will be construed as acquiescence as to its correctness.” *Cohen Tauber Spievak & Wagner, LLP v. Alnwick*, 33 A.D.3d 562, 562 – 63 [1st Dept. 2006]. As Plaintiff has demonstrated that specific invoices were sent to Defendant who retained them without objection and made partial payments towards them, they are entitled to summary judgment in the unpaid amount stated in those invoices. Accordingly, it is hereby

ADJUDGED that the motion is granted; and it is further

ORDERED that plaintiff Kasowitz LLP is entitled to judgment in the amount of \$664,408.20, together with interest in the statutory rate from November 19, 2024, as against defendant Robert Press, and the Clerk of the Court is directed to enter judgment accordingly.

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4/17/2026

DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE