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Zi Chang Realty Corp. v. Chen

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Civil Court of the City of New York
County of New York
Part: Part F, Room: 830
Date: March 20, 2020


Index #: **LT-069323-18/NY**

Decision/Order After Hearing

Zi Chang Realty Corp.
Petitioner(s)
-against-
Jing Zhao Chen; Mei Chang Su; "John" "Doe"; "Jane" "Doe"
Respondent(s)

Present: Frances A. Ortiz
Judge

FRANCES A. ORTIZ, JUDGE

This is holdover based on alleged failure to sign a renewal lease. Judge Daniele Chinaea in a decision dated June 20, 2019 awarded respondents summary judgment in their favor, dismissed the petition, ordered a proper renewal lease to be offered to respondents within 15 days of her order, and indicated that failure to comply with the order could result in a finding of contempt. Respondents on November 21, 2019 moved to hold petitioner in contempt for failure to comply with Judge Chinaea's order, an award of damages including attorney's fees pursuant to Judiciary Law § 773, and for attorney's fees under *Real Property Law* §234. Thereafter, on November 22, 2019 this Court granted respondent's motion to the limited extent of setting the matter down for a civil contempt hearing on January 21, 2020. As to the part of the motion seeking attorney's fees under *Real Property Law* §234, this Court reserved decision. Per another decision dated November 22, 2019, this Court found that respondents are prevailing parties, after Judge Chinaea awarded them summary judgment and pursuant to paragraph 16 (D) (3) of their lease. (*Exhibit I – copy of lease*). The decision set the matter down for an attorney's fees hearing also on January 21, 2020.

On January 21, 2020 the parties resolved the civil contempt per two attorney stipulation. Petitioner agreed to provide respondents with a \$250 rent credit to the February 2020 rent. Since the parties could not resolve the *Real Property Law §234* attorney's fees part of the motion, this Court proceeded with the attorney's fees hearing. Two witnesses testified, namely, Tiffany Femiano and Matthew Longobardi.

EVIDENCE

Respondent's Exhibit A – resume of Tiffany M. Femiano

Respondent's Exhibit B – e-Courts attorney detail, current New York State attorney registration for Tiffany Michelle Femiano

Respondent's Exhibit C, Tiffany Femiano's case activity details for the instant case showing 8.6 hours spent at an hourly rate of \$350.

Respondent's Exhibit D, Resume of Matthew Longobardi

Respondent's Exhibit E, e-Courts attorney detail, current New York State attorney registration for Matthew Frank Longobardi

Respondent's Exhibit F, Matthew Longobardi's case activity details for the instant case showing 65.4 hours spent at an hourly rate of \$300, paralegal Fanny Chan's case activity detail for the instant case showing 7.5 hours spent at an hourly rate of \$150, and a summary of total fees for Ms. Femiano, Mr. Longobardi and Ms. Chan in the amount of \$23,755.00.

TESTIMONY

First, Tiffany Femiano testified in support of respondents' requests for attorney's fees. Ms. Femiano was admitted to practice law in New York State in September 2012. (*Respondent's Exhibit B- NYS attorney registration*). She testified that as a supervising attorney for Mobilization for Justice ("MFJ"), since 2017 she supervises five attorneys, including Matthew Longobardi and one paralegal in the housing unit. Her work ranges from representing clients in administrative hearings, trial and appellate courts, overseeing client intake and managing

administrative work for her unit. Her prior legal experience includes private practice at a major tenant based law firm for several years. While at the firm, she represented clients at hearings before the Division of Housing and Community Renewal (“DHCR”), New York City Housing Authority (“NYCHA”), and Department of Housing Preservation and Development (“HPD”) and the Loft Board. As a first year associate in private practice, her employer billed \$250 an hour for her legal work and after three years in 2015, the firm billed \$350 an hour for her work. Thereafter, in late 2015, Ms. Femiano joined legal service provider practices including Queens Legal Services, The Bronx Defenders and MFJ all working in civil practice housing rights units. (*Respondent’s Exhibit A Femiano resume*). Lastly, Ms. Femiano testified that she spent 8.6 hours supervising Matthew Longobardi on the instant case. Specifically, the log shows she reviewed emails on the answer and motions in this case, had many case discussions, reviewed Judge China’s order to develop a litigation plan, reviewed contempt motion, revised the motion and notice to admit. Also, part of her supervisory role was to meet weekly with Mr. Longobardi on his case progress. The 8.6 hours she spent is reflected in *Respondent’s Exhibit C*, Tiffany Femiano’s case activity details. Therefore, she seeks attorney’s fees totally 8.6 hours at a rate of \$350 for a total \$3,010.00 plus one hour for the hearing **totaling \$3,360** for her services.

Second, Matthew Longobardi testified that he is an attorney admitted to practice law in the New York State, since 2015. (*Respondent’s Exhibit E, NYS atty registration*). He was employed at Goddard Riverside Law Project from 2015 to 2017 as a staff attorney in the housing unit. Currently, he is a staff attorney with the housing unit at MFJ and has been employed there since 2015. (*Respondent’s Exhibit D, Longobardi resume*). His caseload consists of about 35 active cases. At MFJ, he represents clients in all housing court cases including HP actions,

harassments and Supreme Court actions. He has presented Continuing Legal Education (“CLE”) seminars on legal research.

According to *Respondent’s Exhibit F*, Mr. Longobardi’s case activity details and his testimony, he spent 65.4 hours on respondent’s case at a \$300 hourly rate excluding the hours for the instant hearing. The legal work he performed included drafting, preparing and filing an answer, client meeting, preparing motions for summary judgment and contempt, at least six court appearances, preparing for the hearing, and research. Therefore, he seeks attorney’s fees for 65.4 hours at a rate of \$300 for a total \$19,620.00 plus an additional two hours for the hearing at \$600 for a total of **\$20,220** for his services.

Lastly, Mr. Longobardi testified that he supervised paralegal, Fanny Chan, who performed 7.5 hours of work on the instant case at an hourly rate of \$150. Ms. Chan is fluent in Cantonese and English. Ms. Chan translated for Mr. Longobardi at client meetings with the respondents. Accordingly, MFJ seeks \$1,125 for Ms. Chan’s paralegal services of 7.5 hours at an hourly rate of \$150.

DISCUSSION

Courts have the discretion to determine the reasonableness of attorney’s fees. Factors considered in determining the value of legal services are the nature and extent of the services rendered, actual time spent, the necessity of the service, nature of issues involved, professional standing of the counsel and the results achieved. *Jordan v. Freeman*, 40 A.D.2d 656 (1st Dep’t 1972).

Moreover, a reasonable hourly rate for work of paralegals and interns is \$85. *S.B.H. Realty v. Santana*, 57 Misc. 3d 1205(A) (Bronx, Civ. Ct. 2017); *Hing v. Abreu* (2016 N.Y. Misc. LEXIS 4889, 2016 N.Y. Slip Op 32615[U][Civ Ct Qns Co 2016]) The “reasonable attorney’s fee”

provided for by statute should compensate the work of paralegals, as well as that of attorneys. *Missouri v. Jenkins by Agyei*, 491 U.S. 274, 285, (1989).

Client interviewing, writing of motions, memorandum, reply papers, research, language translation, court appearances and preparation for a hearing are all within the standard nature of legal practice. Here, these were necessary tasks for the issues involved.

After a careful review of the exhibits and the credible testimony of the witnesses at the hearing, the Court finds as follows:

Respondents are a prevailing party on their motion for summary judgment, after Judge China awarded summary judgment in their favor and dismissed the petition. Moreover, under paragraph 16 (D) (3) of the lease (*Exhibit I to the motion – copy of lease*) and RPL § 234, respondents are entitled to recovery of reasonable attorney's fees from petitioner. *Graham Court Owners Corp. v Taylor*, 24 N.Y.3d 742 (2015).

Ms. Femiano is a supervising attorney at MFJ with over eight years experience and admission to the New York State bar. She has devoted the majority of her private and public interest practice to landlord-tenant law representing tenants. Mr. Longobardi also has over three years legal experience in landlord tenant law and other public interest legal representation. He has been admitted to the New York State bar, since February 2015. Both of them performed legal research, drafted pleadings and motions, met, corresponded with respondents, appeared in court on their behalf and conducted the instant hearing. These were integral and reasonable responsibilities necessary to defend respondents' ultimately successful case outcome. Based on the above credentials of the attorneys, the \$350 hourly rate for Ms. Femiano and \$300 hourly rate for Mr. Longobardi which is a generally accepted and reasonable hourly rate of similar landlord-tenant practitioner, this Court finds their hourly rate reasonable. Lastly, the actual time spent

also appears reasonable to the Court. However, the \$150 hourly rate sought for paralegal Fanny Chan will be reduced to an \$85 hourly rate, as such \$85 amount has been determined to be a reasonable billing rate for paralegals. *S.B.H. Realty v. Santana, supra*.

Hence, this Court finds the total combined 84.5 hours requested is reasonable. Specifically, these hours are 67.4 hours at \$300 hourly for Mr. Longobardi (\$20,220) and 9.6 hours at \$350 hourly for Ms. Femiano (\$3,360) for a final total cost of \$23, 580 in attorney's fees. As to the paralegal fees for Ms. Chan, the total is 7.5 hours at \$85 hourly rate (\$637.50). Therefore, the total fees are **\$24,217.50** (\$23,580 plus \$637.50).

Additionally, free legal service providers can be awarded attorney's fees. The fact that respondents are represented by a free legal services provider (MFJ) does not bar them from an attorney's fee award. *Maplewood Management, Inc. v Best, 143 A.D.2d 978 (2nd Dep't 1988)*; *Matter of Greenpoint Hosp. Community Bd. v NYC Health and Hospitals Corp., 114 A.D.2d 1028 (2nd Dep't 1985)*; *Alfonso v Rosso, 137 Misc.2d 915 (Civ. Ct. NY Cty 1987)*.

Moreover, "...an award of attorney's fees to the organization providing free legal services indirectly serves the same purpose as an award directly to a fee paying litigant" by encouraging the protection of the indigent litigant's rights. *Brandenburger v. Thompson, 494 F.2d 885 (9th Cir. 1974)*; *Atamanuk v. Kwok Yuin Wong, 82 Misc. 2d 1059, 1061-62 (Civ. Ct. NY Cty. 1975)*.

Here, the fact that the legal services clients/respondents did not incur actual legal expenses does not mean that such an award will be a windfall to them, since this Court is directing that the award of attorney's fees be paid directly to the legal services office.

Accordingly, respondents are entitled to an award of attorney's fees totaling \$24,217.50.

ORDERED: The clerk is directed to enter a judgment in favor of respondents and against petitioner for \$24,217.50. Petitioner is to pay the judgment amount directly to respondents' counsel, Mobilization for Justice.

This is the decision and order of the Court, copies of which are being emailed and mailed to those indicated below.

Dated: New York, NY
March 20, 2020

_____/S/_____
Frances A. Ortiz, JHC

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