

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADVANCED ANALYTICS, INC.,

Plaintiff,

against

CITIGROUP GLOBAL MARKETS, INC., et al.,

Defendants.

CIVIL ACTION NO.: 04 Civ. 3531 (LTS) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

Plaintiff has brought to the Court's attention a scrivener's error in the Opinion & Order dated December 5, 2019 ("Opinion & Order"), in which only Plaintiff Advanced Analytics, Inc. ("AAI") was ordered to pay Defendants' award of \$57,270.91 in attorney's fees. (ECF No. 389). The Honorable Henry B. Pitman's Opinion and Order dated March 26, 2014, from which flows the undersigned's authority to compute Defendants' award, specifies that "**AAI and its counsel** shall reimburse Defendants" for their expenses "incurred as a result of AAI's failure to comply" with the Court's Scheduling Order and Fed. R. Civ. P. 26(a)(2). (ECF No. 235 at 37) (emphasis added).

Accordingly, the Opinion & Order is amended as follows.

1. The last sentence in the second to last paragraph of the BACKGROUND section (pages 3–4) is amended in its entirety to include the underlined changes as follows:

Accordingly, Magistrate Judge Pitman found that Defendants are "entitled to recover some of their attorney's fees and costs" from "AAI and its counsel," but only half of "the fees and costs incurred in making" their motion "as a result of AAI's

failure to comply with the Scheduling Order and Rule 26(a)(2).” (Id. at 36–37).

2. The first paragraph of the LEGAL STANDARD section (page 4) is amended to add the following sentence at the beginning of the paragraph:

A party and its counsel can be held liable for attorney’s fees and costs incurred for violating the court’s scheduling order or Federal Rule of Civil Procedure 26(a). Fed. R. Civ. P. 16(f), 37(c)(1).

3. The CONCLUSION section (page) is amended to include the underlined language as follows:

For the foregoing reasons, Defendants’ Application is **GRANTED** in part and **DENIED** in part. Defendants are awarded **\$57,270.91** in attorney’s fees pursuant to Rules 16(f)(2) and 37(c)(1). In accordance with the Magistrate Judge Pitman’s Opinion and Order dated March 26, 2014, AAI and its counsel must pay Defendants by **Monday, January 6, 2020**. The Clerk of Court is respectfully directed to close ECF No. 242.

The January 6, 2020 deadline by which AAI and its counsel must pay the award, is hereby **STAYED** pending the Court’s consideration and ruling as to AAI’s anticipated motion for reconsideration of the Opinion & Order. (See ECF Nos. 402, 406).

AAI is advised to tailor its anticipated motion for reconsideration to address the Opinion & Order as amended by this Order and to only include arguments not resolved by this Order, if any. An Amended Opinion & Order will be filed in tandem with this order.

Dated: New York, New York
January 8, 2020


SARAH L. CAVE
United States Magistrate Judge