

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 12-80438-CIV-MIDDLEBROOKS/BRANNON

EAGAN AVENATTI, LLP, a California
Limited Liability Partnership, and
MICHAEL J. AVENATTI, individually,

Plaintiffs,

vs.

DAVID B. GREENBERG, individually,

Defendant.

ORDER ON PENDING SANCTIONS AND CLOSING CASE

THIS CAUSE comes before the Court upon the Court's December 5, 2012, and January 14, 2013, Orders (DEs 86, 105) in which the Court granted sanctions in favor of Plaintiffs and against Defendant in amounts to be determined after affording the Parties opportunities to be heard. On February 11, 2013, Plaintiffs filed a Status Report (DE 114) indicating that the Parties have settled this matter and, as agreed by the Parties, only three orders remain pending for the Court's consideration and entry: (1) A Consent Final Judgment and Permanent Injunction with Bond; (2) An Order with Regard to Restricted Account at Sabadell United Bank, N.A. Supporting the Consent Final Judgment and Permanent Injunction with Bond; and (3) An Order on the pending sanctions previously imposed against Defendant by the Court.¹ The first two Orders have been entered, which leaves the amount of sanctions as the sole remaining issue in this case.

¹Although the first two Orders were agreed by the Parties in form and in substance, the Parties stipulated to allow the Court to determine the amount of sanctions to be imposed, and any monetary sanctions as determined by the Court are not released as part of the settlement.

In the Orders imposing sanctions, the Court required Plaintiffs to file their reasonable expenses that were sought in connection with the Motions to Compel. Plaintiffs timely filed their financial declarations (DEs 93, 108) in which Plaintiffs' attorney certified that he spent 25.3 hours in connection with the motions brought as a result of Defendant's sanctionable conduct. At an hourly rate of \$495, Plaintiffs ask for a total of \$12,523.50.

The Court afforded Defendant ten days after the filing of each declaration to be heard on the issue of sanctions and the reasonableness of the expenses set forth by Plaintiffs. Defendant sought two extensions of time to respond to the expense declarations and ultimately filed a Motion Requesting No Discovery Sanctions Be Imposed (DE 109).² In his Motion, Defendant does not challenge the reasonableness of the amounts requested by Plaintiff, nor does Defendant supply any legal basis or new facts in support of retracting the Court's previous imposition of sanctions.³

After carefully considering the issues for which sanctions were granted and the reasonableness of the monetary amounts requested by Plaintiffs, I find that the sanctions requested by Plaintiffs are reasonable under the circumstances. Accordingly, it is hereby

ORDERED AND ADJUDGED that the amount of sanctions awarded to Plaintiffs against Defendant David B. Greenberg in conjunction with this Court's rulings in DE 86 and 105 shall be in the amount of **\$12,523.50**, and final judgment in said amount is hereby **ENTERED** in favor of the Plaintiffs and against Defendant for which let execution issue.

Further, it is hereby

²Given Defendant's *pro se* status, the Court construes this Motion as a Motion for Reconsideration.

³The Court reiterates from its previous Orders that the sanctions imposed were not optional for the Court, but rather they were *required* by the Federal Rules of Civil Procedure.

ORDERED AND ADJUDGED as follows:

1. Plaintiffs' Motion for Summary Judgment (DE 73) is **DENIED AS MOOT**;
2. Defendant's Motions for Extension of Time (DEs 101, 104) are **DENIED AS MOOT**;
3. Defendant's Motion for Reconsideration/Requesting No Discovery Sanctions (DE 109) is **DENIED**;
4. The Calendar Call currently set for Wednesday, February 20, 2013, is **CANCELLED**; and
5. The Clerk of Court shall **CLOSE** this case.

DONE AND ORDERED in Chambers, at West Palm Beach, Florida, this 14th day of February, 2013.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record;

David Greenberg, *pro se*
1730 S. Federal Hwy., 140
Delray Beach, FL 33483