

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DR. NICHOLAS ANGELOPOULOS,)	
)	
Plaintiff,)	Case No. 12-cv-05836
)	
v.)	
)	Hon. Robert M. Dow, Jr.
KEYSTONE ORTHOPEDIC SPECIALISTS,)	
S.C., WACHN, LLC, MARTIN R. HALL, M.D.)	
)	
)	
Defendants.)	

DECLARATION OF CHRIS GAIR

Chris Gair, pursuant to 28 U.S.C. § 1746, declares as follows:

Background

1. In November 2013, my firm, then know as Gair Law Group, Ltd., was retained by Dr. Nick Angelopoulos to pursue his claims in this case. The matter had previously been handled by Jenner & Block, including partners Matthew Devine, a litigator, and Gail Morse, a tax lawyer. I was not involved in the matter during my tenure at Jenner & Block.

2. At all relevant times during the period of this engagement, my normal hourly rate for clients was \$550 per hour; my partners Vilia Dedinas and Jeff Eberhard normally billed at \$400 per hour; and my associates billed between \$150 and \$250. Our normal rates are a dramatic discount from those of Dr. Angelopoulos’ prior counsel, Jenner & Block, and represent an extremely cost-efficient payment structure for the nature and complexity of this work. Indeed, at the time I left Jenner, my normal rate was approximately \$775 per hour.

3. Because Dr. Angelopoulos had incurred substantial fees when he was represented by Jenner and did not have the financial wherewithal to pay our normal rates, we steeply

discounted our rates for this engagement as part of an arrangement that would permit a potential success fee if certain target recoveries were met. The rate I have charged Dr. Angelopoulos throughout this engagement has been \$425. Vilia Dedinas and other partners were billed at \$325 per hour. Tom Heisler was billed out at \$225 per hour. Ryan Laurie was charged out at \$50 per hour before he was admitted to the bar, and at a rate of \$150 afterwards.

4. The rates charged to Dr. Angelopoulos were far below market rates for comparable work by attorneys with comparable backgrounds and experience. However, with respect to our fees on Count 1, Dr. Angelopoulos is only seeking damages based on the discounted hourly rates. Using an analysis based either on our normal hourly rates or the rates charged for comparably complex litigation by lawyers with comparable experience, the damages claim would be substantially greater.

Chris Gair's experience

5. I received my undergraduate degree, an A.B. in philosophy, from Duke University *summa cum laude* and was elected to Phi Beta Kappa in 1981. I received my J.D. with honors from the University of Chicago School of Law and was admitted to the Order of the Coif in 1985. From September 1985 to August 1987, I clerked for Justice Seymour Simon of the Supreme Court of Illinois. From August 1987 to July 1994, I served as an Assistant U.S. Attorney in the Northern District of Illinois, eventually becoming Deputy Chief of the Organized Crime Division. I led or played a co-lead counsel role in the prosecution of a large number of financial, political corruption and organized crime cases during my tenure, including the RICO and extortion prosecutions of long-time mob bosses Gus Alex, Lenny Patrick, Sam Carlisi, Jimmy Marcello and the prosecution of Mayor Chuck Panici and many other public officials in Chicago Heights, Illinois. I received two Justice Department awards for Sustained Superior Performance and was twice nominated by

the U.S. Attorney's Office for the Northern District of Illinois for the Justice Department's highest honor, the John Marshall Award for Trial of Litigation.

6. Following my departure from the U.S. Attorney's Office, I was a partner at the boutique law firm of Freeman, Freeman & Salzman, PC, from July 1994 through about September 2005. The firm focused on antitrust, securities and commodities litigation. I played a leadership role representing opt-out plaintiffs in some of the largest antitrust cases of that period, specifically, *In Re Carbon Dioxide Antitrust Litigation*, *In re Sorbates Antitrust Litigation*, and *In re Bulk Vitamins Antitrust Litigation* cases, in which our clients in total recovered over \$700 million in settlements. In addition, I successfully defended one of the manufacturers at trial in *In re Brand Name Prescription Drugs Antitrust Litigation*, a class action seeking \$15 billion in damages. I also did a substantial amount of white-collar criminal defense, including defending former City Treasurer Miriam Santos.

7. From October 2005 until January of 2013, I was a partner at Jenner & Block. My work there focused on defending white-collar criminal and SEC cases, complex civil litigation, and internal investigations for corporate clients. Among my most significant cases were the successful defense of a \$1 billion claim by a high-frequency trading firm against my client for misappropriation of trade secrets and the defense of Paul Daugerdas, a Chicago lawyer accused of committing the largest tax-shelter fraud in U.S. history.

8. In 2013, I started Gair Law Group, Ltd., which is now known as Gair Eberhard Nelson Dedinas Ltd. I continue to do a mix of complex civil litigation, white-collar criminal defense and internal investigations.

9. I have tried more than 45 cases in my career, the majority in the federal courts in this District and the vast majority of those jury trials. Most of those trials have lasted at least one

week, and three have lasted approximately three months each. In 2011 I was selected as a Fellow in the American College of Trial Lawyers. I have been included in Chambers & Partners rankings as a litigator since approximately 2008. I have published articles and a book chapter focusing on cross and direct examinations and other issues. I have taught trial advocacy at the Attorney General's Advocacy Institute and the University of Chicago Law School, and have lectured at other programs, most recently including a February 2017 trial advocacy program for Latin American lawyers at California Western School of Law in San Diego. I have also worked as a consultant, under a USAID grant, to the Attorneys General of the States of Baja California del Norte, Morelos and Oaxaca, advising prosecutors on how to investigate cases for presentation in the new Mexican adversarial system.

Gair Eberhard's work on the case

10. We began representing Dr. Angelopoulos in November 2013. My role prior to the last few months was principally to draft the amended complaints, provide high-level supervision and strategic guidance, and review and edit briefs. I also took the deposition of Ira Dubin.

11. Both the day-to-day management of the case and overall leadership were performed by my partner, Vilia Dedinas. By the time the case was set for trial, Ms. Dedinas had enrolled in a Masters degree program in neurobiology at Northwestern University. At that time, I assumed primary responsibility for the case, which has continued through trial.

12. I have reviewed all of the time records recorded by all attorneys in our firm on this matter. I have spoken about the work performed by our firm, and the billing records, with Ms. Dedinas, Tom Heisler and Ryan Laurie. I have concluded that the time included on the final bills was reasonable and necessary. Indeed, it is my opinion that the work was performed far more efficiently than it would have been at any large firm dealing with a similarly complex matter.

Below are the hourly rates and time expended for the attorneys in this matter through June 6, 2017.

A copy of our detailed bills is being submitted to the Court under seal as Exhibit 1.

Timekeeper (position)	Years of Practice	Hours	Hourly rate	Total
Chris Gair (partner)	31 years	393.5	\$425	\$167,216.25
Vilia Dedinas (partner)	31 years	411.7	\$325	\$133,380.00
Kristi Nelson (partner)	21 years	3.7	\$325	\$1,040.00
Jeff Eberhard (partner)	14 years	18.7	\$325	\$6,077.50
Tom Heisler (associate)	8 years	1491.0	\$225	\$335,463.75
Ryan Laurie (associate)	2 years	407.8	\$150	\$61,170.00
Ryan Laurie (as paralegal)	5 years	355.1	\$50	\$17,755.00
Ryan Tryzbiak (paralegal)	7 years	145.8	\$50	\$7,290.00
Total		3,227.2		\$729,392.50

The effort on Count 1

13. The effort required for the case was very substantial. Our fees at the discounted rate to date have been \$729,392.50 through June 6, 2017. A great deal of the time and effort expended was the direct result of intransigence by the defendants in the course of discovery, responding to a series of motions to dismiss and ultimately responding to what can only be characterized as a frivolous motion for summary judgment. The motion was frivolous, in my opinion, because it reargued pure legal issues already decided on the motions to dismiss and, more importantly, because it did not properly set forth the allegedly uncontested facts. Instead, that motion employed the artifice of alleging that it was uncontested that Fact A, for example, was the contention of the defendants, not that Fact A itself was uncontested.

14. Plaintiff is entitled to, and is seeking reimbursement only for fees relating to his successful claim in Count 1 that defendants Hall and Keystone filed a fraudulent Form 1099-MISC, resulting in an audit, litigation in the tax court, and ultimately this lawsuit.

15. A very substantial amount of effort was devoted to proof of the 1099 allegations at every stage of the proceedings, as is further detailed in Ms. Dedinas' declaration. At trial, the evidence showed that the calculations which made up the 1099 involved, and required discovery, analysis and proof regarding: (a) Dr. Angelopoulos's column on the bucket reports, (b) Dr. Angelopoulos' cash reserves, (c) shared income allocated to Dr. Angelopoulos, (d) WACHN's loans with Great Lakes Bank, and (e) Dr. Hall's calculations of amounts supposedly not paid by Dr. Angelopoulos.

16. Because the discovery, motion practice, pretrial preparation and trial of Count 1 was intertwined with the work on the fraud and breach of fiduciary duty counts, it was neither practical nor even possible to separately account for time devoted to Count 1.

17. Instead, in my judgment, the most appropriate way to determine the attorneys' fees and costs which constitute compensatory damages on Count 1 is to estimate what percentage of the effort employed before and during trial would have had to be undertaken if Count 1 had been the only cause of action.

18. For the work performed by our firm through trial, I have attempted to make a conservative estimate of how much of the work would have had to be undertaken if Count 1 were the only cause of action. My best estimate is 25%. That estimate is based on both the amount of time spent pursuing evidence relating to Count 1 and litigating the relevant issues and the critical importance of Count I as the sole basis for federal subject matter jurisdiction. Applied to our total fees, plaintiff claims \$182,348.13.

19. In addition, our firm has expended \$35,235.32 in costs in this case, principally relating to discovery, including deposition transcripts, travel, and copying and witness fees paid to

third parties. These costs are also detailed in Exhibit 1. I estimate that 25% of these costs, or \$8,808.83 relate to Count I.

20. For the work performed by our expert Jay Sanders, I have estimated that 25% of the work fairly relates to the Count I allegations. That work would have been necessary had Count I been the only claim that proceeded to trial. Mr. Sanders' total charges were \$64,521.40, resulting in a claim for his fees of \$16,130.35. Copies of PBC Advisors' Invoices for this work have been attached as Exhibit 2.

Jenner & Block work on the case

21. Jenner & Block represented Dr. Angelopoulos in two aspects of this matter relevant to Count 1 damages. First, Jenner successfully prosecuted Dr. Angelopoulos' case in the U.S. Tax Court, leading to a consent settlement finding he did not owe any taxes. Second, Jenner provided the groundwork and initial complaint for the litigation, including the litigation on Count 1.

22. I have reviewed the Jenner bills and discussed them with Matthew Devine, the Jenner billing partner on the case. In my opinion, those charges were reasonable considering Jenner's normal rates and the nature and complexity of the work. Invoices prepared by Jenner & Block have been appended as Exhibit 3.

23. For the work performed by Jenner & Block in connection with the tax dispute, Jenner charged Dr. Angelopoulos the amount of \$49,758.75. This amount was the result of a detailed examination of Jenner's billing entries by my associate Ryan Laurie to determine which entries fairly related to the tax case and which to the federal court litigation. We are requesting reimbursement of 100% of the amounts actually charged for this portion of the work. Entries relating to the tax issues have been highlighted in yellow on Exhibit 3.

24. For the work performed by Jenner & Block relating to this litigation, we estimate that approximately 25% of that work related to the Count 1 allegations. However, as Dr. Angelopoulos ended up settling his account with Jenner for total fees (excluding the \$49,758.75 in fees for tax litigation) of \$143,438.27, we have applied that 25% factor only to the total payments made by Dr. Angelopoulos, not the total fees for which Jenner billed him. The amount of plaintiff's claim for that period totals \$35,859.57.

Vlahos & Vranas

25. Dr. Angelopoulos' accountants, Vranas & Vlahos expended significant time and effort in cooperating with the IRS audit and assisting Jenner & Block in the Tax Court litigation. I believe that 100% of the \$40,875.00 in fees charged by Vlahos and Vranas should be recovered under Count 1. A statement for services provided by Vlahos and Vranas has been appended as Exhibit 4.

Conclusion

26. In total we are requesting that the court award the following costs and fees in relation to Count 1, which fees I believe are a fair and reasonable measure of the costs to resolve and recover the damages caused by Hall and Keystone filing the false 1099. To avoid double-counting, the court should deduct 25% of the \$25,175 in fees already awarded as discovery sanctions (Dkt. 380) – or \$6,293.75.

100% of Tax Court Legal Fees	\$ 49,758.75
100% of Accounting Fees related to 1099, Audit, and Tax Court Proceedings	\$ 40,875.00
25% of Jenner & Block Litigation Fees	\$ 35,859.57
25% of Gair Litigation Fees and Costs	\$ 191,156.96
Less 25% of sanctions awarded	(\$ 6,293.75)
25% of PBC Advisors Expert Witness Fees	\$ 16,130.35
Total	\$ 327,486.88

I declare under penalty of perjury that the foregoing is true and correct.



Chris C. Gair

June 27, 2017
Executed On