

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

RODRIGUEZ O'DONNELL GONZALEZ & WILLIAMS, P.C.)

Plaintiff,)

v.)

YUSEN LOGISTICS (AMERICAS) INC.)

Defendant.)

No. 15-cv-3030

Judge Shah

Magistrate Judge Susan Cox

YUSEN LOGISTICS (AMERICAS) INC.)

Counterclaimant,)

v.)

RODRIGUEZ O'DONNELL GONZALEZ & WILLIAMS, P.C., THOMAS J. O'DONNELL, R. KEVIN WILLIAMS, CARLOS RODRIGUEZ and HENRY GONZALEZ,)

Counter Defendants.)

PLAINTIFF/COUNTER-DEFENDANTS' RULE 54 MOTION FOR ENTRY OF FINAL JUDGMENT AND REQUEST FOR TAXATION OF COSTS

NOW COMES the Plaintiff, Rodriguez O'Donnell Gonzalez & Williams, P.C. ("ROGW") and the individual counter-defendants and, by their undersigned attorney and pursuant to FRCP 54 and corresponding Local Rule 54.1, move this Court for the entry of an order granting final judgment in ROGW'S favor plus the taxation of costs against Defendant/Counter-Plaintiff YUSEN LOGISTICS (AMERICAS) INC. ("YUSEN") and in support thereof states the following:

1. On September 12, 2017 this Court entered its Memorandum Opinion and Order granting ROGW's Motion for Summary Judgment on its Complaint and YUSEN'S

Counterclaim.

2. On September 26, 2017 this court directed ROGW to file a statement for final judgment. Attached hereto is ROGW'S Statement as to Final Judgment Amount and ROGW's Bill of Costs which are attached hereto as Exhibits A and B respectively and incorporated herein by reference.

3. Specifically, ROGW seeks the entry of a final judgment in its favor and against YUSEN in the amount of \$776,541.87 plus 25% of any additional monies awarded to YUSEN in the still pending antitrust litigation, *In re Air Cargo Shipping Services Antitrust Litigation*, Case No. 1:06 md-01775 (E.D.N.Y.) ("Anti-Trust Litigation"), in which ROGW represented YUSEN on a twenty-five percent contingency fee basis.

4. As to the \$776,541.87 figure, this amount was obtained from the submissions by YUSEN in connection with the parties' summary judgment pleadings. Specifically, YUSEN acknowledged receipt of a payment in Settlement #4 of \$1,314,886.79; the expected receipt of a payment in settlement #5 of \$1,500,124.17, which on information and believe was received; plus receipt of supplemental payments in Settlements in Settlements #2, #3 and #4 of \$291,156.51. See, YUSEN SOF, Docket No. 43, page 17 at ¶¶ 55 and 68. Twenty-five percent (25%) of these three amounts equals \$776,541.87.

5. To the point of additional monies possibly being paid out, the undersigned notes that the Anti-Trust Litigation is still pending and, as is noted above, supplemental payments on prior settlements have been made and it is believed and therefore asserted that there is a likelihood that additional funds may be paid to YUSEN from which ROGW would be entitled to its fees.

6. As to YUSEN'S Counterclaim, summary judgment was entered against YUSEN

and in favor of ROGW.

7. ROGW also seeks the taxation of costs in its favor and against YUSEN in the amount of \$7,301.83. These costs include the filing of the original complaint in DuPage County, Illinois and the service of process (\$340.00); the deposition transcript costs of six (6) individuals (\$4,540.44); copying costs of \$1,152.33; and out of town travel expenses of \$1,269.06 for the depositions of Brett Landau, class counsel in the Anti-Trust Litigation, and Mr. Dale Todaro, a former employee of YUSEN.¹ These costs are allowable under FRCP 30 and 54, Local Rule 54.1, and 28 U.S.C. 1920 (3). See also, *Weeks v. Samsung Heavy Indus. Co.*, 126 F.3d 926, 946 (7th Cir. 1997) (travel costs are authorized either under § 1920(3) or under Rule 30).

8. At least two emails were sent to YUSEN'S Counsel, including on September 21 and October 6, 2017 regarding the aforementioned judgment amount and the taxing of costs. While no objections to the figures were raised by YUSEN, from communications between counsel for the parties, the undersigned believes and understands that YUSEN "is leery of submitting anything that could be construed as an agreement by Yusen to a judgment."

9. I declare under penalty of perjury that the foregoing is true and correct and that the costs were necessarily incurred in this action and that the services for which such fees have been charged were actually and necessarily performed.

WHEREFORE, Plaintiff, Rodriguez O'Donnell Gonzalez & Williams, P.C. and the individual counter-defendants by their undersigned attorney, respectfully request: (i) that this Court grant this Motion and enter final judgment in the amount of \$776,541.87 plus 25% of any

¹ It is noted that over 8,300 pages of documents were copied and produced in this case by the parties, not to mention copies of various pleadings and exhibits (see docket generally) and the submission of bound courtesy copies to the court in connection with the parties' summary judgment pleadings. Likewise, the Philadelphia, PA deposition of class counsel was at the request of YUSEN and the deposition of Mr. Dale Todaro, taken in New York City, was necessary as is evidenced by the over 100 references to Todaro's testimony by the parties in connection with their cross motions for summary judgment.

additional monies awarded to YUSEN in the still pending Anti-Trust Litigation in connection with Plaintiff's Complaint, (ii) that the Court enter judgment in favor of the Counter-Defendants on YUSEN's Counterclaim, (iii) that the Court retain jurisdiction to enforce the judgment, (iv) that the Court tax costs of \$7,301.83 in favor of Plaintiff/Counter-Defendants and against Defendant/Counter-Plaintiff and (v) that the Court grant such other relief as is warranted.

Respectfully Submitted,

**RODRIGUEZ O'DONNELL GONZALEZ &
WILLIAMS, P.C. f/k/a RODRIGUEZ
O'DONNELL ROSS, THOMAS J.
O'DONNELL, R. KEVIN WILLIAMS,
CARLOS RODRIGUEZ and HENRY
GONZALEZ**

/s/ MICHAEL A. KRAFT

Michael A. Kraft, Their Attorney

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Exhibits A—STATEMENT OF JUDGMENT

An initial payout in Settlement 4 of:	\$1,314,886.79
Supplemental payments in Settlement 2, 3 and 4 of:	\$ 291,156.51
An initial payout in settlement 5 of:	\$1,500,124.17
Total Disbursements	<u>\$3,106,167.47</u>
Multiplied by 25%	x 25%
JUDGMENT AMOUNT	<u>\$776,541.87***</u>

*****plus 25% of any future supplemental payments received by YUSEN in the Anti-Trust Litigation.**

EXHIBIT B – BILL OF COSTS

Complaint Filing fee in DuPage County		\$ 290.00
Service of Process		\$ 50.00
Depositions:		
Mark Hogan	\$ 873.29	
Tom O'Donnell	\$1,044.10	
Scott Corless	\$ 433.20	
Dale Todaro	\$1,094.15	
Kevin Williams	\$ 209.95	
Jessica Rifkin	<u>\$ 885.75</u>	
Sub-Total		\$ 4,540.44
Copies:		\$ 1,152.33
Travel (airfare, Hotel, taxi)		
PA Airfare	\$ 287.96	
PA Hotel	\$ 172.51	
NY Airfare	\$ 284.00	
NY Hotel	\$ 381.59	
NY Transportation	<u>\$ 143.00</u>	
Sub-Total		<u>\$ 1,269.06</u>
TOTAL COSTS		<u>\$ 7,301.83</u>

CERTIFICATE OF SERVICE

I hereby certify that on Tuesday, October 10, 2017, I electronically filed the foregoing with the Clerk of Court for the United States District Court for the Northern District of Illinois using the Court's CM/ECF electronic filing and mailing system, which system sends notification said filing to all counsel of record. Parties to this action may access these filings through the Court's PACER system.

By: /s/ Michael A. Kraft
Michael A. Kraft, Esq.