

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ANDY JAMES,

Plaintiff,

– against –

CITY OF NEW YORK, KHAMRAJ SINGH,
GERARD SARDINA, and JEREMY DEMARCO

Defendants.

ORDER

No. 15-cv-3657 (ERK) (PK)

KORMAN, J.:

I assume familiarity with the underlying facts of this case, as set forth in the Report and Recommendation of Magistrate Kuo dated February 17, 2017. *James v. City of N.Y.*, No. 15-CV-3657 (ERK) (PK), 2017 WL 696026 (E.D.N.Y. Feb. 17, 2017). The City of New York (the “City”) has filed objections to that recommendation. I sustain the City’s objection to her recommendation that the plaintiff should recover \$3,655.00 for the preparation of the plaintiff’s fee application—referred to as “fees on fees.” The offer of judgment, to the extent here relevant, was \$12,501.00, “plus reasonable attorneys’ fees, expenses and costs to the *date of this offer* for plaintiff’s federal claims.” Offer of Judgment at 1 (emphasis supplied). The issue of whether this offer covers “fees on fees” was discussed and resolved in a characteristically reasoned opinion of the late Judge Pamela Rymer in *Guerrero v. Cummings*, 70 F.3d 1111 (9th Cir. 1995). I adopt Judge Rymer’s reasoning in sustaining the City’s objection. *See id.* at 1113–14; *see also Sussman v. Patterson*, 108 F.3d 1206, 1209–11 (10th Cir. 1997); *Blake v. N.Y. City Health & Hosps. Corp.*, No. 14 Civ. 3340 (JGK) (AJP), 2016 WL 6520067, at *4 (S.D.N.Y. Nov. 3, 2016) (collecting cases).

The amount recommended by Magistrate Kuo was \$16,871.00, which included “fees on fees.” I subtract \$3,655.00 from the recommended amount to arrive at the judgment amount of

\$13,216.00. I otherwise adopt the recommendation of the magistrate, and the Clerk is directed to enter judgment in favor of the plaintiff in the amount of \$13,216.00.

SO ORDERED.

Brooklyn, New York
June 2, 2017

Edward R. Korman
Edward R. Korman
United States District Judge