

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

TILE, INC.,

Plaintiff,

v.

CELLNTELL DISTRIBUTION INC. and  
RELIANCE DISTRIBUTION INC.,

Defendants.

U.S. DISTRICT COURT – N.D. OF N.Y.

FILED

Nov 19 - 2021

John M. Domurad, Clerk

1:20-CV-428  
(FJS/DJS)

APPEARANCES

**K & L GATES LLP**  
State Street Financial Center  
One Lincoln Street  
Boston, Massachusetts 02111  
Attorneys for Plaintiff

**CRISCIONE RAVALA, LLP**  
90 Park Avenue, Suite 1700  
New York, New York 10016  
Attorneys for Defendants

**SCULLIN, Senior Judge**

OF COUNSEL

**MORGAN T. NICKERSON, ESQ.**  
**NICOLE M. KOZIN, ESQ.**

**GALEN J. CRISCIONE, ESQ.**

ORDER

In a Memorandum-Decision and Order dated June 30, 2021, the Court, among other things, granted Defendant Reliance Distribution Inc.'s ("Defendant Reliance") motion to vacate the default judgment against it conditioned on Defendant Reliance's payment of the reasonable attorney's fees that Plaintiff incurred in filing its motion for a default judgment. *See* Dkt. No. 31 at 20. Relatedly, the Court instructed Plaintiff's counsel to file and serve an affidavit with supporting documentation showing the hours expended and tasks performed related to the filing of Plaintiff's motion for a default judgment on or before July 14, 2021. *See id.* The Court also

provided Defendant Reliance with an opportunity to respond to Plaintiff's counsel's submissions on or before July 28, 2021. *See id.*

Plaintiff's counsel filed the required documentation. *See* Dkt. No. 32. Defendant Reliance did not file any response to that documentation.

According to Plaintiff's counsel's affidavit, Plaintiff incurred \$13,268.50 in attorney's fees related to the filing of its motion for a default judgment. *See* Dkt. No. 32, Affidavit of Morgan T. Nickerson, at ¶ 7. Furthermore, Plaintiff's counsel identified the three attorneys who expended hours related to the filing of such motion and set forth their experience and hourly rates as follows:

Morgan T. Nickerson, a partner with 15 years of experience specializing in intellectual property litigation, expended 15.50 hours on the motion at an hourly rate of \$705.00;

Nicole M. Kozin, an associate, who received her J.D. in 2004, expended 2.2 hours on the motion at an hourly rate of \$555.00; and

Jack S. Brodsky, an associate, who received his J.D. in 2016, expended 2.0 hours on the motion at an hourly rate of \$560.00

*See id.* at ¶¶ 9-11 & Exhibit "A" attached thereto.

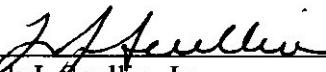
Having reviewed the documentation that Plaintiff's counsel submitted, the Court finds that the hours expended and the hourly rates for the work that the attorneys performed are reasonable; and, therefore, the Court hereby

**ORDERS** that Defendant Reliance Distribution Inc. shall pay Plaintiff the amount of **\$13,268.50** in attorney's fees on or before **December 3, 2021**; and upon making such payment, shall file an affidavit with the Court attesting that it has done so. Upon the filing of said affidavit, the Court will vacate the default judgment entered against Defendant Reliance; and,

within **fourteen (14) days of that vacation**, Defendant Reliance shall file its response to Plaintiff's complaint.

**IT IS SO ORDERED.**

Dated: November 19, 2021  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Judge