EXHIBIT X

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------X
PAUL O'HARA,

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.
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REPORT AND
RECOMMENDATION
11 CV 3990 (BMC)(RML)

LEVY, United States Magistrate Judge:

By order dated October 2, 2013, the Honorable Tucker L. Melançon, Senior United States District Judge, referred plaintiff's motion for attorney's fees to me for a Report and Recommendation.[1] Briefing was deferred until after the appeal was decided, and was completed on August 22, 2014. For the reasons stated below, I respectfully recommend that the motion be granted and that plaintiff be awarded a total of $258,664.85 in attorney's fees and costs.

BACKGROUND AND FACTS

Plaintiffs Amanda and Paul O'Hara, mother and son, filed their complaint on May 26, 2011, alleging excessive force under 42 U.S.C. § 1983 ("§ 1983"), as well as negligence, assault, and battery under New York State law. (Complaint and Jury Demand, dated May 16, 2011 ("Compl.").) Defendants made two settlement offers pursuant to Federal Rule of Civil Procedure 68 ("Rule 68"). The first offer, on January 17, 2012, was for $20,001, and the second, on March 1, 2012, was for $40,001. (Rule 68 Offer of Judgment to Paul O'Hara, dated

[1] This case has since been reassigned to the Honorable Brian M. Cogan, United States District Judge.

Jan. 17, 2012; Rule 68 Offer of Judgment to Paul O'Hara, dated Mar. 1, 2012). Paul O'Hara refused the offers. Plaintiff Amanda O'Hara died in August 2012 and her claims were withdrawn with prejudice. (Stipulation of Dismissal, dated Sept. 7, 2012, Dkt. No. 37; Defendants' Opposition in Response to Plaintiff's Motion for Attorney's Fees and Costs, dated Aug. 15, 2014 ("Defs.' Opp'n"), at 3 .)

On June 28, 2013, after a three-day trial before Judge Melançon, a jury awarded plaintiff $50,000: $10,000 as compensation for his § 1983 claim and $40,000 for his pendent state battery claim as to Police Officer Michael McEvoy. (Jury Verdict Form, dated June 28, 2013.) The Second Circuit affirmed the judgment on June 18, 2014. O'Hara v. City of New York, 570 F. App'x 21 (2d Cir. 2014).

Plaintiff now moves for attorney's fees pursuant to 42 U.S.C. § 1988 ("§ 1988"). (Memorandum of Law in Support of Plaintiff's Motion for Attorney's Fees and Costs, dated July 2, 2014 ("Pl.'s Mem."), Dkt. No. 109.) Defendants object, arguing that: (1) Rule 68 precludes attorney's fees for the period after January 17, 2012, when plaintiff refused defendants' $20,001 settlement offer because it was greater than the $10,000 that the jury awarded for his *federal* claim; (2) the court should award, at most, half of the fees and costs requested for the period before January 17, 2012 because Amanda O'Hara's claims were withdrawn; and (3) the hourly rates and number of hours spent on the case were excessive. (Defs.' Opp'n.)

DISCUSSION

A. Plaintiff's Entitlement to Fees After Rejecting Rule 68 Offer

Defendants argue that plaintiff is not entitled to full attorney's fees pursuant to § 1988 because the damages plaintiff Paul O'Hara ("plaintiff") received for his federal claim

were less than the Rule 68 offer for that claim. They concede, however, that no case law supports this position. (Defs.' Opp'n at 8.) An examination of the plain language of Rule 68 and the settlement offer, as well as case law on the treatment of pendent state law claims under § 1988, makes clear that Rule 68 does not apply here.

1. Plain Language of Rule 68 and the Rule 68 Offer

Rule 68 provides a mechanism for encouraging settlement by creating a potential cost for plaintiffs if they fail to accept a settlement offer that exceeds the ultimate judgment. Rule 68(d) states: "If the *judgment* that the offeree finally obtains is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made." (Emphasis added). Rule 68 clearly advises that the court should consider the total judgment, not an apportioned judgment, when applying the rule. In this case, the $50,000 judgment from trial is greater than either of defendants' offers.

Defendants' Rule 68 offer reads: "defendant City of New York . . . offers . . . Twenty Thousand and One Dollars ($20,001.00), plus reasonable attorneys' fees, expenses and costs to the date of this offer for *plaintiff's federal claims*." (Declaration of Andrew Wenzel, Esq., dated Aug. 15, 2014 ("Wenzel Decl.") (emphasis added).) However, it goes on to state: "[t]his judgment shall be in full satisfaction of all federal and state law claims or rights that plaintiff Paul O'Hara may have to damages, or any other form of relief . . . in connection with the facts and circumstances that are the subject of this action." Id. Contrary to defendants' argument, the offer is clearly intended to settle all of plaintiff's claims.

2. Treatment of Pendent State Law Claims Generally in § 1988 Fee Awards

Attorney's fees for hours spent on a state claim pendent to the § 1983 claim are generally granted, so long as the plaintiff is successful on his § 1983 claim. 42 U.S.C. § 1988(b); Milwe v. Cavuoto, 653 F.2d 80, 84 (2d Cir. 1981); see also Maher v. Gagne, 448 U.S. 122, 132 (1980) ("Congress [] act[ed] within its enforcement power in allowing the award of fees in a case in which the plaintiff prevails on a wholly statutory, non-civil rights claim pendent to a substantial constitutional claim. . . ."). When litigating § 1983 cases, the Supreme Court has said:

> Much of counsel's time will be devoted generally to the litigation as a whole, making it difficult to divide the hours expended on a claim-by-claim basis. Such a lawsuit cannot be viewed as a series of discrete claims. Instead the district court should focus on the significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended on the litigation.

Hensley v. Eckerhart, 461 U.S. 424, 435 (1983). Similarly, parsing out plaintiff's state and federal claims for purposes of comparison to the Rule 68 offer would frustrate the legislative intent of § 1988's cost shifting provisions.[2]

In sum, plaintiff is a prevailing party under § 1988, and the total judgment was greater than the amount offered in defendants' Rule 68 settlement offer. Therefore, defendants are liable for plaintiff's attorney's fees throughout the duration of the litigation.

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[2] Defendants' reliance on Stanczyk v. City of New York, 752 F.3d 273 (2d Cir. 2014), is misplaced. In that case, the plaintiff secured a judgment that was less than the defendant's Rule 68 offer. Id. at 275. Plaintiff similarly cannot find a case exactly on point and relies on Rodriguez v. City of New York, No. 10 CV 9570, 2012 WL 1658303, *7 n.2 (S.D.N.Y. May 11, 2012), for the proposition that Rule 68 does not differentiate between judgments for federal and state claims in this context. In Rodriguez, the court rejected the City's argument that it was the "prevailing party" as to plaintiff's § 1983 claim and therefore entitled to costs even though plaintiff won a verdict on his pendent state law claim. Id.

B. Reasonableness of Attorney's Fees

Plaintiff's counsel seeks an award of attorney's fees and costs in the amount of $386,605. (Pl.'s Mem. at 24-25.) Plaintiff is entitled to reasonable attorney's fees as a "prevailing party" pursuant to § 1988 and Rule 54(d) of the Federal Rules of Civil Procedure because he succeeded on his § 1983 claim. Hensley v. Eckerhart, 461 U.S. 424, 429 (1983). A fee applicant "bears the burden of supporting its claim of hours expended by accurate, detailed and contemporaneous time records." Santillan v. Henao, 822 F. Supp. 2d 284, 299 (E.D.N.Y. 2011) (citing N.Y. State Ass'n for Retarded Children, Inc. v. Carey, 711 F.2d 1136, 1147–48 (2d Cir. 1983)).

1. Hourly Rates

In calculating a fee award, the court must first establish a reasonable hourly rate, which is "what a reasonable, paying client would be willing to pay." Arbor Hill Concerned Citizens Neighborhood Ass'n v. Cnty. of Albany, 522 F.3d 182, 184 (2d Cir. 2008). Reasonable hourly rates are determined by reference to, inter alia, fees in the community in which the action is pending and to "prevailing market rates for attorneys of similar expertise providing comparable services." Siemieniewicz v. CAZ Contracing Corp., No. 11 CV 0704, 2012 WL 5183375, at *15 (E.D.N.Y. Sept. 21, 2012), report and recommendation adopted as modified, No. 11 CV 0704, 2012 WL 5183000 (E.D.N.Y. Oct. 18, 2012) (citing Gierlinger v. Gleason, 160 F.3d 858, 882 (2d Cir. 1998)). Courts have broad discretion to assess the reasonableness of each component of a fee award. Id.

The "range of 'reasonable' attorney fee rates varies depending on the type of case, the nature of the litigation, the size of the firm, and the expertise of its attorneys . . . and has varied [in this district] from judge to judge." Small v. New York City Transit Auth., No. 03 CV 2139,

2014 WL 1236619, at *5 (E.D.N.Y. Mar. 25, 2014) (collecting cases). Generally, courts in this district have approved partner rates of between $300 and $400 per hour. Id. (citing Struthers v. City of New York, No. 12 CV 242, 2013 WL 5407221, at *8 (E.D.N.Y. Sept. 25, 2013) (awarding rate of $350 per hour for solo practitioner); Colon v. City of New York, Nos. 09 CV 0008, 09 CV 0009, 2012 WL 691544, at *21 (E.D.N.Y. Feb. 9, 2012) (approving rate of $350 per hour for solo practitioner); Siracuse v. Program for the Dev. of Human Potential, 07 CV 2205, 2012 WL 1624291, at *30 (E.D.N.Y. Apr. 30, 2012) (approving rate of $400 per hour for founding partner of firm and $350 per hour for solo practitioner); Gutman v. Klein, No. 03 CV 1570, 2009 WL 3296072, at *2 (E.D.N.Y. Oct. 13, 2009) (approving rates of $300–$400 for partners, $200–$300 for senior associates and $100–$200 for junior associates); see also Konits v. Karahalis, 409 Fed. App'x 418, 422–23 (2d Cir. 2011) (affirming holding that the prevailing rates for experienced attorneys in the Eastern District of New York range from approximately $300 to $400 per hour). Recently, some courts in this district have recognized a slightly higher range of rates: "$300–$450 per hour for partners, $200–$300 per hour for senior associates, and $100–$200 per hour for junior associates." Akman v. Pep Boys Manny Moe & Jack of Delaware, Inc., No. 11 CV 3252, 2013 WL 4039370, at *1 (E.D.N.Y. Aug. 7, 2013) (collecting cases). However, "[t]he highest rates in this district are reserved for expert trial attorneys with extensive experience before the federal bar, who specialize in the practice of civil rights law and are recognized by their peers as leaders and experts in their fields." Hugee v. Kimso Apartments, LLC, 852 F. Supp. 2d 281, 300 (E.D.N.Y. 2012).

Plaintiff has requested an hourly rate of $450 for lead trial attorney Jon Norinsberg. (Declaration of Jon L. Norinsberg, Esq., dated July 2, 2014 ("Norinsberg Decl.").) Mr. Norinsberg is a solo practitioner who has been practicing law for nearly twenty years and has extensive

experience litigating § 1983 actions. Despite this, I find the hourly rate of $450 too high, given the prevailing rates in this district. Mr. Norinsberg has recently been awarded $400 in this district for a case of similar complexity.[3] Marshall v. City of New York, No. 10 CV 2714, Dkt No. 103 (E.D.N.Y. Jan. 24, 2013). Accordingly, I find it appropriate to award Mr. Norinsberg $400 per hour.

At trial, Mr. Norinsberg was assisted by two attorneys, John Meehan, Esq., and Katherine E. Smith, Esq. Mr. Meehan requests an hourly rate of $250 and Ms. Smith requests an hourly rate of $350.[4] (See Norinsberg Decl., Ex. I.) Mr. Meehan graduated law school in 2012 and his first billing entry for this case is in June 2013. (Time Entries for Law Offices of Jon L. Norinsberg, annexed as Ex. D to Norinsberg Decl.) Ms. Smith graduated from law school in 2007. (Norinsberg Decl. at 14-15.) Defendants contend, and plaintiff does not dispute, that this was Ms. Smith's first trial. Based on their limited experience, I find that a reasonable client in this district would be willing to pay $200 per hour for Mr. Meehan and $275 per hour for Ms. Smith. These rates are in line with fee awards for attorneys with similar experience handling similarly complex cases in this district.

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[3] Defendants point to Stancyk, where the court awarded $350 per hour for Mr. Norinsberg. The Stancyk decision, as plaintiff argues, is fact-specific, based on the court's concerns about Mr. Norinsberg's performance and its effect on the damages his client received, factors not relevant here. Stancyk v. City of New York, 990 F. Supp. 2d 242, 248-51 (E.D.N.Y. 2013).

[4] Plaintiff argues that the billing rates of Mr. Meehan and Ms. Smith should be based on their current billing rates, not their historic billing rates. See Gierlinger v. Gleason, 160 F.3d 858, 883 (2d Cir. 1998); Missouri v. Jenkins, 491 U.S. 274, 283-84 (1989). Although it is true that "current rates, rather than historical rates, should be applied in order to compensate for the delay in payment," LeBlanc–Sternberg v. Fletcher, 143 F.3d 748, 764 (2d Cir. 1998), there has not been a sufficient delay here to warrant fees at the level requested by Mr. Meehan and Ms. Smith.

Scott Korenbaum, Esq., who assisted Mr. Norinsberg on appeal, requests an hourly rate of $450. Mr. Korenbaum has over twenty-five years of experience as a civil rights lawyer and reduced his normal hourly rate of $500 per hour to $450 per hour for his services in this case. (Norinsberg Decl., Ex. I.) Mr. Korenbaum has been awarded hourly rates of $450 in the Southern District, see Barbour v. City of White Plains, 700 F.3d 631 (2d Cir. 2012), and $350 per hour in the Eastern District, see Luca v. Cnty. of Nassau, 698 F. Supp. 2d 296 (E.D.N.Y. 2010). Considering the awards granted to Mr. Korenbaum in the Eastern District and other awards to partners of his experience and pedigree, I find it reasonable to award Mr. Korenbaum a rate of $400 per hour.

Brian Orlow, Esq. and Adam Orlow, Esq., of The Orlow Firm, each request $375 per hour for work performed on pre-trial discovery. In addition, they request $100 per hour for the work of their paralegals. The Orlow Firm handled most of the pre-trial proceedings in this case (Pl.'s Mem. at 17) and referred the case to Mr. Norinsberg for trial (Defs.' Opp'n at 16). Despite their each having over fifteen years of litigation experience, both Brian and Adam Orlow, in relation to Mr. Norinsberg, are relatively inexperienced in § 1983 litigation (Pl.'s Mem. at 18) and primarily work in other areas of law (Defs.' Opp'n at 16). Given this, and the range of attorney's fees awarded to partners of small firms in this district, I find $300 per hour for Adam Orlow and Brian Orlow and $100 per hour for their paralegals rates that a reasonable client would be willing to pay.

Nicole Bursztyn is a senior paralegal in Mr. Norinsberg's law office and requests a billing rate of $125 per hour, which I find to be a reasonable rate that she has been awarded on multiple occasions in this district. See, e.g., Marshall v. City of New York, No. 10 CV 2714, ECF No. 103, at 10 (finding $125 per hour to be a reasonable rate for Ms. Bursztyn); Stanczyk v. City of New York, 990 F. Supp. at 248 (same). Therefore, I recommend the following rates:

	Requested Rate	Recommended Rate
Norinsberg	$450.00	$400.00
Meehan	$250.00	$200.00
Smith	$350.00	$275.00
Korenbaum	$450.00	$400.00
Burstyn	$125.00	$125.00
Orlow Firm	$375.00	$300.00
Orlow Paralegals	$100.00	$100.00

2. Hours Expended

Next, the court must assess whether the hours expended by plaintiffs' counsel were reasonable and exclude any hours that were "'excessive, redundant, or otherwise unnecessary' to the litigation." Cho v. Koam Med. Servs. P.C., 524 F. Supp. 2d 202, 209 (E.D.N.Y. 2007) (quoting Hensley v. Eckerhart, 461 U.S. 424, 434 (1983)).

i. Amanda O'Hara's Claims

Defendants ask the court to impose an across-the-board fifty percent reduction to the hours billed for this case between the filing of the complaint on May 26, 2011 and the voluntary dismissal of Amanda O'Hara's claims on September 7, 2012. (See Defs.' Opp'n at 18-19). It is true, as defendants point out, that some discovery was devoted exclusively to Amanda O'Hara's independent claims and that motion practice concerning her medical expert consumed some of counsels' time in this case. However, such a broad reduction is not warranted as Amanda and Paul O'Hara's claims overlapped and Amanda O'Hara was a material witness for Paul O'Hara.

Nor do I find persuasive plaintiff's argument that no reduction is necessary. Plaintiff argues that Amanda and Paul O'Hara's claims are based on a "common core of facts" rendering the former compensable under § 1988, citing Hensley, 461 U.S. at 435. However,

Hensley awarded compensation for work performed on unsuccessful claims brought by a prevailing party; although much of the work done on Paul O'Hara's case overlapped with Amanda O'Hara's, she was a separate party with her own claims. Id. at 434-35. Therefore, to the extent that some work was dedicated solely to the service of Ms. O'Hara, such as the drafting of the counts on her behalf or the preparation of the opposition to defendants' motion in limine (Wenzel Decl., Ex. C.), and certain other items that may be too discrete to include, I find that a twenty percent reduction for time spent on this case before September 7, 2012, when Amanda O'Hara's claims were dismissed, is appropriate.

ii. Litigation

Plaintiff requests attorney's fees for Mr. Norinsberg for 246.90 hours of work performed on this case prior to the appeal, 39.2 hours through September 7, 2012 and 207.7 hours after that date. Defendants cite Garcia v. City of New York, No. 11 CV 2284 (E.D.N.Y. 2013), as an example of a similar case—a two-day trial on § 1983 claims that resulted in a $50,000 judgment for the plaintiff—where lead counsel's hours were reduced from 166.8 to 118.34 hours because they were excessive. As a result, defendants request a twenty-five percent reduction in Mr. Norinsberg's hours. Some reduction of Mr. Norinsberg's hours is warranted because he does appear to have spent excessive time on certain components of this three-day trial.[5] Therefore, I recommend an additional ten percent (10%) reduction to Mr. Norinsberg's trial hours after

[5] Additionally, plaintiffs' counsel billed in six minute increments, sometimes without aggregating ministerial and swiftly performed tasks. (See, e.g., Norinsberg Decl., Ex. D (Billing Entries for 1/17/2013 ("Reviewed Court Order re new trial date"), and 5/14/2013 ("Reviewed Court Order reassigning new judge")) (describing brief, non-substantive court orders).) A general, modest reduction is appropriate for this and other instances where counsel failed to exercise reasonable business judgment.

September 7, 2012. Mr. Norinsberg's adjusted pre-appeal time will therefore total 218.29 hours.[6]

Plaintiff requests 73.45 hours for Mr. Meehan's trial work. Defendants argue that thirty-one hours of Mr. Meehan's time should be excluded because he sat as an inactive participant, rather than as co-counsel, to Mr. Norinsberg for jury selection[7] and trial. (See Defs.' Opp'n at 22.) I disagree, however, that no reasonable client would pay for the presence of co-counsel at trial and jury selection. This is a common practice and one that defendants also employed at trial. However, the 10.7 hours that Mr. Meehan spent on exhibit binders before trial should be billed at the paralegal rate. Therefore, I find that 62.75 hours will be billed at $200 and 10.7 at $125.

Plaintiff requests 247.35 hours for Ms. Smith for work performed during trial and on post-trial motions. (See Pl.'s Mem. at 24.) Ms. Smith's responsibilities were limited to preparing and conducting plaintiff's direct examination, conducting a direct examination of plaintiff's sister, and responding to defendant's Rule 50 and 59 post-trial motions. (See Defs.' Opp'n at 15, 22-23.) I find the 247.35 hours excessive and recommend a thirty percent reduction to 173.15 hours.

Plaintiff requests forty-four (44) hours for the time spent by paralegal Nicole Burstyn on the litigation prior to the appeal. It is appropriate to apply the twenty percent reduction to Ms. Burstyn's hours for the time spent prior to the withdrawal of Amanda O'Hara's claims. Therefore, the 9.85 hours she billed between March 6, 2012 and September 7, 2012 (see Norinsberg Decl., Ex. D) should be reduced by twenty percent and the remaining 34.55 hours awarded as requested, for a total of 42.43 hours.

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[6] This is calculated by reducing the 39.2 hours worked through September 7, 2012 by twenty percent to 31.36 and the remaining 207.7 hours by ten percent to 186.93 hours.

[7] Jury selection was conducted twice in this case, as the trial was adjourned due to Hurricane Sandy. (Norinsberg Decl. ¶ 25.)

The Orlow Firm seeks compensation for 108.7 hours for the work of its attorneys and 18.5 hours for the work of its paralegals during the scope of its representation of plaintiff from April 9, 2010 through February 22, 2012. (See Pl.'s Mem. at 24). Because Amanda O'Hara was a plaintiff for the entirety of that period, the Orlow Firm is subject to the same twenty percent reduction for work performed on her claims and should accordingly receive compensation for 86.96 attorney hours and 14.8 paralegal hours.

iii. Appeal and Fee Application

Plaintiff requests attorney's fees for the hours spent on the appeal in the amounts of 225.6 hours for Mr. Norinsberg, 33.5 hours for Mr. Meehan, 25.6 hours for Mr. Korenbaum, and 7.9 hours for Ms. Burstyn. (See Pl.'s Mem. at 24-25.) Defendants argue that no reasonable client would pay for that number of hours and request a fifty percent reduction. I agree that some reduction is required and recommend a twenty percent reduction for the time spent by all of the attorneys and no reduction for the paralegal hours. Therefore, I recommend compensation for the following number of hours worked on the appeal:

	Appeal
Norinsberg	180.48
Meehan	26.8
Korenbaum	20.48
Burstyn	7.9

Finally, Mr. Norinsberg requests 5.6 hours for his work on the fee application. I recommend a fifty percent reduction, resulting in 2.8 hours.

iv. Across-the-Board Reduction

Defendants argue for across-the-board reductions based on Mr. Norinsberg's "limited success" at trial on plaintiff's false arrest claim, assault claim, failure to intervene claim against defendant Malone, and request for punitive damages. (Jury Verdict Form, dated June 28, 2013, annexed as Ex. I to Wenzel Decl.) However, Mr. Norinsberg prevailed in proving the factual basis that underlies all of plaintiff's claims, as the excessive force claim was at the heart of plaintiff's case. The legal work he performed to prove the excessive force claim necessarily included the work he performed on plaintiff's unsuccessful claims. See Wilson v. Normura Sec. Int'l Inc., 361 F.3d 86, 91 (2d Cir. 2004) ("… when a plaintiff fails to prove one of two overlapping claims . . . but prevails on the other . . . the plaintiff may recover fees for all the legal work") (citing Dominic v. Consol. Edison Co. of N.Y., Inc., 822 F.2d 1249, 1259–60 (2d Cir. 1987)). Accordingly, no reduction on this basis is warranted. However, a five (5) percent across-the-board reduction is warranted here "as a practical means of trimming fat from a fee application." New York State Ass'n for Retarded Children, Inc. v. Carey, 711 F.2d 1136, 1146 (2d Cir. 1983) ("courts have recognized that it is unrealistic to expect a trial judge to evaluate and rule on every entry in an application").

C. Costs

The Orlow Firm requests $10,274 in costs. (Norinsberg Decl., Ex. G.) Prevailing parties are entitled to recover reasonable, identifiable out-of-pocket disbursements ordinarily charged to clients. LeBlanc-Sternberg v. Fletcher, 143 F.3d 748, 763 (2d Cir. 1998) (citing U.S. Football League v. Nat'l Football League, 887 F.2d 408, 416 (2d Cir. 1989). However, additional expenses should be supported by invoices in order to be taxed as costs. Hightower v. Nassau Cnty. Sheriff's Dep't, 325 F. Supp. 2d 199, 217 (E.D.N.Y.), opinion vacated on other grounds in part on

reconsideration, 343 F. Supp. 2d 191 (E.D.N.Y. 2004). Therefore, I am not crediting undocumented payments made by the Orlow Firm to medical practices or to "Law Offices of Jon Norinsberg." The total for compensable costs, then, is $2,599 for, inter alia, service of process, filing fee, photocopies, mailing, and travel.

CONCLUSION

For the reasons stated above, I respectfully recommend that plaintiff's motion for attorney's fees be granted and that plaintiff be awarded $258,664.85 in attorney's fees and costs in the following amounts:

	Trial	Appeal	Fee Application	Rate	Total
Norinsberg	218.29	180.48	2.8	$400.00	$160,628.00
Meehan	62.75	26.8		$200.00	$17,910.00
Meehan Admin.	10.7			$125.00	$1,337.50
Smith	173.15			$275.00	$47,616.25
Korenbaum		20.48		$400.00	$8,192.00
Burstyn	42.43	7.9		$125.00	$6,291.25
Orlow Firm	86.96			$300.00	$26,088.00
Orlow Paralegals	14.8			$100.00	$1,480.00
Sub-Total Fees					*$269,543.00*
5% reduction					*$13,477.15*
Total Fees					*$256,065.85*
Costs					$2,599
Total Fees & Costs					*$258,664.85*

Any objection to this Report and Recommendation must be filed with the Clerk of the Court, with courtesy copies to Judge Cogan and to my chambers, within fourteen (14) days. Failure to file

objections within the specified time period waives the right to appeal the district court's order. See 28 U.S.C. § 636(b)(1); see also FED. R. CIV. P. 72, 6(a), 6(e).

Respectfully submitted,

/s/
ROBERT M. LEVY
United States Magistrate Judge

Dated: Brooklyn, New York
March 16, 2015