

ADRIAN SCHOOLCRAFT,

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

**DECLARATION OF
JUDITH A. BRONSTHER IN
SUPPORT OF THE CITY'S
OPPOSITION TO
PLAINTIFF'S MOTION TO
STRIKE**

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I, JUDITH BRONSTHER, hereby declare pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following is true and correct:

1. I am President of Accountability Services, Inc. ("ASI"), a legal cost control company that provides legal audit and consulting services to a variety of organizations. I respectfully submit this declaration in connection with the above captioned matter.

2. I have reviewed the alleged errors that plaintiff's counsel Nat Smith identified in his Reply to the City of New York's Opposition to Plaintiff's Motion for Reconsideration of the Court's fee award. The alleged errors are explained as follows.

3. First, Smith ignores the disclosures in the Audit¹ we prepared in this case that the amounts that ASI allocated to deposition time include all time "in connection with" depositions, including deposition review (excepting the ample time devoted to digesting depositions, listed on the attached Exhibit A). The Audit states that it included time "in connection with" 34 depositions, and lists entries for deposition review such as "Review of Schoolcraft discovery/deps - Sawyer/Duncan" on page 89 Review of Schoolcraft discovery/deps – Boston"

¹ The "Audit" refers to the report of the Audit of the Reasonableness of the Hours Expended and Expenses submitted by plaintiff's counsel, filed with the Court at Docket Nos. 598-4 and 600-7.

and “Review of Schoolcraft discovery/deps – Boston” on page 90. See Audit 86, 89-90. The time for deposition digesting is not included in Specific Deposition Time (attached as Exhibit B) or General Deposition Time (attached as Exhibit C), which are discussed below.

4. Second, Smith ignores the disclosure in the Audit of the methodology that ASI used to allocate hours to specific tasks in instances where block billing was used, which is set forth clearly in Exhibit 2 to the Audit. Therefore, the time entries show the allocated hours, where allocation was necessary due to block billing (which was common in the Smith Team’s time), and such allocated hours are always less than the total hours billed for a given time entry. Therefore, this supposed discrepancy works in the plaintiff’s favor.

5. Third, Magdalena Bauza’s time from January 1, 2014 through December 31, 2015 was recorded in elapsed or “real-time” expressed in hours and minutes, not in decimals reflecting six (6) minute billing increments or other fractions. To enable consistent analysis and totals, Bauza’s entries were converted to six minute billing entries. So, an entry showing a duration of 6:42 (six hours and forty-two minutes) would be converted to 6.70 hours (six hours and forty-two minutes). This was apparent from the Bauza entries listed in the Audit and in Exhibit A and Exhibit A-1 and A-2 submitted by the City at Docket Nos. 600-2,600-3,600-4. This was also mentioned in the City’s Memorandum of Law in Opposition to the Plaintiff’s Fee Application, at page 2, n. 5 (the time entered by Magdalena Bauza was converted to decimal format where it was in purported ‘elapsed time’ format (hours:minutes:seconds).”

6. Fourth, Smith identified one actual error in the materials that ASI prepared in connection with the Motion for Reconsideration, but not the Audit. That supplemental submission was prepared on an expedited basis on a matter on which ASI is no longer actively

engaged, and unfortunately contained unintentional double-counting of time relating to the Purpi deposition in both the General Deposition Time and Specific Deposition Time.

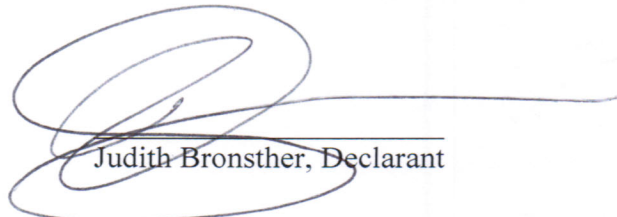
7. Our review of the recent submission and related Audit materials revealed other minor discrepancies – not identified by Smith – from the original analysis reflected in the Audit. These errors have been corrected and result in the total deposition time matching the original calculations reflected in the Audit almost exactly, as follows: Specific Deposition Time: 1,106.31 hours (Exhibit B); General Deposition Time: 316.40 hours (Exhibit C). These corrected calculations and these totals are stated in the attached Exhibit B for Specific Deposition Time and Exhibit C for General Deposition Time. Entries that have been changed or added in the process of this review are highlighted in the Exhibits. Entries that have been removed from the prior submission are listed on Exhibit D. The net change resulting from these additions and deletions is .30 hours (18 minutes).

8. ASI's review of the original deposition calculations in the Audit revealed additional entries that were not categorized as deposition time in the Audit, but which should have been. That time totals 33.30 hours and is reflected in Exhibit E. Therefore, the revised totals of deposition time exceed the totals set forth in the Audit by 33.0 hours.

9. No hours classified in the Audit or herein as deposition time were counted as time in any other discrete category such as summary judgment time or trial preparation time.

I declare under penalty of perjury, pursuant to the laws of the State of New York, that the foregoing is true and correct and that if called to do so, I could competently so testify.

Executed this 17th day of November, 2016 at New York, New York.


Judith Bronsther, Declarant