

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSE CASTRO, :

Plaintiff, :

-against- :

MEMORANDUM AND ORDER

COVENANT AVIATION SECURITY, LLC, :

12 Civ. 3037 (PAC) (KNF)

Defendant. :

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KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

Before the Court are the plaintiff’s motions to sanction the defendant. In his motion for sanctions filed on November 8, 2012 (Docket Entry No. 39), the plaintiff seeks to sanction the defendant “for attempting to mislead the court and I [would] like the defendant to pay for all my legal expans[es] with Prepay Legal services and other cost of making copies, faxes, postage, certified cost and time and stress and hardship.” According to the plaintiff, the defendant stated in its reply that, “Although the air bill included the correct address for plaintiff’s building, it did not include the apartment number,” but the defendant’s “proof of service” indicates the plaintiff’s full address, including the apartment number. In his motion for sanctions filed on December 4, 2012 (Docket Entry No. 41), the plaintiff contends that the defendant “continues to attempt to mislead the court . . . by stating they [sic] never received a true original copy of the complaint.” The plaintiff maintains that the defendant failed to comply with the Court’s order “by serving the plaintiff on time” and he seeks “[his] legal expans[es] with Prepay Legal services and other cost of making copies, faxes, postage, certified cost and time and stress and hardship.”

The Court finds that the defendant did not mislead the Court because in its letter, dated

October 25, 2012, it explained that its reply was served on the plaintiff by FedEx, but the FedEx air bill did not include the apartment number and that another copy of its reply was being sent to the plaintiff's correct address. The defendant's inclusion of the plaintiff's apartment number on its proof of service statement does not establish that the apartment number was included on the FedEx air bill. The plaintiff failed to specify with what order the defendant failed to comply or to show evidence that he was not served timely by the defendant with any papers. Furthermore, the plaintiff did not show any evidence that his "true original complaint" was served on the defendant. It appears that the plaintiff seeks to recover for the time he expended on, and the expenses he incurred in, this litigation. However, a plaintiff proceeding pro se is not entitled to attorney's fees. See Hawkins v. 1115 Legal Serv. Care, 163 F.3d 684, 694 (2d Cir. 1998). Moreover, the plaintiff does not make citation to any authority that would allow him to recover costs at this stage of litigation, and the Court finds none.

For the foregoing reasons, the plaintiff's motions for sanctions, Docket Entry Nos. 39 and 41, are denied.

Dated: New York, New York
May 7, 2013

SO ORDERED:



KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

Copy mailed to:

Jose Castro