

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SANG LAN,

Plaintiff,

- against -

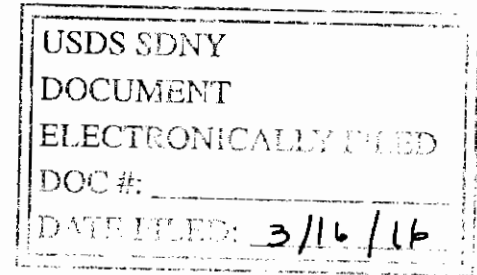
TIME WARNER, INC., KAO-SUNG LIU
A/K/A K.S. LIU, GINA HUI-HUNG LIU
A/K/A HUI-HUNG SIE A/K/A GINA LIU,
Individually and as Trustees or
Managers of Goodwill for Sang Lan
Fund, HUGH HU MO, DOES 1-30,
Unknown Defendants, Jointly and
Severally,

Defendants.

JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

11 Civ. 2870 (AT) (JCF)

MEMORANDUM
AND ORDER



Counsel for plaintiff Sang Lan has submitted a letter application (Letter of John V. Golaszewski dated March 10, 2016 ("Golaszewski Letter")) challenging my assessment of attorneys' fees and costs against the plaintiff for her failure to attend her deposition (Memorandum and Order dated May 4, 2015 ("Fee Assessment Order")). Specifically, the plaintiff argues that, while my order indicated that I would compensate defendants' counsel for only thirty percent of the time they spent in deposition preparation (Fee Assessment Order at 3), I failed to implement this reduction in calculating the fee award. (Golaszewski Letter at 1-2).

The plaintiff never sought reconsideration of the Fee

Assessment Order, and the time to do so is long past. Nevertheless, I will construe the application as a motion pursuant to Rule 60(b)(1) of the Federal Rules of Civil Procedure for relief from an order on grounds of mistake or inadvertence.

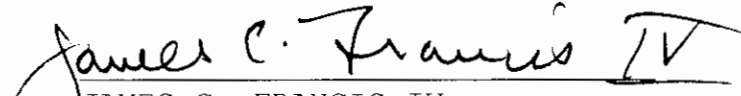
The calculation of fees in the Fee Assessment Order is correct. This is evident on the face of the order. The chart setting forth the calculations includes a column headed "Reason for Any Reduction," and one category of reductions consists of "time spent in substantive preparation for the deposition." (Fee Assessment Order at 10-11 & n.2). Thus, the time credited in these entries represents thirty percent of the time recorded by defendants' counsel.

Any doubt is removed by comparing the chart to the original time records submitted by defendants' counsel. To take one example, Hugh M. Mo, one of the defendants' attorneys, sought compensation for 8.0 hours of work performed on October 5, 2014. (Time Records, attached as Exh. D to Affidavit of Hugh M. Mo dated Feb. 17, 2015, at 2). However, the Fee Assessment Order only awards him fees for 2.4 hours of work on that date: thirty percent of the time requested. (Fee Assessment Order at 11). This is consistent with the formula that the plaintiff contends was misapplied.

Accordingly, the plaintiff's application is denied, and she

shall pay to defendants the sanctions awarded in the Fee Assessment Order -- \$21,032.78 -- within two weeks of the date of this order.

SO ORDERED.


JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
March 16, 2016

Copies transmitted this date:

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