UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v. **Case No. 8:20-cv-325-MSS-MRM**

BRIAN DAVISON, et al.,

Defendants.
_____/

DEFENDANT BRIAN DAVISON'S OBJECTIONS TO REPORT AND RECOMMENDATION ON MOTION TO MODIFY ASSET FREEZE AND NOTICE OF CHARGING LIEN

Defendant Brian Davison, pursuant to 28 U.S.C. § 636, files these objections to the Magistrate Judge's Report and Recommendation granting in part and denying in part the SEC's Motion to Modify Asset Freeze and enforcing Moses & Singer's Notice of Charging Lien. (Doc. 860). The Report and Recommendation contains various factual and legal errors that require the Court to reject the Report and Recommendation entirely. As a result, Davison respectfully asks that the Court sustain these objections and deny Moses & Singer's charging lien in whole or in part. Alternatively, Davison respectfully asks that the Court set an evidentiary hearing on Moses & Singer's charging lien.

Background

On December 23, 2022, the SEC filed a proposed Agreed Order Extending and Modifying Asset Freeze. (Doc. 746). Most relevant for purposes of this objection, the Agreed Order would have unfrozen Davison's funds in a Bank of America account and directed Bank of America to mail a check for the proceeds of that account made payable to Brian Davison, to Davison's counsel, Stanley T. Padgett, Padgett Law, P.A., 201 E. Kennedy Blvd., Ste. 600, Tampa, FL 33602, and close the account. (Doc. 746-1 at 2).

Moses & Singer, one of the law firms that represent Davison, objected to the Agreed Order and filed a Notice of Charging Lien. (Docs. 754, 755). In its notice, Moses & Singer argues that Davison agreed to pay unpaid attorney's fees and expenses to Moses & Singer out of "his assets that were restrained related to this action once those funds were released." (Doc. 755 at ¶ 2). According to Moses & Singer, Davison owes Moses & Singer $571,208.08 plus interest under the terms of an engagement letter. (*Id.* at ¶ 5). Moses & Singer argues that a charging lien "is appropriate and necessary in order to protect such fees and costs until such time as said fees and costs are paid to Moses & Singer LLP." (*Id.* at ¶ 6). Moses & Singer attached to its Notice of Charging Lien a November 5, 2020 letter from Moses & Singer to Davison about unpaid fees and expenses. (Doc. 755-1).

Davison objected to Moses & Singer's charging lien and requested an evidentiary hearing on the matter. (Doc. 765). Moses & Singer responded to Davison's objection. (Doc. 794).

After entering an order setting an evidentiary hearing and imposing deadlines for exhibits and witness lists (Doc. 786), the Magistrate Judge entered an order *sua sponte* requesting further briefing on specific issues: "whether the Court may evaluate the reasonableness of the attorney's fees associated with the Notice of Charging Lien"; "whether the Court would impliedly adjudicate the reasonableness of the fees if it recognized the validity of the charging lien"; and "[which] state's law governs both (1) the validity of the charging lien and (2) the applicability of the arbitration provision in the parties' engagement agreement." (Doc. 821 at 3–4).

Davison, the SEC, and Moses & Singer each filed the Magistrate Judge's requested supplemental briefing. (Docs. 848, 848, 859). Without holding Davison's requested evidentiary hearing, which the Magistrate Judge had set along with pre-hearing deadlines, the Magistrate Judge issued a Report and Recommendation granting in part and denying in part the SEC's Motion to Modify Asset Freeze and enforcing Moses & Singer's Notice of Charging Lien. (Doc. 860).

Davison now objects to the Report and Recommendation.

Legal Standard

A party objecting to a magistrate judge's report and recommendation must do so within fourteen days after receiving a copy of the report. 28 U.S.C. § 636(b)(1)(C). The district court reviews de novo those portions of a Report and Recommendation to which a party objects. *Id.*; *see also Harman v. Standard Ins. Co.*, 564 F. Supp. 3d 1187, 1189 (M.D. Fla. 2021). The district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." §

636(b)(1)(C). "The [district] judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." *Id.*

Mr. Davison objects to and seeks de novo review of multiple portions of the Magistrate Judge's Report and Recommendation.

Objections

1. The Magistrate Judge based the Report and Recommendation on the wrong settlement.

In the "Background" section of the Report and Recommendation, the Magistrate Judge states the following:

> On December 23, 2022, Plaintiff filed the Motion to Modify Asset Freeze with a proposed order, "in order to provide a release of funds to [Defendant] Davison agreed to under the settlement, and to extent all other portions of the asset freeze pending further Order of this Court." (Doc. 746 at 1). The reference to settlement pertains to the settlement between the Receiver, the Investor Plaintiffs in *Richard Gleinn and Phyliss Gleinn, et al. v. Paul Wassgren, et al.*, Case No. 8:20-cv-01677-MSS-CPT, and former lawyers, managers, and sales agents of EquiAlt LLC. (*See* Doc. 760).[1]

The Magistrate Judge clearly erred in its finding about the relevant settlement. The relevant settlement at issue is the settlement between the SEC and Davison. *See* (Docs. 353, 354, 355). As a result of this clearly erroneous finding, this Court should set aside that portion of the Report and Recommendation basing its decision on the wrong settlement.

[1] (Doc. 860 at 2) (emphasis added).

2. Exhibit A to the Charging Lien is not a valid agreement or contract under Florida law.

Throughout the Report and Recommendation, the Magistrate Judge refers to a November 5, 2020 letter from Moses & Singer to Brian Davison as a "Reaffirmation Agreement." (Doc. 860 at 9). In doing so, the Report and Recommendation implicitly concludes that the November 5, 2020 letter is a valid agreement or contract under Florida law. No party submitted evidence establishing the letter's validity as a contract because no such evidence exists.

Proving that the November 5, 2020 letter is a valid agreement or contract requires Moses & Singer to produce evidence showing "offer, acceptance, consideration and sufficient specification of essential terms." *Rauch, Weaver, Norfleet, Kurtz & Co. Inc. v. AJP Pine Island Warehouses Inc.*, 313 So. 3d 625, 630 (Fla. 4th DCA 2021). Moses & Singer put forth no argument or evidence sufficient to satisfy the elements of a valid contract or agreement. Further, Davison was never given an opportunity to disprove any evidence from Moses & Singer at an evidentiary hearing. The Report and Recommendation instead concluded that a valid contract or agreement existed without the benefit of evidence or argument from the parties.

What's more, a closer examination of the November 5, 2020 letter shows that it is not a valid contract or agreement. Instead, the letter is better characterized as an "agreement to agree"—which is not a valid contract. *See ABC Liquors Inc. v. Centimark Corp.*, 967 So. 2d 1053, 1056 (Fla 5th DCA 2007) ("[A]n 'agreement to agree' is unenforceable as a matter of law."). The November 5, 2020 letter contains no

definitive language stating that Davison will pay the "remaining unpaid balance [of] $746,208.08." (Doc. 795-2). Rather, the letter states:

> [W]e would like to document a security interest or interests in your assets that would only become effective if and when the SEC injunction is lifted. We also would like to arrange for your watch collection to be held in safe-keeping pending an SEC settlement. **If we can document these arrangements**, we would be willing to continue working toward the settlement and to negotiate payment terms for our bills taking into account how onerous or lenient the SEC settlement ultimately is.

Id. (emphasis added). Moses & Singer offered no evidence that any such arrangement was ever reached. What the Report and Recommendation characterized as a "Reaffirmation Agreement" was only an unenforceable agreement to agree.

Therefore, the Court should reject Report and Recommendation's implicit conclusion that the November 5, 2020 letter constitutes a valid contract.

3. Exhibit A to the Charging Lien would not have been admitted at an evidentiary hearing.

The Federal Rules of Evidence apply to proceedings in a civil action, including proceedings before magistrate judges. Fed. R. Evid. 101(a) & 1011(a)–(b). In an evidentiary hearing on Davison's objection to Moses & Singer's charging lien, Moses & Singer would have had to overcome an objection based on lack of authentication (Rule 901) and attempt to establish an exception to hearsay (Rule 803). But, as things stand, Moses & Singer offered no evidence sufficient to authenticate the November 5, 2020 letter or overcome a hearsay objection. As a result, the Court should reject the Report and Recommendation's reliance on evidence that would fail to satisfy the Federal Rules of Evidence at an evidentiary hearing.

4. The Report and Recommendation does not address the inherent conflict of interest in Moses & Singer filing a charging lien against Mr. Davison while continuing to represent him.

In his supplemental brief, Davison raised the issue of the inherent conflict between Moses & Singer filing a charging lien against Davison while continuing to represent him: "Moses & Singer has not explained how it can be counsel of record for Davison in this case and take a position so clearly contrary to his best interests." (Doc. 849 at 1). Moses & Singer failed to respond to that issue in its supplemental brief. *See* (Doc. 859). In failing to respond to the issue Davison raised, Moses & Singer conceded the inherent conflict between pursing a charging lien while continuing to represent Davison. *See Jones v. Bank of Am. N.A.*, 564 F. App'x 432, 434 (11th Cir. 2014) ("[W]hen a party fails to respond to an argument or otherwise address a claim, the Court deems such argument or claim abandoned.") (citation omitted).

Despite Moses & Singer's concession on the inherent conflict between its charging lien and its continued representation of Davison, the Magistrate Judge never addressed that issue in the Report and Recommendation. Nor did the Magistrate Judge ever discuss how that conflict of interest could affect the Receivership. As a result, the Court should reject the Report and Recommendation for its failure to address the inherent conflict of interest in Moses & Singer pursuing its charging lien while continuing to represent Davison.

5. Davison never had reason or opportunity to address waiver before the Report and Recommendation.

No party raised the issue of Davison's alleged waiver of the ability to object to the amount of the fees sought pursuant to the terms of the Engagement Letter prior to the Report and Recommendation. Nor did the Magistrate Judge ever raise the issue of waiver in its interim orders. (Docs. 786, 821). As a result, Davison had no opportunity or reason to brief the issue of waiver (or offer evidence of non-waiver) before the Magistrate Judge issued the Report and Recommendation.

Despite the lack of briefing from Davison on the waiver issue, the Magistrate Judge concluded that Davison waived any objection to the reasonableness of Moses & Singer's fees. (Doc. 860 at 12–13). Ruling on an issue without the benefit of argument or evidence from the party against whom the Magistrate Judge ruled on an issue raises due process concerns. *See Nelson v. Adams USA Inc.*, 529 U.S. 460, 466 (2000) ("This opportunity to respond, fundamental to due process, is the echo of the opportunity to respond to original pleadings secured by Rule 12."); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) ("The fundamental requisite of due process of law is the opportunity to be heard.").

The due-process violation is amplified by the fact that Davison has evidence he could have introduced at an evidentiary hearing disputing Moses & Singer's claim of waiver—evidence he had no reason or occasion to submit before receiving the Report and Recommendation. What's more, Davison's submission of evidence disproving waiver would render *Willis* (which the Magistrate Judge relied on in finding waiver)

inapplicable. *See Willis v. Nova Cas. Co.*, No. 4:10–cv–10041-KMM, 2021 WL 4451368, at *9 (S.D. Fla. Sept. 29, 2021) (finding that client waived objection to reasonableness of attorney's fees); *see also* (Doc. 860 at 12–13) (citing *Willis*). The Court should reject the Magistrate Judge's conclusions on the issue of waiver and allow Davison to submit evidence at an evidentiary hearing on the issue of waiver of his right to object to the amount of fees charged.

6. The Magistrate Judge made other findings based on evidence Moses & Singer submitted without accepting evidence from Davison at an evidentiary hearing.

In the Report and Recommendation, the Magistrate Judge made findings based on evidence that Moses & Singer submitted. For example, the Magistrate Judge found that Davison agreed to an unpaid balance with Moses & Singer: "In the Reaffirmation Agreement, Defendant Davison agreed that he had an unpaid balance of $746,208.08 (from a total of $862,908.08) to Moses & Singer LLP." *See* (Doc. 860 at 11). In making that finding, the Magistrate Judge relied on evidence Moses & Singer submitted. *See id.* (citing Doc. 795-2). But the Magistrate Judge made that factual finding based on one side's submission of the evidence without having an evidentiary hearing during which Davison could have presented evidence to dispute Moses & Singer's evidence. Therefore, this Court should set aside the Magistrate Judge's factual findings made without the benefit of evidence from all parties.

7. Material disputes of fact exist for the requirements needed for a valid charging lien under Florida law.

The Report and Recommendation finds that "there is no dispute about the Engagement Letter, the Reaffirmation Agreement, or the fact that Defendant Davison has already paid $291,700." (Doc. 860 at 12). That finding is clearly erroneous because if Davison had the opportunity and reason to submit evidence on whether he waived any dispute to the reasonableness of Moses & Singer's fees, he would have showed that material issues of fact do exist on whether the "Reaffirmation Agreement" is valid.

In addition, the Report and Recommendation based its conclusion about a lack of material issue on Davison's witness list (which he submitted before the Magistrate Judge's order asking for supplemental briefing and before the Report and Recommendation raised the waiver issue) but fails to address Moses & Singer's failure to file any witness or exhibit list. *See* (Doc. 849 at 4) ("To date, Moses & Singer has not provided a witness or exhibit list and should be precluded from now doing so.").

In fact, Moses & Singer's failure to file an exhibit or witness list shows that it has no evidence to support the reasonableness of its attorney's fees. *See Hagdasz v. Magic Burgers LLC*, 805 F. App'x 884, 887 n.6 (11th Cir. 2020) ("Having failed to submit a list of witnesses or exhibits before trial, Magic Burgers was barred by local rules for presenting evidence in either form at trial."). Thus, the Court should reject the portions of the Report and Recommendation concluding that no dispute exists about "the Engagement Letter, the Reaffirmation Agreement, or the fact that Defendant Davison has already paid $291,700."

8. The Report and Recommendation relied on nonbinding caselaw that neither party cited nor discussed.

The Report and Recommendation relied on caselaw no party cited or discussed in any briefing. *See, e.g.*, (Doc. 860 at 11) (citing *Grunow v. Nova Cas. Co.*, No. 4:10–CV–10041–KMM/Becerra, 2021 WL 4976531 (S.D. Fla. Aug. 13, 2021). Generally, courts have no obligation to research and construct legal arguments for a party. *See Anderson v. Catholic Bishop of Chicago*, 759 F.3d 645, 649–50 (7th Cir. 2014) ("Neither the district court nor this court are obligated to research and construct legal arguments for parties, especially when they are represented by counsel.") (citation omitted). If the Magistrate Judge uncovered an applicable case the parties failed to cite, the parties should have had an opportunity to address the case in supplemental briefing or during oral argument at an evidentiary hearing. The Court should reject those portions of the Report and Recommendation based on caselaw the parties did not address.

9. The Report and Recommendation erred in relying on *Pandisc*.

The Report and Recommendation concluded that the Court lacked subject matter jurisdiction to adjudicate Davison and Moses & Singer's fee dispute. (Doc. 860 at 13). In arriving at this conclusion, the Magistrate Judge relied on a footnote from *Pandisc Music Corp. v. 321 Music LLC*, No. 09–20505–CIV, 2010 WL 1531479, at *1 n.1 (S.D. Fla. Apr. 16, 2010). But closer examination shows that reliance on *Pandisc* is incongruent with other portions of the Report and Recommendation.

The court in *Pandisc* concluded that it lacked subject matter jurisdiction over a fees dispute because the record was not developed enough on underlying issues:

> The record here is far too speculative for the Court to begin adjudicating Counsel's charging lien without resolution of the underlying issues; namely, whether there is an enforceable agreement among the Intervenors and other parties to that agreement that requires payment of a fixed tangible sum to the Intervenors, or whether the claims against such parties by the Intervenors remain to be liquidated through further proceedings in the case.[2]

In contrast to *Pandisc*, the Magistrate Judge here found that enough evidence existed to decide Davison's objection to Moses & Singer's charging lien. Thus, the Report and Recommendation contains inconsistent conclusions: (1) the Magistrate Judge had enough evidence—foregoing an evidentiary hearing—to decide Davison's objection to Moses & Singer's charging lien while also (2) concluding that the Court lacked subject matter jurisdiction to adjudicate Davison and Moses & Singer's fee dispute by relying on *Pandisc* where the court lacked subject matter jurisdiction because of an undeveloped record. The Court should reject the portions of the Report and Recommendation relying on *Pandisc* to conclude that the Court lacks subject matter jurisdiction to adjudicate Davison and Moses & Singer's fee dispute.

10. The Report and Recommendation contains inconsistent conclusions with respect to the interest amount.

In the Report and Recommendation, the Magistrate Judge recognizes that a dispute exists over the amount of Moses & Singer's attorney's fees. (Doc. 860 at 9) ("Defendant Davison's objection to the reasonableness of the fees sought by Moses & Singer LLP demonstrates a dispute as to the amount of fees."). The Magistrate Judge proceeded to conclude that the Court lacks subject matter jurisdiction to adjudicate

[2] *Pandisc*, 2010 WL 1531479, at *2.

any fee dispute between Davison and Moses & Singer. (*Id.* at 13). So, under the Report and Recommendation's reasoning, the Magistrate Judge could make no finding on what the principal amount of any fees award would be for Moses & Singer.

Despite a lack of finality on the principal amount of any possible fees award, the Report and Recommendation—without any briefing or evidence from the parties on the issue—concluded that Moses & Singer is entitled to interest on an undetermined principal amount of a potential judgment:

> No party raises the issue of whether Moses & Singer LLP is entitled to interest on its charging lien, despite the Notice of Charing Lien requesting interest. Prejudgment interest "is allowed only on liquidated claims." "A claim is liquidated when it involves a sum certain, notwithstanding any bona fide dispute as to the amount owed." The Undersigned finds that the charging lien amount is liquidated because it involves the amount of certain fees due under the Engagement Letter and Reaffirmation Agreement. Thus, the Undersigned finds that Moses & Singer LLP is entitled to interest as of the Final Judgment, the result of Moses & Singer LL's efforts to settle the matter.[3]

The Report and Recommendation's conclusion on interest is inconsistent because the Magistrate Judge recognizes (1) a dispute over the amount of attorney's fees while also (2) finding that the charging lien "involves the amount of certain [attorney's] fees." With the benefit of briefing and evidence, which would have been submitted at an evidentiary hearing, the Magistrate Judge would have learned that no amount of attorney's fees can "be computed except on conflicting evidence, inference and interpretations." *See Cioffe v. Morris*, 676 F.2d 539, 542–43 (11th Cir. 1982) (citation

[3] (Doc. 860 at 16) (citations omitted).

omitted). That evidence would establish that Moses & Singer's claim is unliquidated, precluding interest. *See id.* at 543 (citations omitted). Therefore, the Court should reject the portions of the Report and Recommendation concluding that Moses & Singer is entitled to interest.

11. The Report and Recommendation applied as binding an unpublished, nonbinding decision from the Eleventh Circuit.

In footnote 4 of the Report and Recommendation, the Magistrate Judge stated:

> [T]his Court is bound to apply *Warrington* as a decision from the Eleventh Circuit that is post-*Morgan*. That decision **mandates** district courts to look to the totality of the circumstances on whether a party has "substantially invoked the litigation machinery prior to demanding arbitration."[4]

This language from the Report and Recommendation shows that the Magistrate Judge applied *Warrington* as binding precedent even thought *Warrington* is an unpublished Eleventh Circuit decision. The Eleventh Circuit has repeatedly warned district courts against applying unpublished decisions as precedent. Instead, the Eleventh Circuit requires district courts to separately decide whether an unpublished opinion is persuasive and whether the unpublished decision correctly analyzed the applicable law.

The Eleventh Circuit recently reiterated this approach in *McNamara v. Government Employees Insurance Company*, 30 F.4th 1055, 1060–61 (11th Cir. 2022):

> [W]e pause to reiterate an elemental point: While our unpublished opinions "may be cited as persuasive authority," they "are not considered binding precedent." We have said so again and again, but it bears repeating. Accordingly, a district court shouldn't simply cite to one of our unpublished opinions as the basis for its decision without separately

[4] (Doc. 860 at 14–15 n.4) (emphasis added) (citations omitted).

> determining that it is persuasive. Here, the district court did just that—it treated *Cawthorn* as binding authority and failed to determine whether that decision correctly analyzed Florida law.[5]

In this case, the Magistrate Judge committed the same error *McNamara* warns against: the Magistrate Judge treated *Warrington*—an unpublished decision—as binding authority and failed to determine whether that decision correctly applied the law governing compelling arbitration. As a result, the Court should follow *McNamara* and reject the portions of the Report and Recommendation applying *Warrington* as binding precedent.

12. The charging lien and potential arbitration over fees would disrupt the Receivership.

In his objection to the charging lien, Davison argued that Moses & Singer's charging lien would interfere with the administration of the Receivership. *See* (Doc. 765) (arguing that the charging lien violates the Court's order limiting attorney's fees). Similarly, in its supplemental brief to the Magistrate Judge's briefing order, the SEC recognized that the charging lien, which would affect the distribution of funds in the Bank of America account, had practical effects in this case:

> [T]he dispute over the distribution of Bank of America account xxx8041 does have practical implications in this case. Should the Court enter the proposed Agreed Order Extending and Modifying Asset Freeze, the burden would then shift to Bank of America to determine whether they would distribute the monies to Davison as directed in the Order, hold the monies until the Charging Lien issue is resolved (so as to avoid liability should the charging lien be found to be appropriate), or interplead the funds with the Court.[6]

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[5] *McNamara*, 30 F.4th at 1060–61.

[6] (Doc. 848 at 6).

Despite Davison and the SEC pointing out the practical effects of Moses & Singer's charging lien on the Receivership, the Magistrate Judge declined to address the practical effects Davison and the SEC put forth and concluded that "an arbitration that takes place in New York should have no bearing on the Receiver or the administration of the Receivership Estate." (Doc. 860 at 15–16).[7] The Magistrate Judge's finding—made without any evidence put forth by the parties—is clearly erroneous on multiple grounds.

To begin, allowing Moses & Singer to initiate arbitration to recover attorney's fees clearly in excess of the maximum hourly rate set by the Court would undermine the Court's administration of the Receivership. *See SEC v. Vescor Cap. Corp.*, 599 F.3d 1189, 1194 (10th Cir. 2010) ("When a district court creates a receivership, its focus is 'to safeguard the assets, administer the property as suitable, and to assist the district court in achieving a final, equitable distribution of the assets if necessary.'") (citation omitted); *SEC v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986) ("The basis for broad deference to the district court's supervisory role in equity receiverships arises out of the fact that most receiverships involve multiple parties and complex transactions."); *Zacarias v. Stanford Int'l Bank Ltd.*, 945 F.3d 883, 903 (5th Cir. 2019) ("[The exercises of jurisdiction over a receivership] permits the barring of such proceedings where they would undermine the receivership's operation.").

[7] The Magistrate Judge's use of "should" itself contemplates the possibility that arbitration might affect the Receivership.

Further, the Magistrate Judge's finding that arbitration "should" have no effect on the Receivership fails to appreciate how far along this Receivership is and how arbitration would prolong the Receivership. In this case, the Receiver's deadline for filing notices of claims has passed. The Receiver is currently in the process of reviewing the notice of claims. If arbitration is initiated, a final decision on the issue might not be issued for at least a year.[8] That timeframe fails to account for any challenge to a possible arbitration award—a challenge that would presumably be filed in New York. And throughout this entire time, the Receivership in this case would remain open, expending judicial and litigation time and expense.

Davison could have introduced evidence at an evidentiary hearing showing how arbitration would have an effect on the Receivership. But even without that evidence, Moses & Singer's charging lien clearly would have practical implications on the Receivership. As a result, the Court should set aside the portions of the Report and Recommendation concluding that the charging lien "should" not affect the Receivership.

Conclusion

The Report and Recommendation's factual and legal errors require the Court to reject the Report and Recommendation entirely. Davison respectfully asks that the Court sustain these objections to the Report and Recommendation and enter an order

[8] The average time for an arbitration to resolve in 2011 to 2015 was 11.6 months. *Measuring the Costs of Delays in Dispute Resolution*, American Arbitration Association https://go.adr.org/impactsofdelay.html (last visited Apr. 3, 2023).

denying the charging lien in its entirety or, alternatively (a) requiring Moses & Singer to comply with the Court's Order (Doc. 54) as to hourly rates and limitations on the number of lawyers who can bill Davison; (b) finding that the sum already paid by Davison equals or exceeds a reasonable fee for the services provided; and (c) requiring Moses & Singer to refund Davison any amount paid in excess of reasonable fees. Alternatively, Davison requests an evidentiary hearing and the ability to take discovery from Moses & Singer related to the amount of reasonable attorney's fees.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed via the Court's CM/ECF system on this 4th day of April 2023.

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