

Judge slashes Munger's attorney fees

By Jean Yung

LOS ANGELES - A Superior Court judge laid into law firm Stroock & Stroock & Lavan LLP for the "excessive" number of hours its attorneys at Munger, Tolles & Olson LLP spent filing an anti-SLAPP motion against film financier David Bergstein, ultimately awarding roughly a quarter of the attorney fees Stroock and Munger asked for.

Judge Michael P. Linfield of Dept. 10 granted fees of \$95,026 to Stroock and Munger on their request for \$348,427.

Munger spent 1,210 hours at \$445 to \$920 an hour on anti-SLAPP motions for two related cases, Bergstein v. Stroock & Stroock and Library Asset Acquisition Co. v. Stroock & Stroock, while its co-counsels spent a third of that time doing similar work with lower billing rates, according to court documents made available Wednesday. Stroock's motions are identical for the two cases.

"The court would assume that attorneys who are charging more per hour are more experienced and hence would need to expend fewer hours on a motion than would less experienced - and less well-paid - attorneys," Linfield wrote. "That assumption is turned on its head in this case for reasons that the court finds inexplicable."

Linfield said he found Munger's rates to be reasonable.

Stroock couldn't be reached for comment on the ruling. It argued earlier in court filings that the number of hours Munger spent working on the case is reasonable because the firm undertook significant legal research into Bergstein's myriad legal actions. Munger declined to comment on the ruling.

After the Hollywood financier won a \$50 million legal malpractice verdict against his longtime counsel, Susan Tregub, he sued Stroock; Levene, Neale, Bender, Yoo & Brill LLP; and attorney Sanjay Sharma for another \$100 million. Bergstein accused Tregub of sharing privileged information and colluding with creditors to force his companies into bankruptcy. Stroock, Levene and Sharma represented the creditors.

Linfield in September struck down Bergstein's suit against Stroock, Levene and Sharma under California's anti-SLAPP statute, ruling that the essence of his complaint related to the attorneys' filing litigation on behalf of their clients - an action protected by the First Amendment. Bergstein is appealing the ruling.

According to court filings, Munger's team comprised partners Brad D. Brian, Michael R. Doyen, Lisa J. Demsky and Manuel F. Cachan and associates Kyle A. Casazza and Christopher M. Lynch. The time spent by Munger's two associates on the case accounted for about two-thirds of the hours the firm billed. However, their rates were still above that of Levene's representative, Parker Shumaker Mills LLP, whose senior partners billed at insurer rates of \$300 to \$400 an hour.

Linfield concluded that Stroock should have reasonably spent the same amount of time as its co-defendants did on the anti-SLAPP motions - 290 hours - and reduced the award of attorney fees accordingly. He gave Parker Shumaker \$55,197 and Sharma's attorneys at Glaser Weil Fink Jacobs Howard Avchen & Shapiro LLP \$158,386.

Linfield went on to point out certain "anomalies" in Stroock's request for attorney fees that raised questions of reasonableness.

He noted that Stroock "takes pains to alert the court to the fact that it has generously agreed to give up 1 cent (\$0.01) by rounding-down its request for attorneys fees" - not once, but twice.

Assuming Munger partner Demsky spent 5 seconds writing each footnote at her hourly rate of \$725, Linfield calculated that Stroock incurred \$2 to alert the court that it's willing to forgo 1 cent in attorney fees.

At a hearing on the attorney fees, Linfield told lawyers on all sides that they

demonstrated a high caliber of work on this case. However, he also noted significant similarities between the three parties' anti-SLAPP motions. If counsel are sharing work, there should be a "proportionate reduction in the billable hours spent on a particular motion," Linfield wrote. "The court sees no indication of such reductions."

The court did find the \$920 billing rate of Brad D. Brian, Munger's senior most attorney on the case, to be reasonable. Brian spent just 11 hours on the case.

"There are many who would argue that an hourly billing rate approaching \$1,000 per hour is per se outrageous; this court would be hard-pressed to logically argue against that proposition," he wrote. "On the other hand, reality sometimes has a way of trumping common-sense. Whether outrageous or not, in the Los Angeles legal community, attorney billing rates of \$1,000 per hour and above are no longer unheard of."

jean_yung@dailyjournal.com