

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ELEKTRA ENTERTAINMENT GROUP INC., et al. :  
  
Plaintiffs, : Case No. 06CV11520 (SCR)(MDF)  
  
-against- :  
  
MICHELLE SANTANGELO and :  
  
ROBERT SANTANGELO, JR., :  
  
Defendants. :  
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**DECLARATION OF RICHARD L. GABRIEL, ESQ. IN SUPPORT OF  
PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES AND  
COSTS IN CONNECTION WITH THE DEFAULT JUDGMENT  
AGAINST MICHELLE SANTANGELO**

I, RICHARD L. GABRIEL, ESQ., declare:

1. I am a partner in the law firm of Holme Roberts & Owen LLP. I serve as lead counsel for plaintiffs in the above-captioned case. I respectfully submit this declaration in support of Plaintiffs' Motion for Award of Attorneys' Fees and Costs in Connection with the Default Judgment Against Michelle Santangelo. I have personal knowledge of all facts set forth in this declaration except as where stated in information and belief. As to such facts, I believe them to be true.

2. Plaintiffs filed the instant lawsuit on November 1, 2006. After Michelle Santangelo failed to answer the Complaint as required by the Federal Rules of Civil Procedure, on December 20, 2006, plaintiffs filed their motion for default judgment.

3. On January 4, 2007, this Court entered a default judgment against Michelle Santangelo. Thereafter, on April 7, 2007, plaintiffs served a subpoena and subpoena duces

tecum on Michelle Santangelo, setting a debtor's exam for April 30, 2007 and requesting that Ms. Santangelo bring with her various requested documents. Just days before the examination was to have taken place, however, counsel for Ms. Santangelo, Jordan D. Glass, Esq., who had accepted service of the subpoena on behalf of Ms. Santangelo, indicated that his client would not appear for the examination, based on the fact that she would be seeking to vacate the default judgment. Plaintiffs subsequently moved to compel the debtor's examination, but the Court denied that motion, pending the status conference to be held on July 13, 2007.

4. On July 13, 2007, the parties attended the initial status and scheduling conference in this case. The Court noted that it preferred to resolve matters on the merits and not by default and vacated the default judgment against Ms. Santangelo.

5. At the conference, I stated that plaintiffs respected the Court's determination but noted that defendant had never sought a pre-motion conference regarding a motion to vacate the default, never filed any motion to vacate, and did not and could not show excusable neglect. I noted that plaintiffs had incurred fees and costs to obtain the default judgment and to pursue the debtor's exam, both of which were proper in the circumstances. I, thus, asserted that, under the circumstances, plaintiffs should be entitled to an award of fees and costs, and, on behalf of plaintiffs, I requested leave to file such a motion.

6. The Court observed that an award of reasonable attorneys' fees and costs might well be appropriate in this case and allowed plaintiffs to file such a request.

7. I am familiar with the attorneys' fees and costs incurred by my law firm in connection with plaintiffs' efforts to obtain a default judgment against defendant Michelle Santangelo and to prepare the subpoena and subpoena duces tecum in connection with a debtor's examination of Ms. Santangelo. Those fees are summarized in the chart set forth below. I

believe that all of the time that was expended was reasonable and appropriate. Nonetheless, I have intentionally not included all fees expended, to eliminate any concern of duplicative or unnecessary time charged:

Timekeeper	Summary Description	Hours	Rate	Total
RLGabriel (partner)	Review and revise draft subpoena and subpoena duces tecum	.50	\$375	\$187.50
KJCoggon (senior counsel)	Review and revise draft default judgment papers	.30	\$345	\$103.50
MJKelley (paralegal)	Assist in drafting default judgment papers.	.50	\$150	\$75
SHAag (paralegal)	Draft subpoena and subpoena duces tecum	.70	\$140	\$98
Library Staff	Perform military search to confirm lack of military duty by defendant	.30	\$105	\$31.50
SFriedman (paralegal)	Assist in preparation of default judgment papers	.50	\$35	\$17.50
TOTAL				\$513.00

8. In addition to the foregoing, in connection with the default judgment papers, we performed a military search, which we must do to allow us to state under oath that the defaulting defendant is not in active military service. The cost for this search, which was done through an online database, was \$30.65.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 18th day of July, 2007, at Denver, Colorado.

  
 RICHARD L. GABRIEL, ESQ.