

2016 NY Slip Op 50047(U)

YCA CORP., Appellant,

v.

PAUL GREENSPAN, Respondent.

2014-2260 NC.

Supreme Court, Appellate Term, Second Department.

Decided January 8, 2016.

PRESENT: IANNACCI, J.P., TOLBERT and GARGUILO, JJ.

Appeal, on the ground of inadequacy, from a judgment of the District Court of Nassau County, Fourth District (Joy M. Watson, J.), entered June 17, 2014. The judgment, after an inquest, awarded plaintiff the principal sum of \$2,300.

ORDERED that the judgment is modified by increasing the amount of the award in favor of plaintiff to the principal sum of \$2,943.19; as so modified, the judgment is affirmed, without costs.

Plaintiff commenced this commercial claims action to recover the balance due under a tax reduction representation agreement. On September 8, 2011, the parties entered into an agreement pursuant to which defendant authorized plaintiff to file a real property tax grievance for the 2013/2014 tax year for property located in Oyster Bay Cove, New York. Under the agreement, defendant agreed to pay plaintiff a fee "equal to 50% of the first year tax reduction that is applicable to my property, payable within 30 days of the notification of tax reduction." On August 14, 2013, after a Small Claims Assessment Review hearing, at which plaintiff appeared on defendant's behalf, the hearing officer found that there was an excessive assessment and reduced the assessed value of the property by \$528, or from \$5,128 to \$4,600. The reduction of the assessed value resulted in a reduction of defendant's 2013/2014 school taxes and 2014 general taxes, for a total tax year savings of \$5,886.38. Plaintiff's January 8, 2014 bill to defendant, for \$2,943.19, was based on one-half of defendant's total tax year savings as a result of the assessment reduction. Defendant failed to pay plaintiff the amount due, and plaintiff commenced this action. As defendant failed to answer or appear, an inquest was held, and, in a judgment entered June 17, 2014, plaintiff was awarded the principal sum of \$2,300. Plaintiff appeals on the ground of inadequacy.

Upon a review of the record, we conclude that substantial justice (UDCA 1804-A, 1807-A; see *Ross v Friedman*, 269 AD2d 584 120001; *Williams v Roper*, 269 AD2d 125 [20001]) requires that the award to plaintiff be increased. Plaintiff demonstrated that it had obtained a reduction in the assessed value of defendant's property resulting in a total tax year savings of \$5,886.38. Since the agreement provided that plaintiff's fee would be based upon "50% of the first year tax reduction," plaintiff was entitled to recover the principal sum of \$2,943.19.

Accordingly, the judgment is modified by increasing the amount of the award in favor of plaintiff to the principal sum of \$2,943.19.

Iannacci, J.P., Tolbert and Garguilo, JJ., concur.

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