



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ARXADA HOLDINGS NA INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 2024-0771-JTL
	)	
MICHAEL HARVEY, AARON HARVEY,	)	
PHIL HARVEY, CAPACITY CHEMICAL,	)	
LLC, and BLUETECH LABORATORIES,	)	
INC.	)	
	)	
Defendants.	)	

ORDER GRANTING APPLICATION FOR EXPENSES

1. The court held that Arxada Holdings NA, Inc. could recover its expenses (including attorneys' fees). Arxada moved to quantify the fee award. Arxada is entitled to \$8,958,693.29.

2. The court has discretion when determining an award. *Danenberg v. Fittracks, Inc.*, 58 A.3d 991, 995 (Del. Ch. 2012). Determining reasonableness does not require examining every time entry or disbursement. *Id.* It also does not involve the court judging independently whether counsel appropriately pursued and charged for a particular motion, line of argument, or other litigation tactic. *Id.* When assessing reasonableness, a court considers the factors identified in Delaware Rule of Professional Conduct 1.5(a). *Mahani v. EDIX Media Gp., Inc.*, 935 A.2d 242, 245 (Del. 2007).

3. After considering the relevant factors, the court finds that the plaintiffs' requested expenses (including attorney's fees) are reasonable. The factual record in

this case was complex and required a lot of work. The parties produced some 94,000 documents. They took thirty-one depositions. There was a motion to dismiss, a motion for preliminary injunction, two motions for contempt, and four motions in limine. After pre-trial briefing, the court held a three-and-a-half day trial. Post-trial briefing and argument followed. During this lengthy process, the defendants made the litigation more difficult than it needed to be by actively concealing their activities and spoliating evidence. After putting in the effort, Arxada achieved an excellent result.

4. The rates that Arxada's attorneys charged are reasonable for Court of Chancery litigators. The number of hours that that Arxada's attorneys is reasonable in light of the effort this case required.

5. The defendants argue that Arxada's counsel used too many partners, but sometimes a partner can perform a task more efficiently than an associate. The court will not second-guess staffing decisions absent an egregious problem. *See Weil v. VEREIT Operating P'ship, L.P.*, 2018 WL 834428, at *13 (Del. Ch. Feb. 13, 2018). The defendants have picked out some time entries where they believe matters should have been handled differently. How to perform those tasks was a judgment call for counsel. *See In re TransPerfect Global, Inc.*, 2021 WL 1711797, at *35 (Del. Ch. Apr. 30, 2021). The record does not reflect the type of chronic issues that could support a reduction. This is also a case where Arxada had an incentive to monitor expense as the case went along. "If a party cannot be certain that it will be able to shift expenses at the time the expenses are incurred, the prospect that the party will bear its own expenses provides sufficient incentive to monitor its counsel's work and ensure that

counsel does not engage in excessive or unnecessary efforts.” *Danenberg*, 58 A.3d at 997 (cleaned up). That was the case here, and it supports the reasonableness of the amounts incurred.

6. The defendants contend that Arxada should not recover for unsuccessful motions. A party cannot expect to win on everything. Litigating a case involves a number of intertwined decisions. Arxada is entitled to recover for the overall effort. *See Roma Landmark Theaters, LLC v. Cohen Exhibition Co. LLC*, 2021 WL 5174088, at *3 (Del. Ch. Nov. 8, 2021).

7. Much of the defendants’ opposition challenges items that would not be awarded as costs under Rule 54. Those amounts are recoverable as expenses, which has “a legally recognized broader definition than ‘costs.’” *TransPerfect*, 2021 WL 1711797, at *30; *see also In re Del. Pu. Schs. Litig.*, 317 A.3d 251, 259 n.1 (Del. Ch. 2024) (“expenses” is broader than the “restricted concept” of “costs,” and includes “any amounts paid out of pocket”).

8. The court has deducted \$80,000 as an estimate of the expenses attributable to the last day of trial.


Vice Chancellor Laster
March 13, 2026