

At IAS Part \_\_\_ of the Supreme Court of the State of New York, held in and for the County of Westchester, at the Courthouse thereof, located at 111 Dr. Martin Luther King, Jr. Blvd., White Plains, N.Y. on the 21 day of July, 2017.

PRESENT:

HON. JOAN B. LEFKOWITZ  
J.S.C.

-----X  
TERENCE O'CONNELL,

Plaintiff,

-against-

JORAM J. ARIS,

Defendant.

-----X

**ORDER TO  
SHOW CAUSE**

Index No.: 69292/2014

*Motion Seq. # 013*

SIRS:

Upon reading and filing the Affidavit of Terence O'Connell, sworn to on the 18<sup>th</sup> day of July, 2017; the affirmation of JONATHAN RICE, ESQ., dated the 19<sup>th</sup> of July, 2017, the exhibits attached thereto; and upon all papers and proceedings heretofore had herein between the parties,

LET, the defendant, his attorneys, agents, servants and employees or any one on their behalf show cause at IAS Part    of this Court, before the Hon. Justice

**HON. JOAN B. LEFKOWITZ**

\_\_\_\_\_, held in and for the County of Westchester, at 111 Martin Luther King Jr. Blvd., Room 1600 White Plains, N.Y. 10601 on the 18<sup>th</sup> day of August, 2017 at 9:30 o'clock a.m. in the forenoon of that day,

WHY an Order should not be made and entered herein granting the following relief:

1. For an increase of the damages to which plaintiff Terence O'Connell is entitled under his claims against the defendant Joram Aris for legal fees incurred remedying the misconduct of Joram Aris and defending against his ongoing improper behavior that all stemmed from and constituted ongoing misconduct for which damages are permitted to be awarded to plaintiff for the amount of his legal fees incurred in defending against and remedying defendant's misconduct.
2. Pursuant to the June 15, 2017 order of The Hon. Orazio Bellantoni during the trial of this action and the stipulation of counsel for the parties on that same date the issue of additional legal fees incurred by plaintiff Terence O'Connell beyond that which the court had permitted the jury to consider (amounts over and above the \$99,000 attributed to work completing the work of defendant Aris and handling related matters in the case of O'Connell v. O'Connell) was to be addressed and resolved by the court in a post-verdict motion if the jury returned a finding of entitlement to damages under Judiciary Law 487.
3. Based upon the June 15, 2017 stipulation between counsel; the order of this court; and the jury verdict finding the defendant Joram Aris culpable and liable to plaintiff for Judiciary Law 487 damages under both prongs of said statute, plaintiff is permitted to apply by motion for the following additional damages to increase the jury verdict on damages for defendant Aris' misconduct:
  - a. "legal fees" incurred by plaintiff prosecuting and defending the motions, actions and proceedings filed by defendant Joram Aris in all courts and actions and not just in the partition action in which defendant began his plethora of improper acts and practices all of which constitute misconduct and all of which were further acts of misconduct by defendant Joram Aris and were a continuation of his misconduct and abusive behavior that the jury found to be outrageous and reprehensible in their award of damages under Judiciary Law 487.
  - b. Plaintiff by his own testimony and by Jonathan Rice, Esq. presented testimony of legal fees incurred that constituted damages in the following amounts:
    - \$144,000 (rounded down) after discounts to client
    - \$15,000 for trial (for 2-3 day trial and preparation)
    - Total Legal Fees of \$159,000The court however, only allowed the jury to consider legal fees of \$99,000 testified to by plaintiff, as damages to the extent those legal fees were incurred only in completing the work defendant Aris was required to complete and defending motions in the O'Connell v. O'Connell case under index No. 552/2009.

Based on the June 15, 2017 stipulation of counsel and directive from the court to have these damages considered in the verdict.

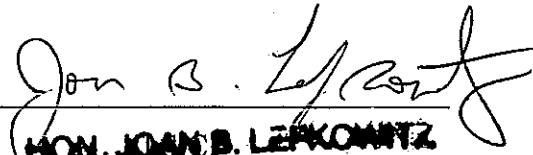
by motion, plaintiff now moves to have the court consider and award the following additional damages for legal fees on the misconduct claims in this case:

- a. \$60,000 of additional legal fees excluded by this court from consideration by the jury (\$159,000 minus \$99,000 = \$60,000)
  - b. \$15,000 as an additional legal fee for completing the trial and filing this motion given that the plaintiff has consented to this increase in legal fee for work in excess of the work contemplated and as such work was reasonable, necessary and still represents a substantial discount from plaintiff's counsel's normal legal fees.
4. Upon award of the additional \$75,000 of legal fees required due to defendant Aris' misconduct in violation of Judiciary Law 487 thereby directing that the same be trebled consistent with the requirements of that statute ;
  5. Directing that the clerk of the court amend the verdict of the jury in this regard to increase the amount of damages for misconduct and violation of Judiciary Law 487 from \$100,000 to \$174,000 and thereafter trebling the same to \$525,000 ;
  6. Directing the clerk of the court to enter judgment in the amount of \$654,000 consistent with the verdict of the jury and the order of this court and such additional taxable costs and any interest thereon; and
  7. Directing a discovery conference on the issue of discovery required for conduct of the punitive damages trial required herein based on the jury verdict awarding punitive damages.
  8. Removing the "disposed" marking on this case in the efile system of the court as discovery and trial is still required on punitive damages issues as per the verdict of the jury in this case (See Exhibit G)
  9. For such other and further relief as is just, proper and equitable.

SUFFICIENT CAUSE APPEARING THEREFOR. LET service of a copy of this Order

service via the ECF filing system before the 26<sup>th</sup> day of July, 2017, be deemed good and sufficient service.

ENTER:

  
HON. JOAN B. LEPKOWITZ