

AMERICAN HEALTH LAWYERS ASSOCIATION
ARBITRATION

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DAVID SHUSTERMAN, M.D.,

Claimant,

Reference No. A-112210-881

-against-

Final Award
Ruling

YC M.D., P.C. D/B/A NEW YORK
UROLOGIC INSTITUTE,

December 6, 2016

Respondent.
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In this matter, the undersigned issued a Preliminary Arbitration Ruling ("Ruling") dated October 21, 2016.

This ruling required the Respondent to submit information concerning a possible award of attorneys' fees, and afforded Claimant an ability to respond to such submission.

The Respondent did so and also moved for reconsideration of the Ruling in so far as it did not require the Claimant to pay over monies earned by him from NYU Columbus in 2009.

The Respondent provided evidence that it incurred attorneys' fees of \$386,265.73 and arbitration costs of \$47,915.79.

The Claimant has not contested the reasonableness of these fees and costs, except to claim that the small amount awarded in damages doesn't justify the award of fees in excess of the amount awarded in damages.

Claimant has also moved to reconsider the Ruling in so far as it held that Respondent was the prevailing party in this action.

No new arguments have been made to explain why Claimant was not entitled to keep moonlighting earnings. Therefore, the Respondent's Motion to Reconsider is denied.

Claimant claims that because the Ruling held that the failure to make an offer of stock was a breach of the agreement, Claimant was the

prevailing party. However, Claimant has not cited authority that nominal damages can be awarded where an agreement to agree is too vague to be enforceable. Further, even if Claimant was entitled to \$1 in damages on the claims, that amount was more than offset by the amounts found to be due Respondent.

Therefore, Claimant's motion to reconsider is denied.

Claimant has not disputed the reasonableness of the fees and expenses claimed except to say that the amount awarded should not exceed the damages awarded. However, here the key is that Claimant was found to owe Respondent money rather than vice versa.

Therefore, the undersigned hereby awards damages to the Respondent in the amount of \$6,925.00 as set forth in the Ruling and for the reasons stated therein, plus attorneys' fees of \$386,265.73 plus costs of \$47,915.79 for a total of \$441,106.52.



Paul Knag
Arbitrator