SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

----------X

HYROS, INC.,

Plaintiff,

- v -

MARCUM, LLP,

Defendant.

INDEX NO. 653718/2023

MOTION DATE

MOTION SEQ. NO. 005

DECISION + ORDER ON MOTION

----------X

HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 005) 29, 30, 31, 32, 33, 34, 43, 55, 62, 63

were read on this motion to/for DISMISS.

In motion sequence number 005, defendant Marcum, LLP (Marcum) moves, pursuant to CPLR 3211 (a) (1) and (7), to dismiss the complaint.

Background

Unless indicated otherwise, the following facts are taken from the complaint, and for the purposes of this motion, are accepted as true.

Plaintiff Hyros, Inc. (Hyros) is in the business of tracking online advertising. (NYSCEF 33, Complaint ¶ 1.) Hyros and nonparty Banzai International, Inc. (Banzai) entered into an agreement, whereby Banzai agreed to acquire Hyros for $110 million.[1] (*Id*. ¶ 2.) In March 2023, Hyros retained Marcum, an accounting and auditing firm, to

[1] Banzai needed funding to acquire Hyros. Thus, Banzai agreed to "be acquired by [nonparty] 7GC, a special purpose acquisition company, or SPAC, for consideration totaling approximately $300 million, pursuant to an Agreement and Plan of Merger and Reorganization, dated December 8, 2022" (SPAC Transaction). (NYSCEF 33, Complaint ¶ 15.) The Hyros-Banzai acquisition was conditioned on the SPAC Transaction. (*Id*.)

perform an audit of its financial results for the years ending December 31, 2021 and 2022. (*Id*. ¶¶ 1, 23.) The audit was to be performed in accordance with generally accepted auditing standards (GAAS) and the standards promulgated by the Public Company Accounting Oversight Board (PCAOB) as set forth in the parties' February 23, 2023 audit engagement letter (Engagement Letter). (*Id*.; *see also* NYSCEF 31, Engagement Letter at 2[2].)

Hyros alleges that, prior to executing the Engagement Letter, the parties discussed the time frame of the audit. (*Id.* ¶ 24.) Marcum was aware that the transaction had to be consummated by December 28, 2023. (*Id*. ¶ 4.) Marcum assured Hyros that it could complete the audit within two months at the cost of approximately $300,000, a higher fee typically charged due to the expedited time frame. (*Id.* ¶ 24.) Hyros made two initial payments in March 2023 to Marcum totaling $50,000 and paid a total of $300,000 by May 30, 2023.[3] (*Id.* ¶ 27.)

On June 21, 2023, the United States Securities and Exchange Commission (SEC) issued a Cease and Desist Order, containing "allegations of 'systemic quality control failures and violations of audit standards by Marcum from at least 2020 . . . primarily in connection with audit work for [SPACs] . . . [but also] reflect[ing] deficiencies relevant to and impacting Marcum's entire public company audit practice.'" (*Id.* ¶ 30.) Based on multiple "wrongful practices detailed in the Cease and Desist Order, the SEC

[2] NYSCEF pagination.
[3] The Engagement Letter requires payment of the $50,000 retainer upon execution of engagement. (NYSCEF 31, Engagement Letter at 12.) Marcum was to issue invoices for remaining fees as work progressed. (*Id*.) Hyros alleges that Marcum issued invoices for $150,000 on April 19, 2023 and $100,000 on May 30, 2023, with the $50,000 deposit, totaling $300,000. (NYSCEF 33, Complaint ¶ 27.)

found that Marcum had violated Sections 4C(a)(2) of the Securities Exchange Act of 1934…, and Rule 102(e)(1)(ii) promulgated thereunder by the SEC, and well as Rule 2-02(b)(1) of Regulation S-X promulgated by the SEC." (*Id.* ¶ 36.) Marcum did not contest these allegations, but rather, consented to entry of the Cease and Desist Order, which resulted in censure, fines, remediation, and certain prohibitions. (*Id*.)

On June 29, 2023, Ken Harris, a Marcum Partner, sent an email to the CEOs of Hyros and Banzai stating

> "I will not be on the 7GC call tomorrow, nor will we be participating in any new calls today, as we have internal requirements to evaluate related to this audit. I think given that there are new significant items that were brought to our attention this week, as well as the unresolved matters, I would like to ensure management can communicate all of this with the SPAC team on your plan related to these new issues, and significant delays without my involvement, as well as including our ability to finalize the audit. I cannot comment at this time on any matters regarding timing to these new items listed below as significant action is required by management to address these various matters.
>
> Before any additional work could be resumed by my team, we need a comprehensive analysis explaining point 1 noted below. This matter will need to be evaluated by Marcum National Office." (NYSCEF 32, Harris Email; NYSCEF 33, Complaint ¶ 37.)

Harris also listed "significant open items related to the audit … that were still Unresolved… ." (*Id*.) On July 2, 2023, Hyros provided responses to the open items, including a memorandum from Hyros' legal counsel, providing detailed answers and an explanation that "the vast majority of the information requested had previously been provided to Marcum." (NYSCEF 33, Complaint ¶ 39.) On July 5, 2023, Harris sent an email stating,

> "I appreciate you sending over the requested information based on our conversation/email exchange last week, regarding the identification of the RSU plan, OOTB, and the other items you sent over.

> ***However, as I had mention [sic] last week, we have significant issues on the audit related to these matters, in combination with some of the other issues we have identified throughout the process.***
>
> I am working on summarizing all of our issues in-detail so that they can all be properly reviewed and evaluated with our internal EQR reviewer as well as our National Office regarding our ability to continue with the audit. These matters unfortunately take time to get everything pulled together and all the details reviewed, among reviewing all the information you recently sent over to me, as well as share this information with my other team members, this will at a minimum extend into next week before we can resolve." (*Id*. ¶ 40.)

On July 10, 2023, Harris informed Hyros that Marcum was resigning from engagement due to "being presented with false documents," "significant documentation gaps," "significant process failures for recording transactions," inadequate "documentation to provide evidence around compensation arrangements or agreements to carry out PCAOB audit procedures," and "significant gaps within the compliance area of personal income tax reporting for payroll and withholding taxes impacting our ability to carry out PCAOB audit procedures." (*Id*. ¶ 42.) Hyros contends that these claims are false and misleading. (*Id*. ¶ 43.) On July 31, 2023, Banzai terminated the merger agreement. (*Id*. ¶ 50.)

On August 2, 2023, Hyros filed this action for breach of the Engagement Letter, breach of the implied covenant of good faith and fair dealing, and negligence/professional malpractice.

Discussion

Breach of the Engagement Letter

'To state a claim for breach of contract, a plaintiff must allege: (1) the parties entered into a valid agreement, (2) plaintiff performed, (3) defendant failed to perform,

and (4) damages." (*VisionChina Media Inc. v Shareholder Representative Servs., LLC*, 109 AD3d 49, 58 [1st Dept 2013] [citation omitted].)

Damages

> For its breach of contract claim, Hyros seeks damages for
>
> (i) loss of $300,000 through payment of fees to Marcum for work that was never performed; and (ii) loss of merger consideration totaling $110 million, due to Marcum's failure to plan and conduct its audit engagement in accordance with professional standards, and in a manner that conformed to the time frame required and known to Marcum when accepting the engagement. (NYSCEF 33, Complaint ¶ 58.)

However, Hyros is not entitled to the merger consideration damages it seeks for breach of contract. The Engagement Letter provides that Marcum's "responsibility as auditors is limited to the period covered by our audits and does not extend to any losses that might be incurred during any later periods for which we are not engaged as auditors." (NYSCEF 31, Engagement Letter at 3.) Banzai terminated the merger agreement on July 31, 2023, approximately three weeks after Marcum resigned and the Engagement Letter terminated.[4] (*Id*. ¶ 50.) As per the unambiguous language of the Engagement Agreement, Hyros cannot recover for this loss suffered post-termination.

Breaches

"The best evidence of what parties to a written agreement intend is what they say in their writing. Thus, a written agreement that is complete, clear and unambiguous on its face must be enforced according to the plain meaning of its terms." (*Greenfield v*

[4] "Marcum's engagement ends on the earlier of termination (including without limitation, our resignation or declining to issue a report or other work product) or Marcum's delivery of its report." (NYSCEF 31, Engagement Letter at 12.)

Phillies Records, 98 NY2d 562, 569 [2002] [internal quotation marks and citations omitted].)

The Engagement Letter contains provisions governing the issuing of a report and/or opinion, resignation, and termination of the engagement. First, the Engagement Letter clearly provides that "[i]f, for any reason, we are unable to complete the audits, or we are unable to form, or have not formed an opinion, we may decline to express an opinion or decline to issue a report as a result of the engagement." (NYSCEF 31, Engagement Letter at 3.) Next, there are two sentences specifically regarding resignation: (1) "[i]f, in [Marcum's] professional judgment, the circumstances require [Marcum] to do so, [Marcum] may resign from the engagement prior to completion" and (2) "[Marcum] acknowledge[s] [Hyros'] right to terminate [Marcum's] services at any time, and [Hyros] acknowledge[s] [Marcum's] right to resign at any time (including instances where in [Marcum's] judgment, [Marcum's] independence has been impaired or [Marcum] can no longer rely on the integrity of management), subject in either case to [Marcum's] right to payment for all direct and indirect charges including out-of-pocket expenses incurred through the date of termination or resignation or thereafter as circumstances and this agreement may require, plus applicable interest, costs, fees and attorneys' fees." (*Id*. at 3, 11.) Finally, the Engagement Letter provides that "Marcum's engagement ends on the earlier of termination (including without limitation, our resignation or declining to issue a report or other work product) or Marcum's delivery of its report." (*Id.* at 12.)

Hyros alleges that Marcum breached the Engagement Letter by failing to (1) "audit the balance sheets of Hyros as of December 31, 2021 and 2022 and the related

statements of income, stockholders' equity and cash flows for the years then ended in accordance with GAAS and the standards promulgated by the PCAOB;" (2) "express an opinion on Hyros' financial statements based on its audit;" (3) "submit a report to Hyros containing its opinion as to whether the company's financial statements, taken as a whole, are fairly presented based on accounting principles generally accepted in the United States of America;" (4) "provide a valid explanation as to why, in its professional judgment, the circumstances required Marcum to resign from the engagement prior to completion;" and (5) "obtain an understanding of Hyros' internal control over financial reporting sufficient to plan the audit and determine the nature, timing and extent of audit procedures to be performed." (NYSCEF 33, Complaint ¶ 57.)

1. Report and Opinion

This clear and unambiguous language of the Engagement Letter allows Marcum to decline to express an opinion or issue a report for any reason. Thus, a breach of contract claim cannot be sustained based on allegations that Marcum failed to express an opinion and issue a report. (*See id.* ¶ 57 ["express an opinion on Hyros' financial statements based on its audit" and "submit a report to Hyros containing its opinion as to whether the company's financial statements, taken as a whole, are fairly presented based on accounting principles generally accepted in the United States of America"].)

2. Professional Judgment

Hyros alleges that "Marcum failed to provide a valid explanation as to why, in its professional judgment, the circumstances required Marcum to resign from the engagement prior to completion." (*Id.*) Marcum asserts that it had the right to resign at any time without limitation.

As previously stated, the Engagement Letter contains two sentences regarding resignation – (1) "[i]f, in [Marcum's] professional judgment, the circumstances require [Marcum] to do so, [Marcum] may resign from the engagement prior to completion" and (2) "[Marcum] acknowledge[s] [Hyros'] right to terminate [Marcum's] services at any time, and [Hyros] acknowledge[s] [Marcum's] right to resign at any time (including instances where in [Marcum's] judgment, [Marcum's] independence has been impaired or [Marcum] can no longer rely on the integrity of management) … ." (NYSCEF 31, Engagement Letter at 3, 11.)

The first sentence permits Marcum to resign prior to completion if, in its professional judgment, the circumstances require Marcum to do so. The second sentence is an acknowledgement by Hyros that Marcum has a right to resign at "any time." The use of the word "may" in the first sentence provides Marcum with an option to resign if its professional judgment requires; it does not create a requirement that Marcum can only resign when its professional judgment requires. This sentence does not mandate that Marcum provide an explanation as to why, in its professional judgment, the circumstances required it to resign. The Engagement Letter clearly bestows a right to Marcum to resign at any time, and in turn, also bestows a right to Hyros to terminate the agreement at any time. While the second sentence provides examples of instances that could trigger a resignation, it does not create a requirement that Marcum only resign when its judgment requires. The court "will not necessarily imply a term since courts may not by construction add or excise terms, nor distort the meaning of those used and thereby make a new contract for the parties under the guise of interpreting the writing." (*Reiss v Fin. Performance Corp*., 97 NY2d 195, 199 [2001]

[internal quotation marks and citation omitted].) Thus, the breach of contract claim based on the allegation that Marcum failed to provide a valid explanation cannot be sustained.

3. Professional Standards and Planning

Hyros also alleges that Marcum breached the Engagement Letter by failing to audit Hyros' balance sheets and the related statements of income, stockholders' equity and cash flows in accordance with GAAS and PCAOB and failing to "obtain an understanding of Hyros' internal control over financial reporting sufficient to plan the audit." (NYSCEF 33, Complaint ¶ 57.)

Hyros asserts that these are breaches that occurred prior to Marcum's resignation, and thus, despite termination of the Engagement Letter, Marcus is still liable. In reply, Marcum does not specifically address these two allegations. Rather, it argues, generally, that once the Engagement Letter terminated upon its resignation, it was released from any contractual obligations, relying on *Twitchell v Pittsford*, 106 AD2d 903, 904 (4th Dept 1984), in which the Appellate Division, Fourth Department held that "[w]hen a contract is terminated, such as by expiration of its own terms, the rights and obligations thereunder cease." However, the Fourth Department specifically noted that the plaintiff suffered injury after the contract terminated. This is not the case here. These allegations deal with contract obligations that Marcum allegedly breached during the period when the Engagement Letter was still in effect, i.e., Hyros suffered injury as a result of these breaches prior to termination of the agreement. (*TRN, LLC v Fabric Branding, LLC*, 2017 NY Slip Op 30138[U], *4 [Sup Ct, NY County 2017] [holding that plaintiff is entitled to seek recovery for damages for the breaches of contract that

occurred before the termination of the agreement].) The breach of contract claim is sustained only as based on these allegations.

As stated above, merger consideration damages are prohibited by the Engagement Letter, which limits damages to losses suffered during the engagement period. While Hyros technically only pleads merger consideration damages regarding these specific allegations (NYSCEF 33, Complaint ¶ 58 ["(ii) loss of merger consideration totaling $110 million, due to Marcum's failure to plan and conduct its audit engagement in accordance with professional standards, and in a manner that conformed to the time frame required and known to Marcum when accepting the engagement]), it would be futile to dismiss this viable cause of action with leave to replead based on this damages limitation.[5] For its remaining breach of contract claim, Hyros is limited to the damages for loss of $300,000 through payment of fees to Marcum.

Breach of the Implied Covenant of Good Faith and Fair Dealing

Hyros alleges that Marcum withdrew from the audit engagement based on false and pretextual reasons and that such was done in bad faith and in violation of the implied covenant of good faith and fair dealing. (NYSCEF 33, Complaint ¶ 69.) However, the Engagement Letter permitted either party to terminate the contract at any time, and "[w]hile the implied covenant of good faith and fair dealing between parties to

[5] The Prayer for Relief includes a general ad damnum clause. (NYSCEF 33, Complaint at 41 ["Awarding monetary damages, including direct and consequential damages, in an amount to be determined at trial"].) There is no prejudice to Marcum as it had notice of the damages claims for $300,000 and $110,000,000. "Statements in a pleading shall be sufficiently particular to give the court and parties notice of the transactions, occurrences, or series of transactions or occurrences, intended to be proved and the material elements of each cause of action or defense." (CPLR 3013.)

a contract embraces a pledge that neither party shall do anything which will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract, [when] the plain language of the contract makes clear that termination of the contract was a possibility and the parties [are] sophisticated, counseled business entities …, [they] should have understood and expected that termination of the agreement could occur during that specified window of time, and that such a decision" was in one's sole discretion and did not need specific justification. (*ELBT Realty, LLC v Mineola Garden City Co., Ltd.,* 144 AD3d 1083, 1084 [2d Dept 2016] [internal quotation marks and citations omitted]; *Tr. Funding Assoc., LLC v Capital One Equip. Fin. Corp*., 149 AD3d 23, 29 [1st Dept 2017] [holding that where a contract allows one party the discretion to terminate the contract, the covenant of good faith and fair dealing cannot serve to negate that provision" (citations omitted)].)

Nevertheless, this claim is also duplicative of the breach of contract claim. "Where a good faith claim arises from the same facts and seeks the same damages as a breach of contract claim, it should be dismissed." (*Mill Fin., LLC v Gillett*, 122 AD3d 98, 104 [1st Dept 2014] [citation omitted].) "The conduct alleged in the two causes of action need not be identical in every respect. It is enough that they arise from the same operative facts." (*Id*. at 104-105 [citation omitted].) Here, Hyros' breach of contract and breach of implied covenant of good faith and fair dealing claims are predicated on the same allegations that Marcum resigned based on false statements.[6] Thus, this claim is dismissed.

[6] Hyros' breach of contract claim based on the allegation that Marcum failed to provide a valid explanation as to why, in its professional judgment, it was required to resign is

Negligence/Professional Malpractice

Hyros alleges two separate deviations from the professional standard – the first occurring prior to the execution of the Engagement Letter and the second occurring during the engagement period. (*See* NYSCEF 33, Complaint ¶¶ 74-75, 76-78.) Specifically, Hyros alleges that, prior to accepting the engagement, "GAAS, and specifically AU-C Section 210.06, requires the auditor to 'determine whether the financial reporting framework to be applied in the preparation of the financial statements is acceptable,' while AU-C Section 210.08 expressly prohibits acceptance of any engagement where 'the auditor has determined that the financial reporting framework to be applied in the preparation of the financial statements is unacceptable'" and had Marcum adhered to these standards, "it would have been aware of the existence of various 'documentation gaps' and 'process failures' when agreeing to accept the Hyros audit engagement, long prior to consuming 3 months and collecting $300,000 in fees." (NYSCEF 33, Complaint ¶¶ 74-75.) Hyros further alleges that "Marcum had a duty to Hyros, separate and apart from any contractual obligation, to exercise due care in accepting the Hyros audit engagement, as well as in planning and performing the audit, in accordance with the recognized and accepted professional standards for accountants and auditors, including GAAS," and had it followed these professional standards, "it would have been aware of the various 'documentation gaps' and 'process failures' that purportedly prevented it from completing the audit engagement, and should have communicated the existence of these issues and Marcum's resultant inability to

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supported by allegations of Marcum's false and disingenuous justifications. (*See* NYSCEF 33, Complaint ¶¶ 43-44.)

complete the engagement, long before submitting its resignation … and long before collecting $300,000 in fees." (NYSCEF 33, Complaint ¶¶ 73, 78.)

In determining whether these claims are duplicative, the court must "evaluate the nature of the injury, how the injury occurred and the harm it caused." (*IKB Intl., S.A. v Wells Fargo Bank, N.A.*, 40 NY3d 277, 291 [2023] [internal quotation marks and citation omitted].) "A simple breach of contract is not to be considered a tort unless a legal duty independent of the contract itself has been violated and where plaintiff is essentially seeking enforcement of the bargain, the action should proceed under a contract theory." (*Id.* at 290 [2023] [internal quotation marks and citations omitted].)

> The Court of Appeals has "recognized that a legal duty independent of contractual obligations may be imposed by law as an incident to the parties' relationship and that several types of defendants—including professionals—can be held liable in tort for failure to exercise reasonable care, irrespective of their contractual duties. In certain circumstances, this independent duty has been imposed based on the nature of the services performed and the defendant's relationship with its customer—specifically, where the defendant performs a service affected with a significant public interest and where the failure to perform the service carefully and competently can have catastrophic consequences." (*Dormitory Auth. of the State of NY v Samson Constr. Co.*, 30 NY3d 704, 711 [2018] [internal quotation marks and citations omitted].)

"[T]he nature of the harm, particularly whether it is catastrophic, [is] one of the most significant elements in determining whether the nature of the type of services rendered gives rise to a duty of reasonable care independent of the contract itself." (*Verizon NY, Inc. v Opt. Communications Group, Inc*., 91 AD3d 176, 181 [1st Dept 2011].) When both claims allege only economic harm, they are duplicative. (*Id*.; *Von Sengbusch v Les Bateaux De NY, Inc.*, 128 AD3d 409, 410 [1st Dept 2015] [dismissing the negligence claim "as duplicative of the contract claim because it failed to allege a duty independent of the contract, and because it alleges only economic harm (citations omitted)].)

The Engagement Letter requires Marcum to adhere to certain professional standards that Marcum when conducting its audit. (NYSCEF 31, Engagement Letter at 3 ["Our audits will be conducted in accordance with the standards of the PCAOB"].) The mere fact that, as an accountant, Marcum must exercise reasonable care does not create a legal duty independent of its contractual obligation to adhere to professional standards. The overall harm alleged is that the audit, which was required for the pending merger, was not completed. This is not the catastrophic harm "required to transform it from contractual to tortious in nature." (*Verizon NY, Inc.,* 91 AD3d at 182.) Further, "[t]ort liability arises out of catastrophic consequences that … flow from a party's failure to perform its contractual obligations with due care. It does not result from an injury that, like the harm here, is solely financial and not typical of harm arising from tort." (*Id*. [internal quotation marks and citations omitted].)

As detailed above, Hyros also alleges that Marcum failed to adhere to professional standard before the execution of the Engagement Letter. (*See* NYSCEF 33, Complaint ¶¶ 74-75.) Accordingly, this claim based on these allegations cannot be duplicative of breach of contract claim.[7] Thus, the court must determine whether Hyros has stated a claim.

"To state a claim for accountant malpractice, a complaint must allege that there was a departure from accepted standards of practice and that the departure was a proximate cause of the injury suffered by plaintiff." (*Channel Fabrics, Inc. v Skwiersky*, *Alpert & Bressler LLP*, 222 AD3d 512, 512 [1st Dept 2023] [citations omitted].)

[7] The court notes that Marcum does not specifically address how the professional malpractice claim based on these pre-engagement allegations is duplicative of the breach of contract claim.

Marcum argues that Hyros fails to sufficiently allege that Marcum departed from any professional standards. First, Marcum asserts that the complaint is devoid of allegations of its pre-engagement activity that departed from procedures or audit planning. However, Marcum provides no legal authority that Hyros must specify the details of how Marcum departed from professional standards. Standard negligence is not subject to the heightened pleading standard of CPLR 3016 (b), and even if it was, "those facts are peculiarly within [Marcum's] knowledge. (*Pludeman v N. Leasing Sys., Inc*., 10 NY3d 486, 491 [2008] [internal quotation marks and citation omitted].)

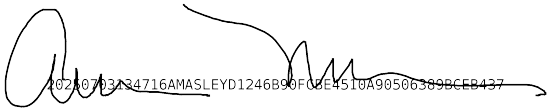
Second, Marcum asserts the professional standards Hyros relies on regarding audit planning actually undermine Hyros' theory that, if Marcum adhered to the standards when audit planning, it would have led Marcum to reject Hyros as a client or resign sooner. In support, Marcum cites to PCAOB 2102.05, which provides that "[p]lanning is not a discrete phase of an audit but, rather, a continual and iterative process that might begin shortly after (or in connection with) the completion of the previous audit and continues until the completion of the current audit." The fact that audit planning might be an ongoing process throughout the audit does not, as a matter of law, resolve whether Marcum adhered to professional standards that governed its conduct prior to engagement. Thus, Hyros' claim for professional malpractice based on Marcum's pre-engagement conduct is sustained. Regarding damages, as this claim is based on conduct outside of the contract, Hyros is not limited to recovery of losses suffered only during the engagement period.

Accordingly, it is

ORDERED that the motion to dismiss is granted, in part, in so far as the breach of contract claim based on the report and opinion and professional judgment allegations, the breach of the implied covenant of good faith and fair dealing, and the professional malpractice claim based on conduct during the engagement period are dismissed; and it is further

ORDERED that Marcum is directed to serve an answer to the complaint within 20 days after service of a copy of this order with notice of entry; and it is further

ORDERED that counsel are directed to submit a proposed preliminary conference order within 10 days of the date of this decision (via NYSCEF and SFC-Part48@nycourts.gov), or if the parties cannot agree, competing proposed preliminary conference orders.



7/3/2025
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:		**CASE DISPOSED**			**X**	**NON-FINAL DISPOSITION**	
		GRANTED		**DENIED**	**X**	**GRANTED IN PART**	**OTHER**
APPLICATION:		**SETTLE ORDER**				**SUBMIT ORDER**	
CHECK IF APPROPRIATE:		**INCLUDES TRANSFER/REASSIGN**				**FIDUCIARY APPOINTMENT**	**REFERENCE**