25-613-cv
Moore v. Rubin

# United States Court of Appeals for the Second Circuit

August Term, 2025

(Argued: June 11, 2026 Decided: September 4, 2026)

Docket No. 25-613-cv

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AMY MOORE, MIA LYTELL, NATASHA TAGAI,
EMMA HOPPER, BRITTANY HASSEN, BRITTANY REYES,

*Plaintiffs-Appellees*,

v.

HOWARD RUBIN,

*Defendant-Appellant*,

BALESTRIERE FARIELLO,

*Intervenor.*[*]

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Before:

LOHIER, *Chief Judge*, PARKER, CHIN, *Circuit Judges*.

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[*] The Clerk of Court is respectfully directed to amend the caption as set forth above.

The Plaintiffs, six women, accused Howard Rubin, a wealthy bond trader, of sex trafficking and sued him principally for violations of the Trafficking Victims Protection Act (TVPA), 18 U.S.C. §§ 1591, 1595, and under state law. Their seven-year civil action ended in a unanimous jury verdict finding Rubin liable for sex trafficking and awarding them $3.85 million in damages. Before us is Rubin's appeal from the amended judgment of the United States District Court for the Eastern District of New York (Cogan, *J.*) separately awarding the Plaintiffs $4,815,033.25 in attorneys' fees pursuant to the TVPA's fee-shifting provision. 18 U.S.C. § 1595(a). Rubin argues that the attorneys' fees award reflects excessively high hourly attorney rates and compensates too many timekeepers (a partner, junior- and mid-level associates, legal apprentices, and non-attorney analysts). The District Court correctly applied the governing legal standards and reached a fee award within the range of permissible decisions for this case. **AFFIRMED**.

BENJAMIN E. ROSENBERG (Edward A. McDonald, May K. Chiang, *on the brief*), Dechert LLP, New York, NY, *for Defendant-Appellant*.

Brian J. Isaac, Pollack Pollack Isaac & DeCicco, LLP, New York, NY, *for Plaintiffs-Appellees Amy Moore, Emma Hopper*.

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Michael J. Weiner, Balestriere, New York, NY.

LOHIER, *Chief Judge*:

The Plaintiffs in this case are six women who sued Howard Rubin, a wealthy bond trader, principally under the Trafficking Victims Protection Act (TVPA), 18 U.S.C. §§ 1591, 1595, and state tort law for sexually exploiting them. Following a seven-year civil sex-trafficking action that ended in a unanimous jury verdict in the Plaintiffs' favor on their TVPA claims and a $3.85 million damages award, the United States District Court for the Eastern District of New York (Cogan, *J.*) entered a separate award of $4,815,033.25 in attorneys' fees to the Plaintiffs pursuant to the TVPA's fee-shifting provision, *id.* § 1595(a). Rubin appeals the attorneys' fees award, arguing that it departs from prevailing forum attorney rates and rates awarded in other TVPA cases and compensates too many timekeepers without adequate substantiation.[1] We conclude that the District Court correctly applied the governing legal standards and reached a fee award within the range of permissible decisions for this case, and we therefore **AFFIRM**.

[1] Rubin does not appeal the awarded costs. *See* Appellant's Br. 7 n.2.

## BACKGROUND

We assume the parties' familiarity with our earlier opinion in this matter, which discusses at length the underlying facts and procedural history. *See Moore v. Rubin*, 160 F.4th 271 (2d Cir. 2025). We repeat them only insofar as we think it necessary to understand the discussion that follows.

Rubin recruited and paid women to travel to New York for sadomasochistic sex. *Id.* at 278–79. He prompted the Plaintiffs to sign non-disclosure agreements in which they consented to engage in sexual activity (including sadomasochistic sex) with Rubin in exchange for money. *See id.* at 280. Certain Plaintiffs understood that their encounters with Rubin might include rough sex, but, they claim, Rubin far exceeded their understanding by engaging in coercive and abusive conduct. *See id.* at 293. As examples, they described how he beat them, gagged them, verbally degraded them, inserted objects inside them, assaulted them in public, and used electric tools to shock them. *See id.* at 293, 295 n.16.

In 2017 the Plaintiffs sued Rubin, asserting claims under the TVPA as well as state-law claims for assault, battery, false imprisonment, and intentional infliction of emotional distress. *Id.* at 288. The Plaintiffs were represented throughout the litigation by Intervenor Balestriere Fariello ("counsel"). As described by the District Court, the litigation was heavily contested. It involved "extensive discovery," "endless motion practice," and pandemic-related delays. Spec. App'x 2. The litigation ended in a seven-day trial after which a jury found Rubin liable under the TVPA as to all six Plaintiffs and liable for battery as to Plaintiff Amy Moore. *See Moore*, 160 F.4th at 288. The jury awarded the Plaintiffs $3.85 million in compensatory and punitive damages. *See id.* Rubin moved under Federal Rules of Civil Procedure 50 and 59 for judgment as a matter of law or, alternatively, a new trial, arguing principally that the TVPA did not cover the conduct at issue and that the trial evidence was insufficient to support the jury's verdict finding him liable. *See Moore v. Rubin*, 724 F. Supp. 3d 93, 98–100, 103–04 (E.D.N.Y. 2024). The District Court denied that motion, *see id.* at 107, and this Court affirmed, *see Moore*, 160 F.4th at 300.

On May 2, 2024, the Plaintiffs filed a post-judgment motion for an award of $8,793,940.80 in attorneys' fees and $2,035,386.10 in costs pursuant to 18 U.S.C. § 1595(a). That statutory provision authorizes prevailing plaintiffs in TVPA actions to recover "reasonable attorneys['] fees." The District Court granted the motion in part, concluding that the action warranted hourly rates above prevailing forum rates and rates in other TVPA cases due to, among other things, its duration, intensity, complexity, stakes, and actual recovery. The District Court nonetheless reduced the hourly rates requested by counsel and imposed an across-the-board reduction of claimed hours, resulting in an attorneys' fees award of $4,815,033.25. This appeal followed.

## DISCUSSION

The principal issue on appeal is whether the District Court abused its discretion in awarding $4,815,033.25 in attorneys' fees. We have had limited occasion to review fee awards arising from litigation under the TVPA. *See Hemant Patel, M.D., P.C. v. Bandikatla*, No. 24-988, 2025 WL 3264679, at *8 (2d Cir. Nov. 24, 2025) (summary order). As in other fee-shifting contexts, though, our task is not to determine the fee award that we would have entered in the first instance. Instead, the question for us is whether the District Court applied the correct legal standards and reached a determination within the range of permissible decisions. *See Lilly v. City of New York*, 934 F.3d 222, 227 (2d Cir. 2019).

## I

We review a district court's award of attorneys' fees for abuse of discretion. *Id.* "A district court abuses its discretion if it (1) bases its decision on an error of law or uses the wrong legal standard; (2) bases its decision on a clearly erroneous factual finding; or (3) reaches a conclusion that, though not necessarily the product of a legal error or a clearly erroneous factual finding, cannot be located within the range of permissible decisions." *Id.* (citation modified). "The deference exercised in an abuse of discretion review takes on special significance when reviewing fee decisions because the district court, which is intimately familiar with the nuances of the case, is in a far better position to make such decisions than is an appellate court, which must work from a cold record." *Carco Grp., Inc. v. Maconachy*, 718 F.3d 72, 79 (2d Cir. 2013) (citation modified).

To determine the amount of an award of attorneys' fees, a district court must calculate the "presumptively reasonable fee." *Simmons v. N.Y.C. Transit Auth.*, 575 F.3d 170, 174 (2d Cir. 2009). The court does so by using the lodestar method, "whereby an attorney fee award is derived by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate."

*A.R. ex rel. R.V. v. N.Y.C. Dep't of Educ.*, 407 F.3d 65, 79 (2d Cir. 2005) (citation modified). "The reasonable hourly rate is the rate a paying client would be willing to pay." *Arbor Hill Concerned Citizens Neighborhood Ass'n v. County of Albany*, 522 F.3d 182, 190 (2d Cir. 2008). And "[a]ccording to the forum rule, courts should generally use the hourly rates employed in the district in which the reviewing court sits in calculating the presumptively reasonable fee." *Simmons*, 575 F.3d at 174 (citation modified).

But a district court may deviate from the prevailing forum rates in "unusual case[s]," where, for example, "it is clear that a reasonable, paying client would have paid . . . higher rates." *Id.* at 174–75 (citation modified). In deciding whether to deviate from the forum rule, a district court must consider "*all* of the case-specific variables that we and other courts have identified as relevant to the reasonableness of attorney's fees in setting a reasonable hourly rate." *Lilly*, 934 F.3d at 232 (citation modified). These variables include the factors laid out by the Fifth Circuit in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974):

> (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the level of skill required to perform the legal service properly; (4) the preclusion of employment by the attorney due to acceptance of the case; (5) the attorney's customary hourly rate;

> (6) whether the fee is fixed or contingent; (7) the time limitations imposed by the client or the circumstances; (8) the amount involved in the case and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the "undesirability" of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.

*Lilly*, 934 F.3d at 228.

II

Rubin complains that the District Court employed an impermissible methodology for calculating attorneys' fees when it reduced counsel's requested rates rather than applying prevailing forum rates or rates used in other TVPA cases. But neither this Court nor the Supreme Court has ever demanded a rigid approach for fixing a reasonable hourly rate. To the contrary, as we've explained, the relevant inquiry is whether the District Court "determin[ed] a reasonable hourly rate by considering all pertinent factors, including the *Johnson* factors, and then multipl[ied] that rate by the number of hours reasonably expended to determine the presumptively reasonable fee." *Id.* at 230.

According to the record before us, the District Court considered prevailing rates in the Eastern District of New York, rates awarded in "readily distinguishable" TVPA cases, and the *Johnson* factors—including counsel's customary rates—before settling on the rates it deemed reasonable. Spec.

App'x 5; *see Lilly*, 934 F.3d at 228. The court's analysis comports with our precedent.

In concluding that this particular case warranted higher rates, the District Court surveyed both prevailing forum rates and rates in TVPA cases. In doing so, the District Court concluded that "the reasonable hourly rates that should prevail in" the Eastern District of New York overall "are now $450 to $650 for partners, $300 to $450 for senior associates, $150 to $300 for junior associates, and $100 to $150 for paralegals." Spec. App'x 4.[2] With the benefit of the survey, the court reasonably concluded that this was "the rare case[] requiring a rate in excess of the usual rate commanded for litigation brought in this district." Spec. App'x 7. Accordingly, the District Court awarded rates of $1,000 for partners, $800 for of counsel, $500 for senior attorneys, $400 for mid-level attorneys, $350

[2] Other courts in the Eastern District have adopted this range of rates as well. *See e.g., Abularach v. High Wing Aviation LLC*, No. 22-cv-1266, 2025 WL 405986, at *7 (E.D.N.Y. Feb. 5, 2025) (adopting *Rubin* rates); *Ghahremani v. Craft for Kids Imports, Inc.*, No. 24-cv-4356, 2025 WL 758636, at *1 (E.D.N.Y. Mar. 11, 2025) (same); *Harbus v. Vosa TV Inc.*, No. 24-cv-3572, 2025 WL 1153818, at *3 (E.D.N.Y. Apr. 21, 2025) (same); *Restrepo v. Dynamic Fire, Inc.*, No. 25-cv-426, 2025 WL 1582256, at *2 (E.D.N.Y. June 4, 2025) (same); *Corey Sipkin Photography LLC v. New Yirui Culture NY, Inc.*, No. 24-cv-8354, 2025 WL 2653826, at *6 (E.D.N.Y. Sept. 16, 2025) (same); *CouponCo Worldwide, Inc. v. Carter Mag., LLC*, No. 24-cv-8307, 2025 WL 2663990, at *4 (E.D.N.Y. Sept. 17, 2025) (same); *Kimba Indus., Inc. v. Fortegra Specialty Ins. Co.*, No. 24-cv-1334, 2026 WL 618037, at *6 (E.D.N.Y. Mar. 5, 2026) (same); *Crayola Props., Inc. v. Jetson Elec. Bikes LLC*, No. 24-cv-7250, 2026 WL 873313, at *9 (E.D.N.Y. Mar. 31, 2026) (same).

for junior attorneys, $225 for legal apprentices, and $150 for paralegals. Spec. App'x 12.

In our view, several *Johnson* factors supported the District Court's decision. The litigation spanned seven years, involved extensive discovery and motion practice, and culminated in a six-plaintiff jury trial presenting factually and legally complex TVPA claims. *See generally Moore*, 160 F.4th at 277–88. The District Court also reasonably considered the substantial resources required to prosecute the action, the unique challenges associated with representing victims of sexual exploitation, and the Plaintiffs' success at trial. *See id.* at 288; *Lilly*, 934 F.3d at 228.

That the resulting rates exceeded the rates approved in other TVPA cases, which involved materially different factual circumstances and litigation demands, does not render the District Court's attorneys' fees award unreasonable. The District Court reasonably determined that these other cases failed to provide a meaningful benchmark. *See Bandikatla*, 2025 WL 3264679, at *6, *8 (affirming a $259,701 fee award for a $45,000 TVPA verdict against an employer that "abused the legal process" by filing a frivolous lawsuit); *Paguirigan v. Prompt Nursing Emp. Agency LLC*, No. 17-CV-1302, 2022 WL

6564755, at *2–3, *8 (E.D.N.Y. Apr. 7, 2022) (granting a $621,432.43 fee award in connection with a $3 million class action settlement involving TVPA claims premised on financial coercion).

For these reasons, we conclude that the District Court acted within its discretion in awarding rates above those granted in other TVPA cases after considering "*all* of the case-specific variables." *Lilly*, 934 F.3d at 232 (citation modified).

III

Finally, Rubin asserts that the District Court improperly allowed counsel to recover enhanced fees for a number of timekeepers—including a partner, junior- and mid-level associates, legal apprentices, and non-attorney analysts—based on an incomplete record regarding their qualifications or because these timekeepers did not contribute meaningfully to the case. But district courts have great leeway in determining the reasonableness of staffing decisions in complex litigation. *See Merck Eprova AG v. Gnosis S.p.A.*, 760 F.3d 247, 265–66 (2d Cir. 2014). Here the District Court reviewed counsel's submissions and imposed a 15 percent across-the-board reduction to account for potential inefficiencies, duplication, block billing, and overstaffing. What's more, the court also excluded compensation for tasks that it deemed were non-compensable, such as communications with counsel's litigation funder and work on a separate, state-court litigation. Under these circumstances, we decline to say that the District Court's fee determination "cannot be located within the range of permissible decisions." *Lilly*, 934 F.3d at 227 (citation modified).

We understand that the fee award in this case is substantial. But the "general purpose of fee-shifting statutes . . . is to permit plaintiffs with valid claims to attract effective legal representation and thereby to encourage private enforcement of civil rights statutes, to the benefit of the public as a whole." *Green v. Torres*, 361 F.3d 96, 100 (2d Cir. 2004) (citation modified). The TVPA's fee-shifting provision serves a similar function. As we recently explained, Congress enacted and later expanded the TVPA to combat trafficking and sexual exploitation and to provide meaningful remedies to victims. *Moore*, 160 F.4th at 289–90. The TVPA's fee-shifting provision reflects a legislative judgment that vigorous private enforcement is an important means to effectuate those goals. *See id.* at 291 (citing H.R. Rep. No. 108-264, pt. 1, at 8, 13 (2003)).

There is another factor at play. TVPA cases often present unique difficulties, particularly where, as here, sex trafficking victims attempt to vindicate their rights against well-resourced defendants. *See id.* at 278, 293 & n.13. Reasonable attorneys' fees help secure competent representation for these victims in resource-intensive and legally complex cases. The District Court correctly applied the governing legal standards, calculated a reasonable hourly rate, reduced both rates and hours, and explained the basis for the resulting award. On appeal, we find no reversible fault with its approach, and we conclude the fee award reflected precisely the sort of "rough justice" contemplated by the TVPA's fee-shifting statute. *Fox v. Vice*, 563 U.S. 826, 838 (2011).

## CONCLUSION

We have considered Rubin's remaining arguments and conclude that they are without merit. For the foregoing reasons, the amended judgment of the District Court is **AFFIRMED**.