

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

FREDERICK M. CARGIAN,

Plaintiff,

-against-

BREITLING USA, INC.,

Defendant.

**ECF Case**

**15 Civ. 1084 (GBD)**

**DECLARATION IN SUPPORT OF  
DEFENDANT’S APPLICATION FOR  
COSTS AGAINST PLAINTIFF**

GLENN S. GRINDLINGER declares, pursuant to 28 U.S.C. §1746 and under penalty of perjury, the following:

1. I am a member of the law firm Fox Rothschild LLP, attorneys of record for the Defendant in the above-captioned action. As such, I am familiar with the facts and circumstances set forth herein.

2. I submit this Declaration in support of Defendant’s Bill of Costs and application for an award of costs against Frederick M. Cargian (“Plaintiff”).

3. On or about February 17, 2015, Plaintiff initiated this action by filing a Complaint in the United States District Court, Southern District of New York (the “Court”), located at 500 Pearl Street, New York, New York 10007.

4. On February 29, 2016, Defendant’s served and filed a Motion for Summary Judgment seeking dismissal of the Complaint. See ECF No. 38. Attached as “Exhibit 1” to Defendant’s Notice of Motion for Summary Judgment were relevant excerpts from the transcript of Plaintiff’s deposition. Defendant’s cited multiple times to Plaintiff’s deposition testimony in their supporting memorandum of law, and such testimony was used by Defendant’s to prepare their Statement of Undisputed Material Facts.

5. On September 13, 2021, this Court issued a Memorandum Decision and Order granting Defendant's Renewed Motion for Summary Judgment and dismissing Plaintiff's Complaint. See ECF No. 90. Multiple causes of action were dismissed with prejudice; the others were dismissed without prejudice.

6. On September 15, 2021, to close this matter, the Clerk of the Court entered Judgement a copy of which is annexed hereto as **Exhibit A**.

7. As the prevailing party, Defendant is now entitled to costs pursuant to Rule 54(d)(1) of the Federal Rules of Civil Procedure, and Rule 54.1(c)(2) of the Local Civil Rules of Southern District of New York, insofar as judgment was entered in favor of Defendant on all claims.

8. Defendant submits invoices for the depositions obtained from the court stenographer, Ellen Grauer Court Reporting Co. LLC, which are annexed hereto as **Exhibit B**, for depositions taken in this matter between September 17, 2015 and January 25, 2016. The depositions were taken during the period of fact discovery, the transcript of same was used in the preparation of Defendant's successful Motion for Summary Judgment, and said transcripts were submitted as exhibits to that Motion. The costs claimed are correctly stated, are allowable by law, and were necessarily incurred. As prevailing the prevailing party, Defendant is entitled to these costs.

9. The total costs incurred by the Defendants, pursuant to Local Rule 54.1, in connection with the taking of Plaintiff's deposition are \$9,855.65.

**WHEREFORE**, it is respectfully requested that the Clerk issue an order granting the Defendants costs in the amount of \$9,855.65.

Respectfully submitted,

DATED: New York, New York

October 4, 2021

FOX ROTHSCHILD LLP  
*Attorneys for Defendant*

/s/ Glenn S. Grindlinger  
Glenn S. Grindlinger

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
FREDERICK M. CARGIAN,

Plaintiff,

15 **CIVIL** 1084 (GBD)

-against-

**JUDGMENT**

BREITLING USA, INC.,

Defendant.

-----X

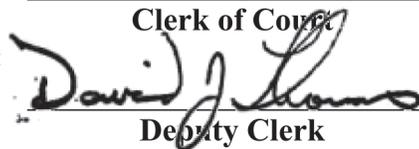
It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Memorandum Decision and Order dated September 13, 2021, Defendant's Renewed Motion for Summary Judgment, (ECF No. 84) is granted; accordingly, this case is closed.

**Dated:** New York, New York  
September 15, 2021

**RUBY J. KRAJICK**

\_\_\_\_\_  
Clerk of Court

BY:

  
Deputy Clerk



# Invoice

Invoice #	Invoice Date	Job #	Job Date
20152280EA	8/31/2015	20048HW	7/23/2015
<b>Case Caption</b>			
Cargian vs. Breitling			
<b>Case #</b>			
<b>Witness</b>			
Isaac Schafrath			
<b>Payment Terms</b>			
Due upon receipt			

Billed To: Zev Singer  
 Fox Rothschild  
 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Description	Quan	Total
Complimentary Condensed Transcript & ASCII File	1	\$0.00
1 Certified Deposition	349	\$1,256.40
<b>Sub-Total</b>		<b>\$1,256.40</b>
Payments		\$0.00
<b>Total Due</b>		<b>\$1,256.40</b>
<i>After 10/30/2015 Pay</i>		<i>\$1,382.04</i>

**Due upon receipt and is not contingent on client payment.**

**For billing questions, please email earisty@ellengrauer.com or call 877.727.4230**

Notes:

Federal Tax Id #: 42-1650856

**Please detach bottom portion and return with payment.**

Zev Singer  
 Fox Rothschild  
 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Job No. 20048HW Case No.  
 Case Name Cargian vs. Breitling  
 Invoice No. 20152280EA Invoice Date 8/31/2015  
**Total Due \$1,256.40 After 10/30/2015 Pay \$1,382.04**

Remit To: **Ellen Grauer Court Reporting**  
**126 East 56th Street, Fifth Floor**  
**New York, New York 10022**

<b>PAYMENT WITH CREDIT CARD</b>			
Card Holder's Name _____			
VISA/MasterCard #: _____			
Exp. Date: _____		Phone #: _____	
Billing Address: _____			
Zip: _____		Card Security Code: _____	
Amount to Charge: _____			
Cardholder's Signature: _____			



# Invoice

Invoice #	Invoice Date	Job #	Job Date
20152571EA	10/12/2015	20405HW	9/17/2015
Case Caption			
Frederick M. Cargian vs. Breitling USA, Inc.			
Case #			
Witness			
Frederick Cargian			
Payment Terms			
Due upon receipt			

Billed To: Glenn S. Grindlinger  
 Fox Rothschild  
 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Description	Quan	Total
Reporter's Appearance (am & pm & evening)	1	\$225.00
Original + 1 Certified 5 Day Expedited Deposition	399	\$3,291.75
PM pages	36	\$70.20
Reporter's Appearance (am & pm & evening)	1	\$225.00
Complimentary Condensed Transcript & ASCII File	1	\$0.00
Exhibits	1	\$75.00
Delivery	1	\$23.00
<b>Due upon receipt and is not contingent on client payment.</b>		
	Sub-Total	\$3,909.95
	Payments	\$0.00
	<b>Total Due</b>	<b>\$3,909.95</b>
<b>For billing questions, please email earisty@ellengrauer.com or call 877.727.4230</b>		
	<i>After 12/11/2015 Pay</i>	<i>\$4,300.95</i>

Notes:

Federal Tax Id #: 42-1650856

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Glenn S. Grindlinger  
 Fox Rothschild  
 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Job No. 20405HW Case No.  
 Case Name Frederick M. Cargian vs. Breitling USA, Inc.  
 Invoice No. 20152571EA Invoice Date 10/12/2015  
**Total Due \$3,909.95 After 12/11/2015 Pay \$4,300.95**

Remit To: **Ellen Grauer Court Reporting**  
**126 East 56th Street, Fifth Floor**  
**New York, New York 10022**

PAYMENT WITH CREDIT CARD	
	 
Card Holder's Name	_____
VISA/MasterCard #:	_____
Exp. Date:	_____ Phone #: _____
Billing Address:	_____
Zip:	_____ Card Security Code: _____
Amount to Charge:	_____
Cardholder's Signature:	_____



126 East 56th Street, Fifth Floor New York, New York 10022  
 PHONE: (212) 750-6434 FAX: (212) 750-1097  
 www.ELLENGRAUER.com

# Invoice

Invoice #	Invoice Date	Job #	Job Date
20153235EA	12/9/2015	20965HW	11/19/2015
Case Caption			
Frederick M. Cargian vs. Breitling USA, Inc.			
Case #			
Witness			
Diana Figueroa			
Payment Terms			
Due upon receipt			

Billed To: Zev Singer  
 Fox Rothschild  
 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Description	Quan	Total
Exhibits	1	\$40.00
1 Certified Deposition	210	\$756.00
Complimentary Condensed Transcript & ASCII File	1	\$0.00
<b>Due upon receipt and is not contingent on client payment.</b>		Sub-Total \$796.00
		Payments \$0.00
<b>For billing questions, please email earisty@ellengrauer.com or call 877.727.4230</b>		<b>Total Due \$796.00</b>
		After 2/7/2016 Pay \$875.60

**Notes:**

Federal Tax Id #: 42-1650856

*Please detach bottom portion and return with payment.*

Zev Singer  
 Fox Rothschild  
 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Job No. 20965HW Case No. \_\_\_\_\_  
 Case Name Frederick M. Cargian vs. Breitling USA, Inc.  
 Invoice No. 20153235EA Invoice Date 12/9/2015  
**Total Due \$796.00 After 2/7/2016 Pay \$875.60**

Remit To: **Ellen Grauer Court Reporting**  
**126 East 56th Street, Fifth Floor**  
**New York, New York 10022**

PAYMENT WITH CREDIT CARD	
 	
Card Holder's Name	_____
VISA/MasterCard #:	_____
Exp. Date:	_____ Phone #: _____
Billing Address:	_____
Zip:	_____ Card Security Code: _____
Amount to Charge:	_____
Cardholder's Signature:	_____



# Invoice

Invoice #	Invoice Date	Job #	Job Date
20160142EA	1/21/2016	21132HW	1/6/2016
Case Caption			
Frederick M. Cargian vs. Breitling USA, Inc.			
Case #			
Witness			
Thierry Prissert			
Payment Terms			
Due upon receipt			

Billed To: Zev Singer  
 Fox Rothschild  
 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Description	Quan	Total
1 Certified Deposition	462	\$1,663.20
Complimentary Condensed Transcript & ASCII File	1	\$0.00
<b>Due upon receipt and is not contingent on client payment.</b>		Sub-Total \$1,663.20
		Payments \$0.00
<b>For billing questions, please email earisty@ellengrauer.com or call 877.727.4230</b>		<b>Total Due \$1,663.20</b>
		<i>After 3/21/2016 Pay \$1,829.52</i>

Notes:

Federal Tax Id #: 42-1650856

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 Suite 1500  
 New York, NY 10017

Job No. 21132HW Case No.  
 Case Name Frederick M. Cargian vs. Breitling USA, Inc.  
 Invoice No. 20160142EA Invoice Date 1/21/2016  
**Total Due \$1,663.20 After 3/21/2016 Pay \$1,829.52**

Remit To: **Ellen Grauer Court Reporting**  
**126 East 56th Street, Fifth Floor**  
**New York, New York 10022**

<b>PAYMENT WITH CREDIT CARD</b>	
	 
Card Holder's Name	_____
VISA/MasterCard #:	_____
Exp. Date:	_____ Phone #: _____
Billing Address:	_____
Zip:	_____ Card Security Code: _____
Amount to Charge:	_____
Cardholder's Signature:	_____



# Invoice

Invoice #	Invoice Date	Job #	Job Date
20160283EA	2/22/2016	21267HW	1/19/2016
Case Caption			
Frederick M. Cargian vs. Breitling USA, Inc.			
Case #			
Witness			
Sophie Morice/Melissa Vessely			
Payment Terms			
Due upon receipt			

Billed To: Zev Singer  
 Fox Rothschild  
 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Description	Quan	Total
1 Certified Deposition (Morice)	125	\$450.00
Complimentary Condensed Transcript & ASCII File	1	\$0.00
1 Certified Deposition (Vessely)	163	\$586.80
Exhibits	1	\$11.00
Complimentary Condensed Transcript & ASCII File	1	\$0.00
<b>Due upon receipt and is not contingent on client payment.</b>		Sub-Total \$1,047.80
For billing questions, please email earisty@ellengrauer.com or call 877.727.4230		Payments \$0.00
		<b>Total Due \$1,047.80</b>
		<i>After 4/22/2016 Pay \$1,152.58</i>

Notes:

Federal Tax Id #: 42-1650856

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 Suite 1500  
 New York, NY 10017

Job No. 21267HW Case No.  
 Case Name Frederick M. Cargian vs. Breitling USA, Inc.  
 Invoice No. 20160283EA Invoice Date 2/22/2016  
**Total Due \$1,047.80 After 4/22/2016 Pay \$1,152.58**

Remit To: **Ellen Grauer Court Reporting**  
**126 East 56th Street, Fifth Floor**  
**New York, New York 10022**

<b>PAYMENT WITH CREDIT CARD</b>			
Card Holder's Name	_____		
VISA/MasterCard #:	_____		
Exp. Date:	_____	Phone #:	_____
Billing Address:	_____		
Zip:	_____	Card Security Code:	_____
Amount to Charge:	_____		
Cardholder's Signature:	_____		



# Invoice

Invoice #	Invoice Date	Job #	Job Date
20160303EA	2/23/2016	21251HW	1/25/2016
Case Caption			
Frederick M. Cargian vs. Breitling USA, Inc.			
Case #			
Witness			
Ovidio John Cargian/Michael Cargian			
Payment Terms			
Due upon receipt			

Billed To: Zev Singer  
 Fox Rothschild  
 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Description	Quan	Total
Original + 1 Certified Deposition (Ovidio)	66	\$346.50
Complimentary Condensed Transcript & ASCII File	1	\$0.00
Original + 1 Certified Deposition (Michael)	40	\$210.00
Reporter's Appearance (am)	1	\$75.00
Complimentary Condensed Transcript & ASCII File	1	\$0.00
<b>Due upon receipt and is not contingent on client payment.</b>		
	Sub-Total	\$631.50
	Payments	\$0.00
	<b>Total Due</b>	<b>\$631.50</b>
	<i>After 4/23/2016 Pay</i>	<i>\$694.65</i>

For billing questions, please email [earisty@ellengrauer.com](mailto:earisty@ellengrauer.com) or call 877.727.4230

**Notes:**

Federal Tax Id #: 42-1650856

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 100 Park Avenue  
 Suite 1500  
 New York, NY 10017

Job No. 21251HW Case No.  
 Case Name Frederick M. Cargian vs. Breitling USA, Inc.  
 Invoice No. 20160303EA Invoice Date 2/23/2016  
**Total Due \$631.50 After 4/23/2016 Pay \$694.65**

Remit To: **Ellen Grauer Court Reporting**  
**126 East 56th Street, Fifth Floor**  
**New York, New York 10022**

PAYMENT WITH CREDIT CARD	
	 
Card Holder's Name	_____
VISA/MasterCard #:	_____
Exp. Date:	_____ Phone #: _____
Billing Address:	_____
Zip:	_____ Card Security Code: _____
Amount to Charge:	_____
Cardholder's Signature:	_____



126 East 56th Street, Fifth Floor  
New York, New York 10022

Tel: 212-750-6434  
Fax: 212-750-1097

Billed To: Zev Singer  
Fox Rothschild  
100 Park Avenue  
Suite 1500  
New York, NY 10017

# Invoice

Invoice #	Invoice Date	Job #	Job Date
20160297EA	2/23/2016	21268HW	1/21/2016
Case Caption			
Frederick M. Cargian vs. Breitling USA, Inc.			
Case #			
Witness			
Annie Sommer/Teleconference			
Payment Terms			
Due upon receipt			

Description	Quan	Total
1 Certified Deposition (Sommer)	104	\$374.40
Complimentary Condensed Transcript & ASCII File	1	\$0.00
Complimentary Condensed Transcript & ASCII File	1	\$0.00
1 Certified Deposition (Teleconference)	49	\$176.40
<b>Due upon receipt and is not contingent on client payment.</b>		
	Sub-Total	\$550.80
	Payments	\$0.00
<b>For billing questions, please email earisty@ellengrauer.com or call 877.727.4230</b>	<b>Total Due</b>	<b>\$550.80</b>
	<i>After 4/23/2016 Pay</i>	<i>\$605.88</i>

Notes:

Federal Tax Id #: 42-1650856

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Zev Singer  
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100 Park Avenue  
Suite 1500  
New York, NY 10017

Job No. 21268HW Case No.  
Case Name Frederick M. Cargian vs. Breitling USA, Inc.  
Invoice No. 20160297EA Invoice Date 2/23/2016  
**Total Due \$550.80 After 4/23/2016 Pay \$605.88**

Remit To: **Ellen Grauer Court Reporting**  
**126 East 56th Street, Fifth Floor**  
**New York, New York 10022**

<b>PAYMENT WITH CREDIT CARD</b>			
Card Holder's Name _____			
VISA/MasterCard #: _____			
Exp. Date: _____		Phone #: _____	
Billing Address: _____			
Zip: _____		Card Security Code: _____	
Amount to Charge: _____			
Cardholder's Signature: _____			