

605 Fed.Appx. 67

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RULINGS BY SUMMARY ORDER DO NOT HAVE  
PRECEDENTIAL EFFECT. CITATION TO A  
SUMMARY ORDER FILED ON OR AFTER JANUARY  
1, 2007, IS PERMITTED AND IS GOVERNED BY  
FEDERAL RULE OF APPELLATE PROCEDURE  
32.1 AND THIS COURT'S LOCAL RULE 32.1.1.

WHEN CITING A SUMMARY ORDER IN A  
DOCUMENT FILED WITH THIS COURT, A PARTY  
MUST CITE EITHER THE FEDERAL APPENDIX  
OR AN ELECTRONIC DATABASE (WITH THE  
NOTATION "SUMMARY ORDER"). A PARTY CITING  
A SUMMARY ORDER MUST SERVE A COPY OF IT  
ON ANY PARTY NOT REPRESENTED BY COUNSEL.

United States Court of Appeals,  
Second Circuit.

In re: HOTI ENTERPRISES, L.P.,  
Victor Dedvukaj, Debtor–Appellant,  
v.

GECMC 2007 C–1 Burnett  
Street, LLC, Creditor–Appellee. \*

No. 14–996–bk. | July 6, 2015.

Appeal from a March 31, 2014 judgment of the United States  
District Court for the Southern District of New York ([Edgardo  
Ramos](#), Judge).

#### Attorneys and Law Firms

[Arnold E. DiJoseph, III](#), Arnold E. DiJoseph, P.C., New York,  
NY, for Debtor–Appellant.

[George B. South, III](#) ([Daniel G. Egan](#), on the brief), DLA  
Piper LLP (US), New York, NY, for Creditor–Appellee.

Present: [JOSÉ A. CABRANES](#), [ROSEMARY S. POOLER](#)  
and [CHRISTOPHER F. DRONEY](#), Circuit Judges.

#### SUMMARY ORDER

**UPON DUE CONSIDERATION WHEREOF, IT IS  
HEREBY ORDERED, ADJUDGED, AND DECREED**  
that the judgment of the District Court be and hereby is  
**AFFIRMED.**

Debtor–Appellant Victor Dedvukaj challenges a judgment  
of the District Court affirming the judgment of the U.S.  
Bankruptcy Court (Robert D. Drain, U.S.B.J.), which in  
turn had approved and directed payment of \$256,774.69  
in damages by Dedvukaj and the debtor corporations (the  
April 15, 2013 “Payment Order”). The Bankruptcy Court had  
issued the Payment Order after finding that Dedvukaj, and the  
debtor corporations of which he was a principal, violated the  
terms of a previous order confirming the Chapter 11 Plan of  
Reorganization and multiple subsequent contempt orders. We  
assume the parties' familiarity with the underlying facts, the  
procedural history of the case, and the issues on appeal.

We review the Bankruptcy Court's findings of fact for clear  
error, its conclusions of law *de novo*, and its orders awarding  
costs, attorney's fees, and damages for abuse of discretion.  
[In re Bayshore Wire Prods. Corp.](#), 209 F.3d 100, 103 (2d  
Cir.2000). A court abuses its discretion “if it based its ruling  
on an erroneous view of the law or on a clearly erroneous  
assessment of the evidence, or rendered a decision that cannot  
be located within the range of permissible decisions.” [In re  
Sims](#), 534 F.3d 117, 132 (2d Cir.2008) (internal citations and  
quotation marks omitted).

On appeal, Dedvukaj challenges only the Payment Order,  
which he contends was unduly onerous and non-compliant  
with the standards for civil contempt damages. Specifically,  
Dedvukaj argues that the attorney's \*68 fees and expenses  
awarded as damages were excessive and that the Bankruptcy  
Court failed to consider his financial circumstances as  
required by law. Both arguments are unavailing.

The record reflects that the Bankruptcy Court carefully and  
independently reviewed the attorney time and expense reports  
to ensure that they were reasonable and commensurate with  
the tasks undertaken and the hourly rates of competitors in  
the marketplace. Dedvukaj's claim that the Bankruptcy Court  
merely “rubber stamped” the requested fees, *see* Appellant's  
Reply Br. at 3, is directly contradicted by the record reflecting  
the Bankruptcy Court's thorough assessment of the submitted  
time records, identification of vague and unreimbursable  
entries amounting to approximately ten percent of requested  
damages, and commensurate reduction of the damages  
awarded in the Payment Order. Indeed, even Dedvukaj  
himself concedes that the Court “pa[id] attention” to issues  
of reasonableness of fees, customary rates, and inapplicable  
entries. *See* Appellant's Br. at 10–11. We identify neither

clearly erroneous fact-finding nor abuse of discretion in the Bankruptcy Court's assessment of fees.

Dedvukaj's second argument—that the Bankruptcy Court failed to consider his financial condition as required by law—is premised on a fundamental misreading of the Supreme Court case on which he himself bases his claim. Dedvukaj appears to confuse the type of compensatory damages levied here with punitive sanctions imposed to coerce compliance with a court's order, only the latter of which requires a court to “consider the amount of defendant's financial resources and the consequent seriousness of the burden to that particular defendant.” *United States v. United Mine Workers of Am.*, 330 U.S. 258, 304, 67 S.Ct. 677, 91 L.Ed. 884 (1947). Since the Bankruptcy Court here explicitly “grant[ed] remedial

sanctions but not coercive ones,” App'x at 209, its focus on evidence of loss and reasonableness, rather than Dedvukaj's financial circumstances, was entirely proper.<sup>1</sup>

## CONCLUSION

We have considered all of the arguments raised by Debtor–Appellant on appeal and find them to be without merit. For the foregoing reasons, we **AFFIRM** the judgment of the District Court.

## All Citations

605 Fed.Appx. 67

## Footnotes

\* The Clerk of Court is directed to amend the official caption to conform with the above, reflecting the fact that the instant appeal is brought solely by Debtor–Appellant Victor Dedvukaj.

<sup>1</sup> Apart from the merits as stated above, it bears noting that this argument was raised neither before the Bankruptcy Court nor before the District Court. Our “well-established general rule that an appellate court will not consider an issue raised for the first time on appeal” thus forms a separate basis for discounting this argument. *Bogle–Assegai v. Connecticut*, 470 F.3d 498, 504 (2d Cir.2006) (internal quotation marks and citation omitted); see also *In re McKenna*, 238 F.3d 186, 187 (2d Cir.2001), as amended (May 1, 2001) (“[A party's] failure to raise [an] argument ... at the bankruptcy court level and the district court level constitutes waiver.”).