

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

AVAYA INC.,

Plaintiff/Counterdefendant,

v.

TELECOM LABS, INC.,
TEAMTLI.COM, CONTINUANT INC.,
DOUGLAS GRAHAM, SCOTT GRAHAM,
and BRUCE SHELBY,

Defendants/Counterclaimants.

HONORABLE JOSEPH E. IRENAS

CIVIL ACTION NO. 06-2490
(JEI/KMW)

ORDER

APPEARANCES:

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IRENAS, Senior District Judge:

This matter comes before the Court on Telecom Labs Inc. and Continuant, Inc.'s (collectively "TLI/C") recent "Supplement" to TLI/C's application to recover attorneys' fees and expenses from Avaya Inc. ("Avaya") (Docket No. 1443); Avaya having filed a letter requesting the Court reject the Supplement as procedurally improper (Docket No. 1444); TLI/C having submitted a letter opposing Avaya's request (Docket No. 1445) and Avaya having submitted a response (Docket No. 1446); the Court having considered the submissions of the parties; and for good cause appearing that:

1. TLI/C filed its initial application for attorneys' fees and expenses on November 10, 2014 (Docket No. 1412). Following TLI/C's amendment of that application (Docket No. 1413), the Court thereafter permitted the following submissions regarding the pending application:

- a. Avaya's February 17, 2015, Opposition (Docket No. 1426),
 - b. TLI/C's March 17, 2015, Reply (Docket No. 1436),
 - c. Avaya's April 8, 2015, Sur-Reply (Docket No. 1441),
- and

d. TLI/C's April 14, 2015, Response to Avaya's Sur-Reply (Docket No. 1442).

2. In an Order permitting Avaya to file its sur-reply and TLI/C to file a response to the sur-reply, the Court stated explicitly that "following TLI/C's response, unless requested by the Court, there shall be no further briefing related to TLI/C's application for attorneys' fees and expenses." (4/7/15 Order, Docket No. 1440)

3. On April 23, 2015, without seeking leave from the Court, TLI/C filed a "Supplement to the Certification of Michael E. Waller, Esq. in Support of TLI/C's Application to Recover Attorneys' Fees and Expenses." TLI/C explains in its April 28, 2015, letter that the initial application included only fees and expenses through September 11, 2014, the date the Court issued its final judgment, and that the Supplement details additional attorneys' fees and expenses incurred from September 12, 2014, through February 28, 2015 (the "Roll-Forward Period"). (Supplement ¶ 8)

4. At this point, and as outlined above, the Court has received substantial briefing on TLI/C's initial fee application. Accepting the Supplement would necessitate a response from Avaya and a reply from TLI/C, which would rack up further fees and expenses to be addressed in later supplements. Further, TLI/C's Supplement covers only the period from

September 12, 2014, through February 28, 2015, and does not account for further briefing on the fee application and Bill of Costs incurred in March and April 2015. The Court expects that TLI/C will want to supplement its application again with fees and expenses related to those efforts, to which Avaya will certainly want to respond.

5. The Court cannot at this point allow an endless loop of fee supplements and oppositions that will inevitably lead to further supplements and more opposition, and delay a decision on the fee application at hand. That is not to say that the Court will not consider recent fees and expenses at a later time. However, a piecemeal approach to supplements will only increase fees and delay a decision on the application.

6. At this time, the Court will consider the initial fee application, which addresses the bulk of the fees and expenses at issue, before turning to any fees and expenses incurred after the Court entered its final judgment on September 11, 2014. Once the Court has addressed the period of time through September 11, 2014, it will allow TLI/C to file supplementary papers with respect to all fees and expenses in the post-judgment period. Accordingly,

IT IS on this 30th day of April, 2015,

ORDERED THAT:

The Court hereby strikes TLI/C's Supplement to the Certification of Michael E. Waller, Esq. in Support of TLI/C's Application to Recover Attorneys' Fees and Expenses (Docket No. 1443). Once the Court has rendered its decision on TLI/C's initial fee application, TLI/C make seek leave from the Court to supplement the initial application with all fees and expenses incurred from September 12, 2014 onwards.

s/ Joseph E. Irenas
Joseph E. Irenas, S.U.S.D.J.