

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 18-01521

PRESENT: WHALEN, P.J., SMITH, CARNI, NEMOYER, AND CURRAN, JJ.

IN THE MATTER OF THE ESTATE OF ANDREW F. HARTUNG,
ALSO KNOWN AS ANDREW F. HARTUNG, JR., DECEASED.

----- MEMORANDUM AND ORDER
ALICIA S. CALAGIOVANNI, ONONDAGA COUNTY PUBLIC
ADMINISTRATOR, C.T.A., PETITIONER-RESPONDENT;

JOSEPH H. HARTUNG, OBJECTANT-APPELLANT.

JOSEPH H. HARTUNG, OBJECTANT-APPELLANT PRO SE.

COSTELLO, COONEY & FEARON, PLLC, SYRACUSE (ROBERT W. CONNOLLY OF
COUNSEL), FOR PETITIONER-RESPONDENT.

Appeal from an order of the Surrogate's Court, Onondaga County
(Ava S. Raphael, S.), entered December 14, 2017. The order, inter
alia, awarded legal fees to counsel for the Public Administrator.

It is hereby ORDERED that the order so appealed from is
unanimously affirmed without costs.

Memorandum: Objectant appeals from an order that, inter alia,
awarded interim legal fees to petitioner. We reject the contention of
objectant that Surrogate's Court erred in awarding those fees. "The
Surrogate has wide discretion in fixing attorney's fees[,] and the
record here establishes that the court considered the proper factors
and did not abuse its discretion in making the award (*Matter of
Birnbaum*, 159 AD2d 997, 997 [4th Dept 1990], *appeal dismissed* 76 NY2d
783 [1990], *lv denied* 76 NY2d 709 [1990]; *see Matter of Costantino*, 67
AD3d 1412, 1413-1414 [4th Dept 2009]).

We have considered objectant's remaining contentions and conclude
that none warrants reversal or modification of the order.

Entered: March 22, 2019

Mark W. Bennett
Clerk of the Court