

interference.¹ The court thereafter entered an order scheduling a trial on the sole remaining issue of damages to begin on March 2, 2016.

Whitchurch, who was aware of the date, time, and location of the trial, did not appear. The trial nonetheless went forward as scheduled. At the outset, plaintiffs moved to withdraw their demand for a jury trial and since there was no objection, the court granted the motion. Vizant also withdrew its claim for misappropriation of trade secrets, and both plaintiffs withdrew their demands for punitive damages. The court had previously granted plaintiffs' motion to have their claim for contractual counsel fees and costs decided by the court rather than by a jury.

The following are the court's findings of fact and conclusions of law following the trial, together with findings of undisputed fact and conclusions of law as a result of the grant of partial summary judgment on liability in favor of plaintiffs.

I.

Plaintiffs' complaint included RICO claims over which we had subject matter jurisdiction pursuant to 28 U.S.C. § 1331. We

1. We granted summary judgment in favor of Whitchurch and her sister and co-defendant, Jamie Davis ("Davis"), on plaintiffs' claims of: violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968; abuse of process; conversion; fraud; and civil conspiracy. Vizant has since withdrawn their DUTSA claim, and plaintiffs have settled their dispute with Davis and have dismissed the remaining claims against her.

exercised supplemental jurisdiction over the remaining claims pursuant to 28 U.S.C. § 1367. There is also diversity of citizenship among the parties, bestowing us with jurisdiction under 28 U.S.C. § 1332(a). Vizant is a boutique financial services corporation organized under the laws of Delaware and with its principal place of business in Chadds Ford, Pennsylvania. Vizant's CEO is Bizzarro, who is a citizen of Pennsylvania. Defendant Whitchurch is a citizen of Georgia.

In addition to its Chadds Ford headquarters, Vizant has offices in cities including Charlotte, Seattle, Toronto, and London. Vizant also does business with companies in approximately 20 other countries. Vizant counts among its clients both for-profit and nonprofit entities, including a Fortune 100 company, Temple University, and the Franklin Institute in Philadelphia. Bizzarro owns approximately 6.2 percent of Vizant on a fully diluted basis. In 2015, Bizzarro's compensation consisted of a \$250,000 salary, benefits, and a bonus of up to 50 percent of his salary. As of the trial date, Bizzarro's 2015 bonus amount had not yet been approved.

Vizant specializes in helping its clients mitigate the costs associated with inbound payments, particularly credit card transactions. It does so by gathering detailed financial data about each client, analyzing this data, and identifying ways for that client to reduce the costs it incurs when processing incoming

payments. Clients rely on Vizant to provide them with information about developments in the payments field having to do with technology and billing and banking systems. Among other things, Vizant is able to compare the costs incurred by its clients with those incurred by other similarly-situated entities in order to pinpoint cost-reduction opportunities. The company holds seven United States patents for its methodologies. Vizant is compensated on a "results" basis, that is by receiving a percentage of the savings its clients experience as a result of having implemented Vizant's recommendations.

Vizant's data analysis methodologies are trade secrets, and it treats its communications with its clients about their finances as highly confidential. The company's clients regularly provide it with sensitive information about their own finances, such as bank statements. Consequently, Vizant prioritizes the confidentiality of this material and takes steps to protect it. For example, Vizant maintains a robust information technology infrastructure incorporating a number of security protocols. Vizant also requires all of its employees to sign employment agreements that include detailed provisions governing the handling of proprietary information and barring unauthorized disclosure of this material. It is critical for Vizant to keep this information confidential. If one of its clients learned that it had shared a

client's information, all of its client relationships would be adversely affected.

Vizant hired Whitchurch in 2011 as a Business Development Manager, a sales position. Upon commencing her employment, Whitchurch signed a document styled "Confidentiality, Non-Competition and Assignment Agreement" (the "employment agreement"). Among other things, the employment agreement included a section entitled "Non-competition and Non-solicitation." In relevant part, that section stated:

2.1.1 During the period beginning on the Effective Date and ending on the date that is two years following the termination of the Service Term, Employee shall not, directly or indirectly, anywhere in the United States or any other geographic area in which Company markets or has marketed its products or services during the one-year period preceding the end of the Service Term:

2.1.1.1 Encourage any employee to terminate his or her employment with the Company . . . or in any way interfere with the Company's relationship with its employees;

2.1.1.2 Encourage or induce any customers or suppliers of the Company to terminate business activities with the Company;

2.1.1.3 engage in any diversion of good-will regarding the business as conducted by the Company; [or]

2.1.1.4 otherwise engage in the Business or assist any person or entity that engages in the Business.

The term "Business" was defined as "the business of the Company as conducted by the Company (including any business for which the Company has devoted meaningful development activities) during the period from the Effective Date until the end of the Service Term."

A section of the employment agreement specified that it was to be "governed and construed in accordance with the internal laws of the State of Delaware without regard to its choice or conflicts of law provisions." It also provided for attorneys' fees and costs: "Should it become necessary for the Company or Employee to file suit to enforce the covenants or other provisions contained herein, the prevailing party shall be entitled to recover, in addition to all other damages provided for herein, the costs incurred in conducting the suit, including reasonable attorneys' fees."

At the beginning, Whitchurch was a productive and valuable employee at Vizant. She was promoted in 2012 to manage a regional sales team, and in 2012 she was promoted again to National Director of Business Development. At all relevant times, Whitchurch resided in the suburbs of Atlanta, Georgia, although she traveled frequently to Vizant's Pennsylvania headquarters on business.

Although Bizzarro received some complaints from others on Vizant's staff about Whitchurch's demeanor, he dismissed them at

first since she was a skilled salesperson and an asset to Vizant. Over time, however, Whitchurch's behavior became more erratic. For example, she instructed women on the sales team that she supervised to "dress sexy," sent brusque and profanity-filled emails late at night, and made unauthorized charges to her company-issued credit card. She became insubordinate, at one point ceasing communication with Bizzarro, her supervisor, for a four-week period. The quality of her performance also declined.

In October 2013, Bizzarro decided to demote Whitchurch. He did so because of the decline in her sales performance, the complaints he had received from company executives and members of her sales team about her treatment of them, and her repeated failure properly to submit expense reports. He advised her that if she remedied these issues she could "work her way back up" but warned that if her behavior did not change she could be fired.

After her demotion, Whitchurch "kind of went rogue." In early December 2013, she contacted a member of Vizant's board of directors. Whitchurch told the board member that Bizzarro was stealing from the company, neglecting to pay employees, and misappropriating the money of Vizant's investors. Bizzarro subsequently received a call from members of Vizant's board. He explained to them that Whitchurch was a Vizant employee who had been placed on probation. Within hours, on December 3, 2013, Vizant's general counsel contacted Whitchurch and informed her that

her employment was being terminated. Within 24 hours of being fired, Whitchurch called Bizzarro and left a voicemail message in which she ranted and cursed at him. Among other things, she threatened to call Vizant's customers and repeat her allegations to them.

Vizant's board of directors takes seriously any allegations of financial mismanagement within the company, particularly because it has a fiduciary duty to Vizant's investors. Consequently, the board retained an outside law firm to conduct a fraud investigation relating to the claims made by Whitchurch. The law firm concluded that no impropriety or illegality had taken place.

In the months following Whitchurch's termination, she emailed members of Vizant's board on a daily basis, and sometimes more than once a day. The emails were rife with false statements. In them, Whitchurch frequently asserted that Bizzarro was a thief. Bizzarro was often copied on these emails. In addition, Whitchurch used social media and email to contact members of Bizzarro's family, including his niece and one of his children. Whitchurch also mailed postcards to Bizzarro and to each board member at their homes and at their offices. These postcards frequently featured photographs of Bizzarro, of Vizant's board members, and of monkeys, and contained statements such as "I'm not going to let this stand." In her communications, Whitchurch often demanded a payment of

roughly \$16,000, although the exact amount varied from day to day. Vizant offered to write her a check for the full amount if she would agree to take down her website, but she declined, instead demanding a larger sum. Throughout this period, Frank Seidman ("Seidman"), the chair of Vizant's board of directors, had the authority to fire Bizzarro.

Among the email messages sent by Whitchurch was one sent shortly after her termination to Bizzarro, Seidman, a board member named Lane Wiggers ("Wiggers"), and Vizant's outside counsel Bruce Kasten ("Kasten"). In apparent response to a letter in which Kasten had demanded that Whitchurch "cease and desist from making additional threats or making disparaging comments regarding Vizant, its personnel, and its business," she wrote:

Yes, Yes, I reached out to the board. Yes, I am still reaching out to the Board. YES, this is me screaming from the mountain top. Houston we have a problem!!!!!!!!!!!!!! Does no one have a fiduciary duty to ring the alarm when they see and can prove gross financial misconduct by C Level Executives, in private as well as public companies? . . . I could and will quote the CFO verbatim telling me how hard it was to come up with a lie for the employees every 2 weeks as to why payroll is/was late and or missing. . . . I am just as mortified today as I was sitting in his office listening to him whine about having to come up with a lie every 2 weeks. What a pansy.

The email continued:

Should I have continued to watch us use vendors [sic] services, with no intention of

paying them? . . . Should I have continued to do nothing and watch him [apparently Bizzarro] play the "float" with things as important as our health insurance? . . . Should I have continued to let him fire employees that asked too many times for their owed commissions? . . . Should I have not continued to take the calls and emails for our Alliance Partners that we're not paying? Should I just do what Joe [Bizzarro] does, ignore the call, make up a story about being on a plane, being in an all-day meeting, leave a voicemail after hours . . . [?]

Of Bizzarro, Whitchurch added:

I believe he has no moral floor, no moral compass, he's a liar, and he's a cheat. There is little doubt in my mind that he has "enhanced" his reporting to the board so the true financial state of the company is far more positive than the reality. . . . [L]ying is engrained in his person, and it is who he is.

There is no evidence that any of Whitchurch's allegations of illegal conduct or financial mismanagement were true.

Whitchurch again emailed members of Vizant's Board on January 2, 2014. Her email stated in relevant part:

I'm Julie Whitchurch and up until Dec 4th I was the National Director of Business Development at Vizant. I'm going to forward you several emails, it should bring you up to speed.

The cliff notes:

- You've got a monkey as the CEO of Vizant
- The monkey is burning the people's money. (not his money, not your money, the investor's [sic] money)

- I reached out to Frank & Lane to report the GROSS and ILLEGAL financial misconduct of the monkey.
- I was terminated 3 hours later
- My sister, Jamie Davis, was terminated 8 hours later
- Frank is complacent
- Lane is scrambling to cover his ASSet

. . .

[Frank], Joe, and Lane have wronged Jamie and me in ways that would be incomprehensible to any reasonable person. You have behaved shamefully, despicable [sic], and quite possibly, illegally.

Again, Whitchurch has put forth no evidence of the truth of her accusations of illegality or misconduct.

On January 5, 2014, Whitchurch emailed Bizzarro and members of Vizant's Board yet again. She wrote:

Below you will find an email from a Vizant sales rep asking Joe, the equivalent of "where are my commissions, where is the money you owe me" and Joe's reply "you're unprofessional, and fired".

ILLEGAL

Joe, how long was [the sales rep] with the company, 5+ years? . . . You fucking idiot. Who do you think pays for that piece of shit, Mike the "situation" worthy, bedazzled truck of your [sic] ??? Not you, not strolling into the office at 9:30 and out by 5:00. You arrogant fool, no CEO (no human being) that has any decency goes out and buys a new car when they cant [sic] pay their employees. You know what your troops

are/were thinking... "nice truck asshole,
where's my money."

As previously, there is no evidence in the record to support
Whitchurch's statements about Bizzarro's or Vizant's misconduct.

Vizant is aware that Whitchurch, who has a list of the
company's clients and prospective clients, reached out to at least
some of them to communicate her claims, although the company has no
way of knowing how many.

Among the Vizant board members contacted by Whitchurch
was Jonathan Kalman ("Kalman"). Whitchurch created an email
address, "kalman.jonathan@yahoo.com," which appeared to be Kalman's
email address even though it was not. She used this fake email
address to send a message to Kalman's real email account. In it,
she represented that Kalman had "retaliated against [her] when
[she] came forward to report the CEO and CFO of Vizant, for
gross/illegal financial and employment practices." She continued:
"I believe that Jonathan [Kalman] is involved in a business that is
dangerously close to being a Ponzi scheme."² The email also

2. Black's Law Dictionary defines a "Ponzi scheme" as a

fraudulent investment scheme in which money
contributed by later investors generates
artificially high dividends or returns for
the original investors, whose example
attracts even larger investors. Money from
the new investors is used directly to repay
or pay interest to earlier investors,
usu[ally] without any operation or revenue-

included a link to Whitchurch's website, www.nocapitalsolutions.com.³ Whitchurch sent a similar email to a prospective Vizant investor who forwarded it to Kalman and other board members, telling them: "This email came unsolicited out of the blue [and] [i]t is the extent of what I know . . . I have no interest in wasting my time with your lawyers or any others." Kalman, concerned about the impact that Whitchurch's allegations could have on his reputation, resigned from Vizant's board. The court has been presented with no evidence of "gross/illegal financial and employment practices" or of a Ponzi scheme at Vizant.

The website referenced in the aforementioned emails, www.nocapitalsolutions.com, was launched by Whitchurch and Davis in mid-January 2014. It featured pictures of Bizzarro and members of Vizant's board taken from their profiles on the professional networking website LinkedIn. On the site, Whitchurch published numerous derogatory statements about Bizzarro. Among other things, she called him "the monkey" and "The F*cking Monkey," stated untruthfully that he had been arrested for drunk driving, and questioned his credentials and whether he had attended college.

producing activity other than the continual raising of new funds.

Ponzi scheme, Black's Law Dictionary (10th ed. 2014).

3. This URL makes reference to Capital Solutions, Inc., an investment company which is a part owner of Vizant. Certain of Capital Solutions' executives sit on Vizant's board.

Many pages on the website displayed the email address "joebizzarrowhereismymoney@yahoo.com." Whitchurch also obtained photographs of Bizzarro's family on vacation and uploaded them to the website. She did the same with pictures of herself and her son engaged in target practice. Also featured on the website were pictures of monkeys accompanied by references to sodomy. Other members of Vizant's board of directors were targeted on the website as well.

Whitchurch continued to use the website as a platform to post diatribes about Vizant and its officers and to accuse them of malfeasance and financial mismanagement. At one point, she posted:

For over 8 months, I watched Joseph Bizzarro withhold sales reps [sic] commissions, withhold alliance partners [sic] commissions, over bill the clients, pay employees late, terminate employees that asked for their owed monies, not pay his vendors, not pay the employee's [sic] health insurance premium [sic]. Seriously, this guy is a real pig.

After 8 months, 328 emails addressing these concerns, and too many conversations with the CEO, CFO and HR to count, I reached out to help. . . . I was fired within 3 hours. My sister, who also worked for Vizant and who had just returned from maternity leave, was terminated the next day. Seriously, these men are pigs.

. . .

Frank Seidman and Lane Wiggers are the guys that get the money from people like you, to invest in companies like this, they have a legal fiduciary duty to put your money's

best interest before their own. They have not.

. . .

You can't imagine how much money (investor's money) they've spent in an effort to get this website down and stop me from saying "Frank, you're not doing your job. Frank, you hired a monkey as the CEO of one of your portfolio companies. Frank, that same monkey put two other companies into bankruptcy. Frank, pay me the \$15+K owed." If I had to guess, I'd say Frank has spent close to \$100K of his investors [sic] money. I wonder do they know. Pathetic.

The website additionally contained the following text:

EXHIBIT in a court of law. If you're a past/present employee [sic] or a past/present investor, and it comes to you suing these jackasses for owed wages or a breach of fiduciary duty, know that I will make myself available for depositions and trial. You can reach me anytime at joebizzarrowhereismymoney@yahoo.com.

She posted on the website an excerpt from "an email to Frank [Seidman] around late Jan 2014" which had purportedly stated: "I would expect that everyone would tell the truth. Fuck Frank, that's what I've been counting on. The truth. These are libel statements, I'm holding you liable, personally. . . . Seriously, I think you're breaking PA Law just by saying [Dave Askinas is Vizant's] 'general counsel.'" In addition, Whitchurch printed on the website the text of an email apparently sent by Bizzarro to certain Vizant employees. She had annotated the text of the email, adding remarks such as: "You have no intention of paying

the full commissions, never have"; "You Lie, and Lie, and Lie"; and "I'm calling you out, you're a liar & a cheat Joe Bizzarro."

In a message on the website apparently directed to Seidman, Whitchurch wrote:

It's now been 6 months since I made you aware of your culpable neglect hiring of Joseph Bizzarro. You are well aware he's a fraud, his resume and credentials are fabricated, he's bankrupted (or played a major role in the bankruptcy) of two of his previous employers, and he's a pathological liar. Vizant continues to decline under his leadership, or lack there of [sic]. Sales have steadily [sic] declined, there isn't enough money in reserve for ADP to run the payroll, sales reps haven't [sic] received their expense checks in months, commissions aren't being paid, Alliance Partners aren't [sic] being paid and if they are, it is far less than what they're owed, and customers are being over billed.

Again Frank [Seidman], stop thinking about FRANK. Start thinking about your investors, employees, and clients. FIRE HIM [referring to Bizzarro].

Bankrupting Vizant can't be that far off, WTF are you going to tell the investors then? You could tell them "we were never able to maximize our square footage." That was his reasoning for bankrupting Reading China. What a monkey, what does that even mean, sounds like code for "I don't know what the f*ck I'm doing because I'm a monkey."

. . .

Frank, YOU'RE IN GROSS BREACH OF YOUR FIDUCIARY DUTIES TO THE INVESTORS OF VIZANT TECHNOLOGIES.

The same section of the website declared:

Joseph, [y]ou've got no moral compass.
You're an embarrassment to Vizant. You've
single handly [sic] ruined that company.
There is noone [sic] else to blame, it's
you. You're the problem, you've been the
problem from the beginning. You're a fraud.

In addition, Whitchurch devoted entire sections of her website to debunking Bizzarro's resume, characterizing Vizant as overly litigious, and implying that Vizant was a Ponzi scheme.

Once again, based on the evidence before us, there is no truth to any of the statements on the website accusing Vizant and its officers of being incompetent, running a Ponzi scheme, or engaging in any financial mismanagement or illegal conduct.

Both Bizzarro and Vizant's counsel checked the website daily in order to determine whether Whitchurch was using the site to disclose information about Vizant's clients and to see what she was saying about the company. During a 15-month period beginning in early 2014 and ending in mid-2015, the website had more than 4,000 "unique visitors," meaning that repeat visits by any individual, including Bizzarro, were recorded as only one visit. In contrast, Vizant's own website receives between 70 and 100 unique visits per month. During the time that the website was live, it appeared as the top result in a Google search for "Vizant."

Whitchurch uploaded to the video-sharing website YouTube "rather threatening" videos that she had created and that were directed at Seidman, the chair of Vizant's board. She placed links to these videos on the website.

The website has caused harm both to Vizant and to Bizzarro. The actions of Whitchurch damaged Vizant's relationship with its employees and prospective employees and has harmed morale among the company's sales representatives. Bizzarro still fields questions from prospective employees and executives about Whitchurch's website. Employees of Vizant have made statements to Bizzarro that indicate to him that Whitchurch has contacted them to voice her claims.

In addition, Vizant now finds it difficult to raise capital, as Whitchurch's claims have made investors reluctant to contribute to the company. At least one investment group backed out of a potential relationship with Vizant after learning of the charges levied by Whitchurch. Bizzarro was ultimately forced to guarantee personally a \$500,000 loan to Vizant.

Perhaps most significantly, Vizant has lost business as a result of Whitchurch's conduct. Since 2012 and 2013, Vizant's new client production rate has decreased by 50 percent. Bizzarro is certain that this is due to the "damaging PR" generated by Whitchurch. Bizzarro "get[s] asked about it all the time still" by prospects.

Among the business relationships specifically affected was Vizant's relationship with Amtrak. In an effort to secure highly valued business from Amtrak, Vizant engaged in lengthy negotiations with it and secured the endorsement of one of its representatives, who presented Vizant as the best company for the job. Vizant reviewed Amtrak's finances and identified at least one way to reduce the costs Amtrak was incurring in connection with inbound credit card payments. Based on this and on previous years' sales figures, Vizant was able to predict with a "high degree of confidence" that Amtrak would save \$8,036,790 per year, or \$24,110,370 over a three-year period, if it were to implement Vizant's recommendations. Vizant reasonably anticipated that if it entered into a contract with Amtrak, the two entities would agree to Vizant's standard three-year compensation structure pursuant to which Vizant would receive 45 percent of Amtrak's savings in the first year of the contract, 40 percent in the second year, and 35 percent in the third year. This would mean that over the length of its three-year contract with Amtrak Vizant would be compensated \$9,644,148.

However, the negotiations ground to a halt when Amtrak learned about Whitchurch's website. Bizzarro recalled that Amtrak was "skittish" about working with a company that was being accused of running a Ponzi scheme. As a direct result, Vizant was forced to "buy the business" by significantly reducing its compensation

rate for Amtrak's benefit. While it secured the Amtrak contract, instead of a compensation rate of 45 percent of Amtrak's savings in the first year of the contract, 40 percent in the second year, and 35 percent in the third year, Bizzarro on behalf of Vizant agreed that Vizant would receive only 20 percent of Amtrak's savings in each of the three years of the contract. In light of Whitchurch's allegations, it was necessary for Bizzarro to lower the rate as he did in order to secure Amtrak's business.

As explained above, if Vizant had entered into a contract with Amtrak that incorporated its standard compensation terms, it would have earned a commission of \$9,644,148. Under the terms of the contract into which the two entities actually entered, however, Vizant stands to earn only half of that sum, or \$4,822,074. Thus, Vizant will lose out on earnings of \$4,822,074 as a result of the reduction in its compensation rate. Based on its past audited financial statements, Vizant calculates that if it had earned the lost \$4,822,074, 62 percent of that amount would be expended on what it characterizes as "cost of sales," reducing the earnings to a net profit of \$1,832,388. Had Vizant secured a contract with Amtrak at its normal compensation rate, its net profit would be \$1,832,388 more than what it now stands to earn at the reduced compensation rate.

Meanwhile, Bizzarro has experienced significant harm as a result of the conduct of Whitchurch. His relationship with

Vizant's board of directors has suffered permanent damage due to the allegations at issue. Specifically, Whitchurch's claims that Bizzarro engaged in fraud, although false, have caused members of the board to lose trust in him. As a result, the board has "clamped down" on Bizzarro, who now faces probing questions and is expected to include particularly detailed answers in his reports. Bizzarro testified that Seidman questions why Bizzarro hired Whitchurch and why he allowed her conduct to go on for so long. If Bizzarro had not managed to "turn the company around" financially during his tenure as CEO, he would have been fired. Bizzarro acknowledged that if he were a member of the board, he would feel the same way.

Whitchurch's untruthful accusations made Bizzarro look weak in the eyes of Vizant's employees, investors, and board members. According to Bizzarro, people now "look at [him] differently." He stated that these events have damaged his reputation in a way he is unable to quantify. Even though Whitchurch, pursuant to this court's order, removed from her website "all derogatory, unfavorable, or threatening references to or statements concerning" Vizant and its officers on or about May 22, 2015, Bizzarro's reputation has not been fully restored. He is concerned that due to the damage to his reputation, his position at Vizant may be the last time he serves as a CEO.

As a result of Whitchurch's abusive conduct, Bizzarro has been forced to spend his own time defending himself and responding to the accusations against him. Since Whitchurch was terminated he has devoted a great deal of his time to this matter, as have the personnel with whom he works. Bizzarro estimates that in 2014, he spent 20 percent of his working hours responding to the allegations made by Whitchurch, sometimes devoting entire weeks to this issue. In 2015, he devoted roughly 10 percent of his hours to the matter.

Whitchurch's attacks against Bizzarro "got very personal." Among other things, Whitchurch accused him of crimes and contacted members of his family, causing them undue stress. Bizzarro is a very private person and finds it "intimidating" to be harassed on social media. He travels frequently and now worries about the safety of his family in light of Whitchurch's professed interest in "guns and weapons."

In sum, Whitchurch has publicly accused Bizzarro of being a criminal, a thief, and a liar, and has asserted that Vizant's officers and investors are complicit in a Ponzi scheme. Based on the record before us, all of these statements are false. Whitchurch has also referred to these individuals as "monkeys" and "pigs" and has described them using profane invectives. Her false statements have caused severe damage to Bizzarro's reputation.

II.

As mentioned above, we have already concluded that Whitchurch is liable to Vizant for breach of contract, defamation, and tortious interference with existing and prospective contractual relationships. We now determine the amount of damages to which Vizant is entitled on those claims.

In our ruling on Vizant's motion for summary judgment, we concluded based on the undisputed facts before us that Whitchurch breached her employment agreement with Vizant. That contract, which Whitchurch signed when she was hired, provided in relevant part that during her employment and for two years following the termination of that employment, Whitchurch could not "[e]ncourage or induce any customers or suppliers of [Vizant] to terminate business activities with [Vizant]," nor could she "engage in any diversion of good-will regarding the business as conducted by the company."

Under Delaware law,⁴ a plaintiff who prevails on a breach-of-contract claim is entitled to "recover 'damages that arise naturally from the breach or that were reasonably foreseeable at the time the contract was made.'" Paul v. Deloitte & Touche, LLP, 974 A.2d 140, 146 (Del. 2009) (quoting

4. As mentioned above, the employment agreement specified that it was to be "governed and construed in accordance with the internal laws of the State of Delaware without regard to its choice or conflicts of law provisions."

Tackett v. State Farm Fire & Cas. Ins. Co., 653 A.2d 254, 264 (Del. 1995)). Such damages "are designed to place the injured party . . . in the same place as he would have been if the contract had been performed." Id. (citation omitted). Vizant appears to seek only "expectation damages," which "are measured by the losses caused and gains prevented by [a] defendant's breach" of the contract. See id. (quoting ATACS Corp. v. Trans World Commc'ns, Inc., 155 F.3d 659, 669 (3d Cir. 1998)).

The evidence presented by plaintiffs at trial establishes that Vizant lost the opportunity to earn net profits of \$1,832,388 as a direct result of the false allegations about Vizant that Whitchurch posted on the Internet and that were viewed there by representatives of Amtrak, which was at the time a prospective Vizant client. In posting those accusations online, Whitchurch breached her employment contract with Vizant in that she "[e]ncouraged or induced any customer . . . of [Vizant] to terminate business activities with" Vizant and "engaged in a[] diversion of good-will regarding the business as conducted by [Vizant]." Put differently, as a direct result of the breach of contract caused by Whitchurch, Vizant was prevented from enjoying gains in the amount of \$1,832,388. See id. Compensating Vizant for this sum will place the company "in the same place as [it] would have been if the contract had been performed." Id.

Vizant also seeks damages in connection with its defamation claim, for which we have already determined Whitchurch to be liable. Pennsylvania courts⁵ have adopted the approach to defamation damages set forth in the Restatement (Second) of Torts, which provides that “[o]ne who is liable for a defamatory communication is liable for the proved, actual harm caused to the reputation of the person defamed.” Restatement (Second) of Torts § 621; see also, e.g., Joseph v. Scranton Times L.P., 129 A.3d 404, 430 (Pa. 2015). The compensatory damages described in § 621 are designed to make a plaintiff whole “for the harm that the publication has caused to his reputation.” Restatement (Second) of Torts § 621, cmt. a.

In addition to this compensation for reputational harm, a prevailing plaintiff in a defamation action is entitled to damages for “special harm,” that is “the loss of something having economic or pecuniary value,” legally caused by the defamatory publication. Id.; see also id. §§ 622, 623. As we noted in our January 8, 2016 summary judgment memorandum, a corporation can be defamed by allegations against its “officers, agents or stockholders [which] also reflect discredit upon the method by which the corporation conducts its business.” Id.

5. We have previously applied Pennsylvania law to plaintiffs’ defamation claim, and we do so again here. See Memorandum dated January 8, 2016 (Doc. # 212).

§ 561 cmt. b; see also Gordon v. CBS Broad., Inc., No. 3132 EDA 2013, 2014 WL 7920780, at *8 (Pa. Super. Ct. Dec. 8, 2014).

In connection with its defamation claim Vizant seeks the same \$1,832,388 in damages it seeks on its breach-of-contract claim. Vizant has requested defamation damages only in connection with the harm to its reputation that gave rise to the reduction in its profits from Amtrak's business. The accusations made by Whitchurch caused Amtrak to question its dealings with Vizant, making it necessary for Bizzarro to reduce the compensation rate set forth in Vizant's contract with Amtrak. As a result of this rate reduction, Vizant's net profit from the Amtrak contract will be \$1,832,388 lower than it would have been had Vizant not been defamed by Whitchurch. Awarding Vizant this sum will make it whole "for the harm that the publication has caused to [its] reputation." See Restatement (Second) of Torts § 621, cmt. a.

Finally, Vizant seeks damages from Whitchurch for her intentional interference with its prospective contractual relationship with Amtrak. We already found Whitchurch liable on this claim. Again Vizant seeks the same \$1,832,388 in damages in connection with Whitchurch's interference with that relationship. Once again, Vizant does not seek any damages other than those linked to the damage to its relationship with Amtrak.

We explained in our summary judgment opinion that Delaware law⁶ permits tortious interference claims arising out of three provisions of the Restatement (Second) of Torts: § 766, which permits claims for tortious interference with a contractual relationship; § 766A, which applies when a defendant renders a plaintiff's performance of his own contract "more expensive or burdensome"; and § 766B, pertaining to wrongful interference with prospective contractual relations. We concluded that the actions of Whitchurch violated all three provisions, noting specifically that Whitchurch had interfered with Vizant's prospective business relationship with Amtrak. We also ruled that the actions of Whitchurch had "proximately caused harm" to Vizant in that Vizant "lowered its compensation rate for Amtrak." In addition, we determined that the actions of Whitchurch had rendered Vizant's performance of its contract with Amtrak "more burdensome."

Section § 766A, under which Whitchurch is liable to Vizant, states that a defendant whose conduct is embraced by the provision "is subject to liability to the [plaintiff] for the pecuniary loss resulting to" it. Whitchurch is also liable to Vizant under § 766B, which similarly establishes "liability to

6. We applied Delaware law to this claim due to its relationship to Whitchurch's employment agreement. See Memorandum dated January 8, 2016 (Doc. # 212); Sullivan v. Sovereign Bancorp, Inc., 33 F. App'x 640, 642 (3d Cir. 2002). We will do so again here.

the [plaintiff] for the pecuniary harm resulting from loss of the benefits of the relation." Under either of these standards, Vizant has demonstrated that it is entitled to damages in the amount of \$1,832,388. This sum accurately reflects the "loss of the benefits of the relation" that Vizant suffered due to the damage to its relationship with Amtrak that resulted from Whitchurch's accusations.

To summarize, Vizant has proven at trial that it is entitled to a total of \$1,832,388 in damages on its breach of contract claim, its defamation claim, and its tortious interference claim. These claims arise, if not out of the same facts, then out of closely related facts. Vizant concedes that a defendant cannot be liable for "duplicative damages," that is "multiple liability for the same conduct." See, e.g., Joint Stock Soc'y v. UDV N. Am., Inc., 266 F.3d 164, 185 (3d Cir. 2001). We award Vizant compensatory damages of \$1,832,388.

III.

Bizzarro seeks damages in connection with his defamation claim alone. As mentioned above, we have already found Whitchurch liable to Bizzarro on that claim, based upon false statements about Bizzarro that Whitchurch published on her website and in emails to certain parties affiliated with Vizant.

Pennsylvania law permits a prevailing plaintiff in a defamation action to recover, among other things, "actual"

compensatory damages. See Sprague v. Am. Bar Ass'n, 276 F. Supp. 2d 365, 368 (E.D. Pa. 2003). As noted above, Pennsylvania has adopted the Restatement (Second) of Torts, which characterizes actual damages as "the proved, actual harm caused to" the plaintiff's reputation. See Restatement (Second) of Torts § 621. This harm is "not confined to out-of-pocket loss" but includes "personal humiliation" and "mental anguish and suffering." Id. § 621 cmt. a. Accordingly, "actual" damages are further classified into "general" damages, which are "those that typically flow from defamation" and include such things as reputational harm, personal humiliation, and emotional suffering, and "'special' actual damages, which are economic and pecuniary losses." E.g., Sprague, 276 F. Supp. 2d at 368-69. A "showing of general damages is sufficient" on a claim for actual damages in libel cases like this one. See Sprague, 276 F. Supp. 2d at 369. Pennsylvania law also permits recovery on a defamation claim for "emotional distress . . . that is proved to have been caused by the defamatory publication." Id. § 623; see also, e.g., Sprague, 276 F. Supp. 2d at 368.

At trial, Bizzarro demonstrated that he has suffered reputational harm, humiliation, and emotional distress as a result of the defamatory statements made about him by Whitchurch. In particular, the accusations made by Whitchurch about Bizzarro caused him to lose standing in the eyes of

Vizant's board members and employees. Bizzarro pointed to examples of instances in which members of Vizant's board demonstrated their diminished trust in him, including occasions on which Bizzarro has been presented with probing questions and has been second-guessed for his decisions to hire Whitchurch and to retain her as an employee. Bizzarro stated that people associated with Vizant "look at [him] differently" than they did before the events at issue. He testified that because of the damage to his reputation he will be unable to obtain a position as a CEO in the future.

The evidence presented at trial also shows that Bizzarro experienced severe humiliation and emotional harm due to Whitchurch's conduct. Because of the "very personal" defamatory statements made against him, Bizzarro was "intimidated" and now worries about the safety of his family when he is away from home. The damage to Bizzarro's reputation and the humiliation and stress he has experienced amount to "general damages" for which Bizzarro is entitled to compensation. See, e.g., Restatement (Second) of Torts §§ 621, 623.

Bizzarro has also proven that he suffered "special" actual damages due to the defamatory statements made by Whitchurch. Bizzarro, who earned a salary of \$250,000 in 2015 and was entitled to earn as much as \$125,000 in bonuses, spent

20 percent of his working hours in 2015 responding to the allegations made by Whitchurch, and devoted 10 percent of his time to the issue in 2015.

As a result of Whitchurch's conduct, Bizzarro has been forced to spend his own time defending himself and responding to the accusations against him. He testified that since Whitchurch was terminated he has devoted a great deal of his time to this matter, as have the personnel with whom he works. Bizzarro estimates that in 2014, he spent 20 percent of his working hours responding to the allegations made by Whitchurch, sometimes devoting entire weeks to this issue. In 2015, he devoted roughly 10 percent of his hours to the matter. In other words, Bizzarro, who is a part owner of Vizant, was forced to spend many hours responding to the defamatory statements of Whitchurch instead of devoting that time to his duties as CEO. Whitchurch's actions also put Bizzarro in the position of having to personally guarantee a \$500,000 loan for Vizant's benefit, incurring significant personal financial risk in the process.

As noted above, Bizzarro is entitled to be compensated for any general harm and any special harm legally caused by the defamatory statements of Whitchurch. Based on the evidence presented at trial, we conclude that Bizzarro has suffered general harm and special harm in an amount of \$500,000.

IV.

The court granted plaintiffs' motion before trial to have the court rather than a jury determine the amount of attorneys' fees and costs allowable to them under the employment agreement signed by Whitchurch. Plaintiffs thereafter filed a motion for attorneys' fees and costs, which is now before us. Whitchurch has filed no response.

Plaintiffs' motion seeks attorneys' fees in connection with the work performed by its current counsel, Kang Haggerty & Fetbroyt LLC ("Kang Haggerty"). The attorneys' fees sought by Vizant also include those it paid two additional law firms, Duane Morris LLP ("Duane Morris") and Elarbee, Thompson, Sapp & Wilson, LLP ("Elarbee Thompson"), to pursue claims on Vizant's behalf in state court in Georgia.⁷ Finally, Vizant requests an award of costs, including the costs it incurred in retaining the company IT Acceleration.

The Vizant employment agreement signed by Whitchurch provides in relevant part: "Should it become necessary for the Company or Employee to file suit to enforce the covenants or

7. Vizant's state-court action involved claims arising out of the same facts that gave rise to this matter. With the help of Duane Morris and Elarbee Thompson, Vizant obtained a temporary restraining order and a preliminary injunction against Whitchurch in Georgia state court. In late 2014, Vizant filed a notice of voluntary dismissal of the Georgia litigation, prompting the state court to dismiss the case in February 2015. Around the same time, Kang Haggerty filed Vizant and Bizzarro's complaint in the Eastern District of Pennsylvania.

other provisions contained herein, the prevailing party shall be entitled to recover, in addition to all other damages provided for herein, the costs incurred in conducting the suit, including reasonable attorneys' fees."

In light of the relevant language in the employment agreement, we must first determine whether Vizant⁸ is the "prevailing party." It is clear that it is. In general, plaintiffs are "prevailing parties" for the purpose of attorneys' fees "if they succeed on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit." Hensley v. Eckerhart, 461 U.S. 424, 433 (1983) (quoting Nadeau v. Helgemoe, 581 F.2d 275, 278-79 (1st Cir. 1978)).⁹ Vizant has done so. In filing this action, it

8. We note at the outset that only Whitchurch and Vizant were parties to the employment agreement. Bizzarro was not. As noted above, the relevant language of the employment agreement applies to situations in which it becomes necessary for Vizant or one of its employees "to file suit to enforce the covenants or other provisions" of the agreement. (Emphasis added.) Under those circumstances the "prevailing party" is entitled to recover costs including reasonable attorneys' fees. Although we recognize that Bizzarro is an employee of Vizant and prevailed on two of his claims, he was not a party to the breach-of-contract claim. Bizzarro did not file suit "to enforce the covenants or other provisions" of the employment agreement, and as a result, the attorneys' fee provision of that agreement provides him no relief.

9. Hensley and all of the other cases cited by plaintiffs address statutory entitlement to attorneys' fees and costs. Absent anything in the contract to the contrary, we see no reason why the principles established by those cases should not apply in a situation like this one where a party's entitlement

sought to recover from Whitchurch the damages that resulted from her actions and to enjoin her from further harmful conduct.

Vizant has accomplished both of these objectives. Thus, even though Whitchurch obtained summary judgment on six of the ten claims against her, we conclude that Vizant is the "prevailing party."

Of course, this is only the beginning of our analysis. We must next determine "what fee is 'reasonable.'" Hensley, 461 U.S. at 433. In doing so, our "starting point is" the lodestar calculation, which requires us to multiply "the number of hours reasonably expended on the litigation . . . by a reasonable hourly rate." Id.; see also United Auto. Workers Local 259 Soc. Sec. Dep't v. Metro Auto Ctr., 501 F.3d 283, 290 (3d Cir. 2007). This calculation clearly must exclude from consideration "hours that were not reasonably expended." Hensley, 461 U.S. at 433-34 (citation omitted). Hours that are "excessive, redundant, or otherwise unnecessary" are not "reasonably expended." Rode v. Dellarciprete, 892 F.2d 1177, 1183 (3d Cir. 1990). Significantly, we may "reduce the number of hours claimed by the number of hours 'spent litigating claims on which the party did not succeed and that were "distinct in all respects from" claims on which the party did succeed.'" Id. (quoting

to attorneys' fees and costs is established by contract and not by statute.

Institutionalized Juveniles v. Sec'y of Pub. Welfare, 758 F.2d 897, 919 (3d Cir. 1985)); see also Washington v. Phila. Cty. Court of Common Pleas, 89 F.3d 1031, 1037 (3d Cir. 1996).

The party seeking fees bears the burden of demonstrating its entitlement to an award and "should maintain billing time records in a manner that will enable a reviewing court to identify distinct claims." Hensley, 461 U.S. at 437. When the party seeking an award of fees submits a documentation of hours which is "inadequate," we "may reduce the award accordingly." Id. at 433; Rode, 892 F.2d at 1183.

Once we have calculated the lodestar amount, multiplying the number of hours reasonably expended by counsel's reasonable rate, "[t]here remain other considerations that may lead the district court to adjust the fee upward or downward." Hensley, 461 U.S. at 434. Vizant has requested no upward adjustment, and Whitchurch, who has not responded to Vizant's motion, does not seek a downward adjustment. Indeed, at this final stage of the analysis we "cannot decrease a fee award based on factors not raised at all by the adverse party." Rode, 892 F.2d at 1183 (quoting Bell v. United Princeton Props., Inc., 884 F.2d 713, 720 (3d Cir. 1989)).

Accordingly, our task requires us to determine "the number of hours reasonably expended" on Vizant's action for breach of contract. See Hensley, 461 U.S. at 433. The

resulting fee award "should not be reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit." Id. at 435 (citing Davis v. Cty. of L.A., No. 73-63, 1974 WL 180 (C.D. Ca. June 5, 1974)). This is because litigants frequently "raise alternative legal grounds for a desired outcome, and the court's rejection of or failure to reach certain grounds is not a sufficient reason for reducing a fee. The result is what matters." Id. However, it is crucial for us to "consider the relationship between the extent of success and the amount of the fee award." Id. at 438. If a plaintiff "has achieved only partial or limited success, the product of hours reasonably expended on the litigation as a whole times a reasonable hourly rate may be an excessive amount." Id. at 436.

We must therefore determine "the number of hours reasonably expended on the litigation," excluding any "excessive, redundant, or otherwise unnecessary" hours as well as those "spent litigating claims on which [Vizant] did not succeed and that were distinct in all respects from claims on which [Vizant] did succeed." Hensley, 461 U.S. at 433-34; Rode, 892 F.2d at 1183 (citations omitted). We may also "deduct hours when the fee petition inadequately documents the hours claimed." Rode, 892 F.2d at 1183 (citing Hensley, 461 U.S. at 433).

Vizant asks us to award it "\$865,762.92 in attorneys' fees and costs." However, the brief submitted by Vizant in

support of its motion provides relatively little detail about how the company calculated the requested figure. Vizant has categorized the hours expended on the litigation based on type of activity, using categories such as “[b]ackground investigation,” “[d]iscovery activities,” and “[r]eview and responses to Defendants’ motions.” Each entry in the voluminous billing records submitted by Vizant has been assigned to one of these categories. However, Vizant has not submitted billing records “in a manner that . . . enable[s] [the court] to identify distinct claims.” See Hensley, 461 U.S. at 437. Although we recognize that there was substantial overlap between Vizant’s breach-of-contract claim and the other claims in the complaint, certain issues, such as Bizzarro’s defamation claim and the claim for abuse of process, were “distinct in all respects from” the breach-of-contract claim.¹⁰ See id. at 433-34. Vizant’s submissions make it difficult for the court to separate these issues from the breach-of-contract claim.

There are also significant discrepancies in the numbers submitted by Vizant in support of its request. For

10. To its credit, Vizant explains that the total number of hours for which Kang Haggerty seeks compensation does not include “work directly related to the RICO counts in the Complaint on which Plaintiffs did not ultimately prevail” or any “activities related to taking discovery from SIB Development, which had dealings with Defendant Whitchurch that this Court ultimately concluded did not breach her obligations under” the employment agreement.

example, Vizant explains that Kang Haggerty lawyers and support staff have spent 1,209.77 hours on the case at a total cost of \$425,176.29, but states later in its brief that the "net amount of attorneys' fees being sought by Plaintiffs is \$865,726.92." It appears that the larger sum may include costs associated with the litigation, but this is not made clear in the brief. In further conflict with these figures, one of the exhibits submitted by Vizant totals Kang Haggerty's invoices to Vizant from January 2015 through early March 2016 and concludes that "after deductions and adjustments" Kang Haggerty should be compensated for \$393,088.41 in fees and \$19,971.32 in costs for a total of \$413,059.73 in compensation. We are unable to discern from Vizant's submissions why these numbers vary so significantly.

Consequently, in determining "the number of hours reasonably expended on the litigation," we will subtract hours from those reported by Vizant based on the fact that the fee petition "inadequately documents the hours claimed" and in particular fails properly to establish that hours have been subtracted that were expended on claims "distinct in all respects from" Vizant's breach-of-contract claim. See Hensley, 461 U.S. at 433-34; Rode, 892 F.2d at 1183. Hours spent pursuing legal strategies and inquiries that were specific to Bizzarro, as well as hours devoted to the defamation claim

insofar as that claim was distinct from Vizant's breach-of-contract claim, constitute hours expended on claims that were "distinct in all respects" from the breach-of-contract issue. The same is true of hours devoted to the plaintiffs' abuse-of-process claim, which arose out of facts that were distinct from those giving rise to the cause of action for breach of contract. Since Vizant's filing leaves us unable to calculate these hours with any specificity, we will deduct ten percent of the hours reported by Kang Haggerty, bringing the hours "reasonably expended on the litigation" to 1,088.793.

Our next step in the lodestar calculation is to multiply this total number of hours "by a reasonable hourly rate." Hensley, 461 U.S. at 433. The reasonableness of an attorney's rate is judged according to the "prevailing market rates in the relevant community." See Blum v. Stetson, 465 U.S. 886, 895 (1984).

Vizant has submitted evidence of the prevailing market rates in Philadelphia, where Kang Haggerty is located and where this litigation took place. Edward Kang ("Kang"), one of the lead attorneys in this action, is a Managing Member of Kang Haggerty and has been in practice since 2001. He billed at an hourly rate of \$400 in 2014 and \$450 in 2015. His cocounsel Gregory Mathews ("Mathews"), who has been practicing law since 1978, billed at an hourly rate of \$350 in 2014 and \$400 in 2015.

The exhibits submitted by Vizant demonstrate that additional Kang Haggerty employees, including attorneys Daniel Haggerty ("Haggerty"), David Dean ("Dean"), and Jason Powell ("Powell"), contributed to the work that makes up the hours total. In 2014, Haggerty and Powell billed at hourly rates of \$350 and \$200, respectively, while no hourly rate is listed for Dean. In 2015, Haggerty's hourly rate was \$360, Dean's was \$275, and Powell's remained \$200. The litigation was also supported by additional employees of Kang Haggerty: Kathleen Fudala, Jennifer Chun, Katherine Stranieri, Jeong Park, and Melissa Lagoumis.¹¹ These employees billed at hourly rates ranging from \$80 to \$145.

We conclude that the hourly rates of Kang Haggerty are reasonable in light of the prevailing market rates in Philadelphia. It was appropriate for Vizant, in calculating its fee request, to multiply the reported number of hours by these rates. However, we have now reduced that total number of hours by ten percent. We will accordingly reduce the lodestar amount, that is the number of hours multiplied by the reasonable rate, by ten percent. Pursuant to this calculation, the lodestar sum corresponding to the work performed by Kang Haggerty is \$382,658.66. This is consistent with the success achieved in this litigation by Vizant, which accomplished its goals of

11. None of these names appears on the list of attorneys that is displayed on Kang Haggerty's website.

obtaining injunctive relief against Witchurch and being made whole for the pecuniary harm caused by her actions. See Hensley, 461 U.S. at 438. We need not “adjust the fee upward or downward” any further, as our initial calculation of the hours “reasonably expended” already excluded those hours spent on unrelated claims and took into consideration the shortfalls in the documentation provided by Vizant. See id. at 434.

Vizant asks the court to award it the legal fees it incurred when it retained Duane Morris, and later Elarbee Thompson, to represent it in its action in Georgia state court. Although Vizant’s memorandum does not specify the amount of these fees, Exhibit 3.E to its submission indicates that Vizant paid \$127,511.50 to Duane Morris and \$301,749.42 to Elarbee Thompson. However, we reiterate that the relevant language of the employment agreement applies only to situations in which it “become[s] necessary” for Vizant or the employee signing the agreement “to file suit to enforce the covenants or other provisions” of the agreement, in which case the prevailing party is entitled to recover “the costs incurred in conducting the suit.” (Emphasis added.) Vizant has not explained why the employment agreement authorizes this court to award attorneys’ fees in connection with litigation filed in a separate court. The fees paid by Vizant to Duane Morris were not “costs incurred in conducting the suit” that is now before us. They were “costs

incurred in conducting" a separate suit. Whether the Georgia state court should make any award is not our concern. Insofar as Vizant seeks an award that includes the attorneys' fees of Duane Morris and Elarbee Thompson, its motion will be denied.

The relevant language of the employment agreement also permits Vizant, as the "prevailing party," to recover "the costs incurred in conducting the suit." Once again, Vizant's brief provides us with little guidance on these costs, leaving us to calculate them based on the exhibits. It appears from Exhibit 3.e that between February 2015 and January 2016 Vizant was billed a total of \$23,406.27 by IT Acceleration, which assisted Vizant in reviewing electronic devices possessed by Whitchurch in order to determine if she had retained certain materials on them in violation of the employment agreement. Employees of IT Acceleration have also provided expert testimony in this matter on several occasions. We conclude that the \$23,406.27 billed by IT Acceleration consisted of "costs incurred in conducting the suit." Exhibit 3.e also reports that Kang Haggerty incurred additional costs of \$57,699.18 and has deducted \$37,737.86 from this sum, leaving outstanding costs of \$19,971.32. In an affidavit, Vizant's Vice President states that "costs related to the RICO count" have been deducted from the costs request. Once again, however, Vizant has failed to indicate whether it has deducted costs associated with the abuse-of-process claim or

with either plaintiff's defamation claim insofar as it is distinct from the breach-of-contract claim. We will therefore reduce the \$19,971.32 costs total by ten percent, to \$17,974.19. Combining this with the costs billed by IT Acceleration brings us to a costs total of \$41,380.46. In reviewing Vizant's submissions we are unable to identify any additional costs being requested.

V.

In sum, we will award Vizant damages in the amount of \$1,832,388. Pursuant to the employment agreement entered into by Vizant and Whitchurch, we will also award it attorneys' fees in the amount of \$382,658.66 and costs in the amount of \$41,380.46, for a total award to Vizant of \$2,256,427.12. We will award Bizzarro damages in the amount of \$500,000.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VIZANT TECHNOLOGIES, LLC, : CIVIL ACTION
et al. :
 :
 :
 v. :
 :
 :
 JULIE P. WHITCHURCH, et al. : NO. 15-431

JUDGMENT

AND NOW, this 22nd day of March, 2016, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

(1) judgment is entered in favor of plaintiff Vizant Technologies, LLC and against defendant Julie P. Whitchurch in the amount of \$1,832,388 in compensatory damages, \$382,658.66 in attorneys' fees, and \$41,380.46 in costs for a total of \$2,256,427.12; and

(2) judgment is entered in favor of plaintiff Joseph Bizzarro and against defendant Julie P. Whitchurch in the amount of \$500,000.

BY THE COURT:

/s/ Harvey Bartle III

J.