

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

LEE WASHINGTON

CIVIL ACTION

VERSUS

NO. 11-3175

ASHLAND MARINE, L.L.C., ET AL

SECTION "N" (3)

ORDER AND REASONS

Before the Court is a "Motion for Reconsideration of Order Granting Motion for Partial Summary Judgment on Maintenance Rate" (Rec. Doc. 35), filed by defendant Ashland Services, LLC. Plaintiff has filed an opposition memorandum. (Rec. Doc. 43).

Ashland seeks relief, pursuant to FRCP 60(b), from this Court's Order and Reasons, signed October 31, 2012 (Rec. Doc. 33), in which the Court granted plaintiff's "Motion for Partial Summary Judgment on Maintenance Rate" (Rec. Doc. 25) in light of Ashland's failure to oppose the motion in accordance with Local Rule 7.5. With regard to the maintenance rate (\$45.75 per day) and the arrearage (\$12,003.87), Ashland has failed to show any error in the Court's prior order. Nor has it demonstrated any other basis for relief, as it has failed to put forth any reason for its failure to timely oppose the plaintiffs' motion. Moreover, the Court finds the rate to be supported and not unreasonable.

With regard to the attorney fee portion of the ruling, however, the Court agrees that the plaintiff's motion did not put forth a sufficient basis for a finding of bad faith on the part of

Ashland. Therefore, the award of \$4,801.55 for attorney fees will be vacated. If plaintiff has additional evidence of bad faith, plaintiff may file an separate motion in this regard.

Accordingly,

IT IS ORDERED that Ashland's motion for reconsideration (**Rec. Doc. 35**) is hereby **GRANTED IN PART**, in that it is granted with respect to the award of attorney fees associated with the filing of plaintiff's motion for partial summary judgment, without prejudice to plaintiff's right to bring a further motion in this regard, and **DENIED IN PART**, in that it is denied in all other respects.

IT IS FURTHER ORDERED that this Court's Order and Reasons dated October 31, 2012 (**Rec. Doc. 33**) is hereby **VACATED IN PART**, in that it is vacated with respect to the award of attorney fees (\$4,801.55) associated with the filing of plaintiffs' motion for partial summary judgment, and shall remain in full force and effect in all other respects.

Considering this Court's order (Rec. Doc. 33) stating that costs incurred in connection with the motion, including attorneys' fees, would be assessed against the party moving for reconsideration; and considering that plaintiff has filed a statement of costs associated with opposing Ashland's motion for reconsideration (Rec. Doc. 44), seeking reimbursement for six hours of attorney time at the rate of \$350 per hour; **IT IS FURTHER ORDERED** that the amount of \$1,900 is hereby assessed against Ashland Services, LLC.

New Orleans, Louisiana, this 17th day of December 2012.


KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE