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**NOT FOR PUBLICATION**  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

David L. Mazet,

Plaintiff,

vs.

Halliburton Company Long-Term  
Disability Plan, et al.,

Defendants.

No. CV-04-0493-PHX-FJM

**ORDER**

We now have before us the parties’ stipulation to extend defendants’ time to file their memorandum in support of their motion for attorneys’ fees (doc. 100). We construe the stipulation as a joint motion to extend the filing deadline.

Defendants filed a motion for attorneys’ fees on September 12, 2008. Plaintiff filed a notice of appeal on September 15, 2008. The parties now ask us to extend the defendants’ deadline to file their supporting memorandum until 60 days after the Ninth Circuit “remands the case back to this court.” We decline to do so.

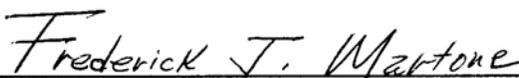
To obtain relief from a judgment awarding attorneys’ fees, a party may separately appeal the fee award as it would any final judgment, or it may move to enlarge the time to appeal the underlying judgment until the fee judgment is rendered, and then appeal the merits judgment and the fee award together. Fed. R. Civ. P. 58(e); Fed. R. App. P. 4(a)(4)(A)(iii).

1 The parties did not avail themselves of this mechanism to consolidate the appeals. Instead,  
2 plaintiff filed its notice of appeal and now asks us to delay our consideration of the attorneys'  
3 fee motion until after the Ninth Circuit renders judgment.

4 It is well established that a district court retains jurisdiction to award attorneys' fees  
5 after a notice of appeal on the merits has been filed. Masalosaló v. Stonewall Ins. Co., 718  
6 F.2d 955, 957 (9th Cir. 1983). Such a policy promotes judicial economy by avoiding  
7 piecemeal appeals and allowing an appeal of the fee award to be consolidated with the merits  
8 appeal. Id. Moreover, a timely disposition of a motion for attorneys' fees allows us to  
9 consider the motion while the case is still fresh, and at the same time remains consistent with  
10 the Civil Justice Reform Act.

11 Therefore, **IT IS ORDERED DENYING** the parties' joint motion to extend the filing  
12 deadline (doc. 100). Defendants' supporting memorandum is due no later than October 28,  
13 2008.

14 DATED this 24<sup>th</sup> day of September, 2008.

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19 Frederick J. Martone  
20 United States District Judge  
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