

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**G&K SERVICES CO., INC.**

**PLAINTIFF**

v.

**3:08CV00048-JJV**

**BILL'S SUPER FOODS, INC.**

**DEFENDANT**

**ORDER**

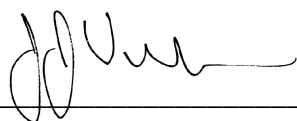
Pending is Defendant's Amended Motion for Reconsideration (Doc. No. 232). Plaintiff has responded and Defendant has replied.<sup>1</sup>

In its Amended Motion, Defendant provided no direct, binding authority requiring attorney's fees under the Arkansas Deceptive Trade Practices Act. Additionally, he provided no authority to support his position that the "prevailing party" rule is trumped by the ADTPA.

In a case involving the ADTPA, the Arkansas Supreme Court "recognized generally, though, that a trial court is not required to award attorney's fees and . . . [t]he decision to award attorney's fees and the amount to award are discretionary determinations . . ."<sup>2</sup> So neither the language of the ADTPA nor subsequent case law mandate attorney's fees for a successful ADTPA claim. The remedy simply is an available option for the trial judge to consider. This fact has been recognized by the Arkansas Court of Appeals: "Attorney's fees were possible, but not mandatory."<sup>3</sup>

Accordingly, Defendant's Amended Motion for Reconsideration (Doc. No. 232) is DENIED.

IT IS SO ORDERED this 14th day of August, 2013.

  
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JOE J. VOLPE  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup>Doc. Nos. 233, 234.

<sup>2</sup>*FMC Corp., Inc. v. Helton*, 202 S.W.3d 490, 506 (Ark. 2005).

<sup>3</sup>*Jim Ray, Inc. v. Williams*, 260 S.W.3d 307, 313 (Ark. App. 2007).