

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

**BARBARA BROWN**

**PLAINTIFF**

**VS.**

**4:08CV00089-WRW**

**J.B. HUNT TRANSPORT SERVICES, INC, and  
PRUDENTIAL INSURANCE COMPANY  
OF AMERICA**

**DEFENDANTS**

**ORDER**

Pending is Plaintiff's Motion for Attorneys' Fees and Costs (Doc. No. 109). Defendants have responded.<sup>1</sup>

Plaintiff appealed the November 26, 2008, Order dismissing this case, and on November 17, 2009, the Eighth Circuit, who reversed the November 26, 2008, Order in part, held that the "appropriate remedy for Prudential's violation of § 1133(2) is not an award of benefits from this court. Rather, we reverse and remand this case to the district court with instructions to remand to Prudential for an out-of-time appeal."<sup>2</sup> However, the Eighth Circuit affirmed the conclusion that Plaintiff's claims against J.B. Hunt failed as a matter of law.

At this point, as to Defendant Prudential, Plaintiffs' motion for attorneys' fees and costs is premature and DENIED without prejudice.

Plaintiff's request for attorneys' fees from Defendant J.B. Hunt is DENIED with prejudice.

IT IS SO ORDERED this 15<sup>th</sup> day of January, 2010.

/s/Wm. R. Wilson, Jr.  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>Doc. Nos. 111, 112.

<sup>2</sup>Doc. No. 104.