

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

TERRY MADDEN; DOUG WORTMAN;  
and REBECCA O'BAR

PLAINTIFFS

v.

No. 4:10CV01162 JLH

LUMBER ONE HOME CENTER, INC.

DEFENDANT

**ORDER**

After a jury found in favor of Lumber One Home Center, Inc., on the Fair Labor Standards Act claims of Terry Madden, Doug Wortman, and Rebecca O'Bar, the Court entered judgment as a matter of law in favor of the plaintiffs and awarded damages totaling \$11,129.20 (\$7,555.20 to Madden, \$2,339.20 to Wortman, and \$1,234.80 to O'Bar). The Court also awarded attorneys' fees to the plaintiffs in the amount of \$50,049.92 and costs in the amount of \$646.82. On appeal, the Eighth Circuit affirmed the judgment in favor of Madden and O'Bar but reversed as to Wortman and remanded for a recalculation of damages.

On remand, both sides contend that the Court's earlier determination of the reasonable fees was erroneous. The plaintiffs contend that the Court's earlier award was too low and now seeks fees in the amount of \$60,710.50, which obviously is more than the Court awarded before the Eighth Circuit reversed as to Wortman. Lumber One contends that the Court's earlier award was excessive, even including Wortman, and contends that the fee award should be reduced by at least fifty percent.

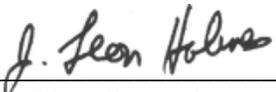
The Court's earlier opinion included, as the Eighth Circuit noted, an extensive discussion and analysis of the fee calculations. That discussion and analysis is incorporated by reference. In order to comply with the Eighth Circuit's mandate, however, the fee award will be reduced by one-third to reflect the fact that the judgment in favor of Wortman was reversed on appeal. Inasmuch as this case involved three plaintiffs and each of them contributed more or less equally to the work

required to litigate the action to a conclusion, the most sensible method for recalculating the fee award is to reduce the award by one-third. Two-thirds of the previous award of \$50,049.92 equals \$33,366.61. Costs again will be awarded in the amount of \$646.82.

**CONCLUSION**

For the reasons stated, plaintiffs are awarded reasonable attorneys' fees in the amount of \$33,366.61 plus costs in the amount of \$646.82 for a total of \$34,013.43.

IT IS SO ORDERED this 28th day of May, 2014.

  
\_\_\_\_\_  
J. LEON HOLMES  
UNITED STATES DISTRICT COURT