

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge R. Brooke Jackson

Civil Action No 14-cv-01548-RBJ

ENSERCO ENERGY, LLC, a Delaware limited liability company, and
ENSERCO MIDSTREAM, LLC, a South Dakota limited liability company,

Plaintiffs,

v.

JOHN P. BAUGUES, JR., an individual,
DORCHESTER COAL COMPANY, LP, a Delaware limited partnership,
DORCHESTER LAND COMPANY, LLC, a Delaware limited partnership,
DORCHESTER MINING COMPANY, LLC, a Delaware limited partnership,
DORCHESTER COAL PROCESSING, LLC, a Delaware limited partnership,
CARBONADO COAL COMPANY, LP, a Delaware limited partnership,
COAL MOUNTAIN MINING, LP, a Delaware limited partnership, and
MARTIN COUNTY LAND COMPANY, LLC, a Delaware limited partnership,

Defendants.

ORDER

The matter is back in this Court on plaintiff's request for an award of attorney's fees and costs. For the reasons set forth below, the motion is granted in part, and the Court awards attorney's fees and costs to the plaintiffs and against the defendants, jointly and severally, in the amount of \$20,895.15.

BACKGROUND

On July 31, 2014 the Court granted plaintiff's motion to remand this case to the District Court for the Second Judicial District (Denver District Court) and awarded plaintiffs their "just costs and actual expenses, including attorneys' fees, pursuant to 28 U.S.C. § 1447(c)." ECF No. 23. Plaintiffs then applied to the state court for an award of fees and costs totaling \$20,895.15.

ECF No. 26-1. However, on November 4, 2014 the state court correctly determined that the application should have been filed in this Court. ECF No. 26-2.

On November 18, 2014 plaintiffs filed the pending motion in this Court, seeking (1) the same amount of fees and costs as had been requested in the state court, and (2) an unspecified additional amount of fees and costs that “Plaintiffs were forced to unnecessarily incur as a result of Defendants’ recurrent efforts to avoid meeting their debt obligations, including as is the case here, those resulting from this Court’s Order.” ECF No. 26 at ¶14. Plaintiffs describe their unsuccessful efforts to resolve the matter with opposing counsel, concluding with the following announcement by defense counsel:

I can tell you that our clients do not intend to make payment at this time. Rather, our clients view those fees as something that will eventually be offset by damages awarded against Enserco in connection with those counterclaims. On the other hand, if Enserco prevails in the litigation, then those fees and costs would simply be added to the amount of the judgment that Enserco obtains against some or all of the Defendants.

Id. at ¶11; ECF No. 26-4.

FINDINGS

Defendants have not responded to the pending motion, nor has either party requested a hearing. Plaintiffs have supported their request with an itemized statement detailing the fees and costs claimed in connection with the remand matter. ECF No. 26-7. Based upon the itemized statement, the implicit representation of counsel that these fees were necessarily and reasonably incurred by the plaintiffs, the defendants’ failure to respond, and the Court’s own experience with fees charged in this community, the Court finds that the amount requested is reasonable.

However, the Court declines to award additional fees as requested in paragraph 14 of the motion. The additional amounts have not been quantified or documented. It took relatively little effort to refile in this Court what was already filed in the state court. The Court find that the

amount awarded is sufficient reasonable to cover any additional work that went into the application itself.

ORDER

The motion [ECF No. 26] is GRANTED IN PART and DENIED IN PART. The Court awards attorney's fees and costs in favor of the plaintiffs (Enserco Energy LLC and Enserco Midstream, LLC) and against the defendants (John P. Baugues, Jr, Dorchester Coal Company, LP, Dorchester Land Company, LLC, Dorchester Mining Company, LLC, Dorchester Coal Processing, LLC, Carbonado Coal Company, LP, Coal Mountain Mining, LP, and Martin County Land Company, LLC), jointly and severally, in the amount of **\$20,895.15**.

DATED this 12th day of January, 2015.

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Brooke Jackson", with a long, sweeping horizontal stroke extending to the right.

R. Brooke Jackson
United States District Judge