

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

AIR BRAKE SYSTEMS, INC.,

Plaintiff,

v.

TUV RHEINLAND OF NORTH AMERICA,
INC.,

Defendant.

3:07-cv-01364 (CSH)

**RULING ON DEFENDANT'S
MOTION FOR ATTORNEYS' FEES**

[Doc. #

HAIGHT, Senior District Judge:

In this action, the Court awarded summary judgment to defendant TUV Rheinland of North America, Inc. (“TUVRNA”) in a Memorandum and Opinion and Order dated March 30, 2010 [Doc. #83]. Less than two weeks later, TUVRNA moved pursuant to Fed. R. Civ. P. 54(d) “for a separate judgment against the plaintiff . . . for defendant’s costs, expenses, reasonable attorney’s fees, expert witness fees, and other costs incurred, pursuant to the contract of the parties.” [Doc. #85] at 1. The contract, which formed the basis of the Court’s opinion on summary judgment, provides that “[i]n the event of any legal action, the prevailing party shall be entitled to recover from the other party all costs, expenses and reasonable attorney’s fees, expert witness fees, and any other costs incurred to bring or defend such action.” Mot. ex. A [Doc. #86-1] at 3, ¶ 19.4.

Defendant’s motion was filed on April 8, 2010, but TUVRNA anticipated further submissions because “at this time, copies of all the invoices substantiating [the initial] amount have to be located and are not presently available.” Def.’s Mem. [Doc. #86] at 3. TUVRNA supplemented its original filing with further invoices attached to the Affidavit of Leslie F. Ruff [Doc. #87], which was filed on May 7, 2010. According to her affidavit, the “total amount

expended was actually \$348,417.19 USD.” [Doc. #87] at 2, ¶ 8. To date, plaintiff has filed no objection or response to either the original motion or the supplemental affidavit.

Thus, defendant TUVRNA’s motion is hereby **GRANTED**, absent opposition. Because the contract controls the relations of the parties, and because it provides for the relief requested, defendants are entitled to a Supplemental Judgment awarding them those fees and costs, in the amount of **\$348,417.19 United States Dollars**. The Clerk of the Court is hereby instructed to issue a Supplemental Judgment for defendant TUVRNA in that amount.

It is SO ORDERED.

Dated: New Haven, Connecticut
June 9, 2010

/s/ Charles S. Haight, Jr.
Charles S. Haight, Jr.
Senior United States District Judge