

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

**DOROTHY HALL and
WILLIAM HALL,**

Plaintiffs,

v.

Case No. 8:09-cv-2032-T-30MAP

**SUNJOY INDUSTRIES GROUP, INC.,
and KMART CORPORATION,**

Defendants.

ORDER

THIS CAUSE comes before the Court upon Defendant Sunjoy's Motion for Attorneys' Fees and Costs Judgment against Plaintiffs (Dkt. 53) and Plaintiffs' Response in opposition (Dkt. 55). The Court, having considered the motion, response, and being otherwise advised in the premises, concludes that the motion should be granted and judgment should be entered in favor of Defendant Sunjoy Industries Group, Inc. ("Sunjoy") and against Plaintiffs, jointly and severally, in the amount of \$39,297.75.

On February 18, 2011, the Court granted final summary judgment in favor of Defendant Sunjoy and against Plaintiffs as a matter of law (Dkt. 51). On February 22, 2011, the Clerk of Court entered the final judgment (Dkt. 52). On March 3, 2011, Sunjoy filed a motion for attorneys' fees and costs. Sunjoy's entitlement to fees is based on proposals of

settlement that it served on each Plaintiff. Neither Plaintiff responded to the proposals, thereby rejecting them.

Plaintiffs appear to concede the validity of the proposals of settlement, but argue, with no authority, that it would be inappropriate for the Court to grant fees to Sunjoy, because Plaintiffs attempted to file a notice of dismissal of Sunjoy after Sunjoy served Plaintiffs (but did not file) a Rule 11 motion.¹ Essentially, Plaintiffs argue that the Rule 11 motion rendered Sunjoy's proposals of settlement void. This argument is completely devoid of merit. Sunjoy never filed its Rule 11 motion and this Court did not grant Plaintiffs' motion for voluntary dismissal. As the Court explained in its ruling (Dkt. 51), Sunjoy was extensively involved in this case and Plaintiffs filed their motion for dismissal after Sunjoy filed its motion for summary judgment and served Plaintiffs with a Rule 11 motion.

Simply put, Plaintiffs' claims against Sunjoy were decided on the merits and in Sunjoy's favor. Plaintiffs last-minute attempt to dismiss Sunjoy does not void the proposals of settlement. And a Rule 11 motion, even if it had been filed, would not void the proposals of settlement.

Finally, upon review of Sunjoy's time records and affidavits in support of same, the Court concludes that the amount of fees and costs is reasonable.

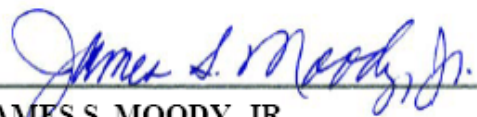
It is therefore ORDERED AND ADJUDGED that:

¹ The background facts are more specifically described in the Court's Order on Defendants' summary judgment motions (Dkt. 51).

1. Defendant Sunjoy's Motion for Attorneys' Fees and Costs Judgment against Plaintiffs (Dkt. 53) is hereby GRANTED.

2. The CLERK is directed to enter judgment in favor of Defendant Sunjoy Industries Group, Inc. and against Plaintiffs Dorothy Hall and William Hall, jointly and severally, in the amount of \$39,297.75.

DONE and **ORDERED** in Tampa, Florida on March 23, 2011.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

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