

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

**ROBERT MEYER, Individually  
and On Behalf of All Others  
Similarly Situated,**

**Plaintiff,**

**vs.**

**CASE NO. 3:10-cv-452/RS-EMT**

**THE ST. JOE COMPANY,  
ET AL.,**

**Defendants.**

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**ORDER**

Before me is the Joint Motion Requesting Relief from the Initial Scheduling Order (Doc. 29).

Plaintiffs seek clarification as to whether the “Attorneys’ Fee Records” provision of the Initial Scheduling Order (Doc. 14, Para. 9) applies in this case because this may be a common fund case where attorneys’ fees are awarded on a percentage basis.

In awarding attorneys' fees calculated as a percentage of a common fund, district courts “should articulate specific reasons for selecting the percentage upon which the attorneys' fee award is based. The district court's reasoning should identify all factors upon which it relied and explain how each factor affected its selection of the percentage of the fund awarded as fees.” *Camden I Condominium Ass'n v. Dunkle*, 946 F.2d 768, 775 (11th Cir. Fla. 1991). Specifically, the factors articulated in *Johnson v. Georgia Highway Express, Inc.* “continue to be appropriately used in evaluating, setting, and

reviewing percentage fee awards in common fund cases.” *Id.* (citing *Johnson*, 488 F.2d 714, 717-19 (5th Cir.1974)). The *Johnson* factors include, among other things, the time and labor required and the preclusion of other employment by the attorney due to acceptance of the case. *Id.*

Because the time expended by counsel may be relevant to the appropriate percentage basis of attorneys’ fees, the Initial Scheduling Order’s “Attorneys’ Fee Records” provision remains in effect.

The Joint Motion Requesting Relief from the Initial Scheduling Order (Doc. 29) is **DENIED** to the extent that it seeks relief from the “Attorneys’ Fee Records” requirement.

**ORDERED** on January 18, 2011

/S/ Richard Smoak  
**RICHARD SMOAK**  
**UNITED STATES DISTRICT JUDGE**