

2016 SEP 28 PM 4:02

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION


SO. DIST. OF GA.

KJ'S GENERAL CONTRACTORS,)
INC.; KENNETH F. JENKS, SR.;)
DIABY ELECTRIC, INC.; TIDIAN)
A. DIABY; MCN CONSTRUCTION &)
MANAGEMENT, INC.; LEROY V.)
MAXWELL, JR.; AMERICAN)
CLEARING, INC.; and ROSE L.)
DEMPSEY;)

Plaintiffs,)

v.)

CASE NO. CV414-181

J.E. DUNN CONSTRUCTION)
COMPANY, d/b/a Rives E.)
Worrell Company, and RYAN E.)
PRICE,)

Defendants.)

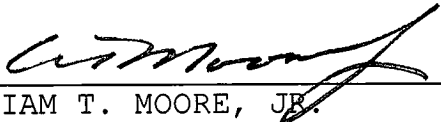
O R D E R

Before the Court is Plaintiffs' Motion for Attorney's Fees. (Doc. 32.) In their motion, Plaintiffs request attorney's fees based on this Court's order remanding this case to the Superior Court of Chatham County. (Id. at 2.) 28 U.S.C. § 1447(c) provides that "[a]n order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." An award of attorney's fees under § 1447(c) is left to the sound discretion of the trial court. Graham Commercial Realty, Inc. v. Shamsi, 75 F. Supp. 2d 1371, 1373 (N.D. Ga. 1998)

(noting that the court need not find bad faith or improper purpose to award fees). The standard for awarding fees "turns on the reasonableness of the removal," and should be awarded pursuant to § 1447(c) "only where the removing party lacked an objectively reasonable basis for seeking removal." Martin v. Franklin Capital Corp., 546 U.S. 132, 141 (2005).

Having reviewed the record in this case, the Court concludes that Defendants had an objectively reasonable basis for seeking removal in this case. First, resolution of this case possibly involves the application, but not interpretation, of a federal statute. Second, Defendants had a reasonable basis to contend that Defendant Price was fraudulently joined to defeat diversity. Accordingly, Plaintiffs' Motion for Attorney's Fees (Doc. 32) is **DENIED**.

SO ORDERED this 28th day of September 2016.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA