

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

EDWARD BRASLEY, *et. al.*,

Plaintiffs,

v.

FEARLESS FARRIS SERVICE STATIONS,
INC., *et al.*,

Defendants.

Case No. 1:08-cv-00173-BLW

ORDER

The Court must fix the Special Master's compensation on the basis and terms stated in the appointing order. Fed. R. Civ. P. 53(g)(1). However, "the court may set a new basis and terms after giving notice and an opportunity to be heard." *Id.* Here, circumstances have dictated a change in the basis and terms for compensating the Special Master.

In a number of orders and in his final Report and Recommendation, the Special Master directed that the Plaintiff's enrolled actuary make certain calculations and determinations necessary to a final determination of the amounts due to plan participants. Since the enrolled actuary has been and will be acting under the direction of the Special Master and because it would be unjust for the plaintiffs to be required to pay for services made necessary by the defendants' failure to fulfill their responsibilities under ERISA, the Court has determined that it should consider having the enrolled actuary paid by the Defendants as part of the Special Master's compensation. Accordingly, the basis and terms originally ordered by the Court shall remain, but the Court will also consider

including costs and fees incurred by Mr. Turpin for the work he has performed and will perform to complete the tasks assigned him by the Special Master – and by the Court in adopting the Special Master’s Report and Recommendation.

ORDER

IT IS ORDERED:

1. The basis and terms shall be amended to include costs and fees incurred by Mr. Turpin for the work he has performed and will perform to complete the tasks assigned him by the Special Master and the Court, unless one of the parties object to such an amendment.
2. Either party may file an objection to the Court’s amended basis and terms for compensating the Special Master by filing a written objection on or before **August 15, 2014**.
3. If such an objection is filed, the Court will consider the grounds stated and (1) enter a final order amending the basis and terms for compensating the Special Master as discussed above, (2) enter no order modifying the basis and terms of compensation, or (3) schedule oral argument on the objection, and invite further briefing from the parties.



DATED: August 5, 2014

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive, flowing style.

B. Lynn Winmill
Chief Judge
United States District Court