

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANAUNITED STATES ex rel.
THOMAS WARDER, ET AL

CIVIL ACTION

VERSUS

NO. 09-4191

SHAW GROUP, INC., ET AL

SECTION "A"(3)

ORDER AND REASONS

The following motion is before the Court: **Relators' Motion Pursuant to Rule 72 Appealing Magistrate Knowles' Order Awarding Attorney's Fees in Connection With Shaw's Motion to Compel (Rec. Doc. 290)** filed by relators Thomas Warder, Gary Keyser, and Elizabeth Reeves (collectively "Relators"). Shaw Environmental, Inc. ("Shaw") opposes the motion. The motion, submitted for consideration on July 27, 2016, is before the Court on the briefs without oral argument.

On June 23, 2016, the assigned magistrate judge entered an order awarding Shaw \$54,089.09 in attorney's fees in conjunction with a motion to compel that had been granted in its favor on July 8, 2015 (Rec. Doc. 176), and its attorneys' work in preparing a related motion for expenses, including attorneys' fees. (Rec. Doc. 281). Relators now appeal that ruling.


Although this Court tends to agree with Relators' contentions regarding the ostensibly exorbitant number of hours and fees demanded in conjunction with its motion to compel, Magistrate Judge Knowles issued a thorough and well-reasoned opinion explaining the award. And while the Court is loath to characterize any of the magistrate judge's determinations as clearly erroneous or contrary to law, see Fed. R. Civ. Pro. 72(a); 28 U.S.C. § 636(b)(1)(A), the Court is persuaded nonetheless that any award to Shaw in

compensation for filing the motion to compel is unjust in light of the extensions and relief that this Court had granted to Relators after being assigned to this case. See Fed. R. Civ. Pro. 37(a)(5)(A)(iii) (providing that payment of expenses not be awarded when other circumstances make such an award unjust); (Rec. Doc. 207, Minute Entry 3/3/16 (extending deadlines); (Rec. Doc. 235, Minute Entry 4/7/16 (extending deadlines)); (Rec. Doc. 265, Order Denying Summary Judgment Without Prejudice due to ongoing discovery)). This relief was granted specifically because the Court recognized the difficulty that Relators faced in presenting a case for damages. Further, while Relators' valid point regarding the potential chilling effect of the award is now moot in light of the Court's recent rulings dismissing all remaining claims with prejudice, (Rec. Docs. 338 & 339), the Court is persuaded that sanctioning plaintiffs who seek to expose potential fraud (even though none was ultimately shown in this specific case) when no bad faith conduct is involved would be inconsistent with the purposes of the False Claims Act.

Accordingly, and for the foregoing reasons;

IT IS ORDERED that the **Motion Pursuant to Rule 72 Appealing Magistrate Knowles' Order Awarding Attorney's Fees in Connection With Shaw's Motion to Compel (Rec. Doc. 290)** filed by relators Thomas Warder, Gary Keyser, and Elizabeth Reeves is **GRANTED**. The attorney fee award entered by the magistrate judge on June 23, 2016 (Rec. Doc. 281) is **VACATED**. Final judgment has already been entered in this case.

September 27, 2016



JAY C. ZAINERY
UNITED STATES DISTRICT JUDGE