

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**STEPHEN WAYNE WILLIAMS**

**CIVIL ACTION**

**VERSUS**

**NO: 10-2309**

**TRAYLOR-MASSMAN-WEEKS, LLC, ET AL.**

**SECTION: "C" (4)**

**ORDER AND REASONS**

Before the Court is the Motion for Review and Objections to Magistrate Judge's Report and Recommendations, filed by defendant Eustis Engineering Company, Inc. ("Eustis"). Rec. Doc. 294. Defendant Shaw Environmental and Infrastructure Inc. ("Shaw") opposes. Rec. Doc. 295. Having considered the record, the law, the Magistrate Judge's Report and Recommendations (Rec. Doc. 293) and the memoranda of the parties, IT IS ORDERED that the Eustis's Motion for Review and Objections are GRANTED.

Eustis's only objection to the Magistrate Judge's Report and Recommendations is that the Magistrate Judge erroneously awarded attorneys fees to Shaw associated with its prosecution of an indemnity claim against Eustis. Rec. Doc. 294. The Magistrate Judge previously recommended that attorney fees premised on the same theory of recovery be denied. Rec. Doc. 283 at 11-12. Shaw did not object to that determination specifically. Rec. Doc. 284. Thus, when the Court re-referred Shaw's attorney fee petition back to the Magistrate Judge, reconsideration of Shaw's entitlement to costs incurred to establish the indemnity relationship was not expressly contemplated. Rec. Doc. 288 at 6. The Court agrees.

Although it was within the Magistrate Judge's power to do so, the Court did not intend for

Magistrate Judge to reconsider the portion of its first Report and Recommendations denying Shaw attorney's fees based on its pursuit of a cross-claim against Eustis. The Magistrate Judge correctly determined that attorney's fees incurred in an attempt to establish an indemnity relationship are not typically recoverable under that indemnity relationship. *Signal Oil & Gas Co. v. Barge W-701*, 654 F.2d 1164, 1178-79 (5th Cir. 1981); *Williams v. California Co.*, 289 F. Supp. 376 (E.D. La.1968). Accordingly, the additional \$4,842.00 in attorney's fees allotted to Shaw for pursuit of its indemnity claim will not be awarded in this case. The Court adopts the second Report and Recommendation of the Magistrate Judge in all other respects. Rec. Doc. 293.

Accordingly,

IT IS ORDERED that Eustis's Motion for Review and Objections to Magistrate Judge's Report and Recommendations is GRANTED. Rec. Doc. 294.

IT IS FURTHERED ORDERED that Shaw's Motion for Attorney's Fees & Costs is GRANTED IN PART and DENIED IN PART as set forth in this Order and the Court's Order dated October 11, 2013. Rec. Doc. 288.

IT IS FURTHER ORDERED that final judgment be entered in this matter awarding Shaw the sum total of \$47,915.75, with \$42,951.20 accounting for the Magistrate Judge's original fee determination, \$4,572.55 representing her determination of costs and interest, and \$392.00 representing the fees associated with Lori Hunter. Rec. Docs. 283, 293.

New Orleans, Louisiana, this 8th day of May 2014.

  
HELEN G. BERRIGAN  
UNITED STATES DISTRICT JUDGE