

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**HELENA DIVISION**

FILED

2/6/2019

Clerk, U.S. District Court  
District of Montana  
Helena Division

CORE-MARK INTERNATIONAL,  
INC.,

Plaintiff,

No. CV 15-05-H-SEH

vs.

**ORDER**

The Montana Board of Livestock, in  
its official capacity as head of the  
Montana Department of Livestock, et  
al.,

Defendants.

On February 5, 2019, the Court held a hearing on Plaintiff's Motion for Attorneys' Fees and Costs.<sup>1</sup> Upon the record made in open court, and to assist the court in address and resolution of issues presented by the motion:

**ORDERED:**

1. On or before February 15, 2019, the parties are directed to meet and confer and attempt to reach an agreement on the amount of attorneys' fees to be awarded and of costs to be allowed in this case. If an agreement is reached, the parties shall report the substance of the agreement to the Court on or before close

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<sup>1</sup> Doc. 123.

of business on February 15, 2019.


2. If the parties fail to reach an agreement on attorneys' fees and costs:
  - a. Plaintiff shall revise its submission requesting fees and costs to include only fees and costs for work performed and services provided in this case as related to the single claim upon which Plaintiff prevailed on the merits.
  - b. The parties shall have to and including February 22, 2019, in which to file supplemental briefs on issues relevant to fees and costs claimed by Plaintiff or disputed by Defendants.
  - c. Briefs due February 22, 2019, should address, *inter alia*, the totals of fees and costs claimed by Plaintiff or acknowledged by Defendant together with a summary of the components of each claim or acknowledgment.
  - d. Each party shall have to and including March 1, 2019, in which to file a brief in response to the opponents' supplemental brief.
  - e. Each party is also invited to include and address in its supplemental brief:
    - i. the effect, if any, of the United States Supreme

Court decision in *W. Va. Univ. Hosp. v. Casey*, 499 U.S. 83 (1991) on Plaintiff's claims for \$4,500 in expert witness fees for Gunders and \$2,697.50 for Bechtold; and

ii. the preclusive effect, if any, of the denial by the Ninth Circuit of Plaintiff's claims for attorneys' fees and costs in its order of August 2, 2017.

3. Upon filing of supplemental briefs as stated in paragraph 2 above, the claim for attorney's fees and costs will be deemed submitted for decision.

DATED this 6<sup>th</sup> day of February, 2019.

  
SAM E. HADDON  
United States District Court