

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:12-cv-00510-MOC-DSC

**CLARK MATERIAL HANDLING COMPANY,** )  
 )  
 Plaintiff, )  
 )  
 Vs. )  
 )  
**TOYOTA MATERIAL HANDLING U.S.A., INC.,** )  
 )  
 Defendant. )

ORDER

**THIS MATTER** is before the court on the “Parties’ Notice and Stipulation Regarding Amount of Attorneys’ Fees” (#266). After Plaintiff Clark Material Handling Company moved for attorneys’ fees (#230) and the court Ordered (#258) supplemental briefing on the matter, both parties submitted additional arguments to the court on the issue of attorneys’ fees (##260, 264), making the matter ripe for decision. Four days later, the parties filed the instant notice and stipulation as to the amount of attorneys’ fees, indicating that they reached an agreement on this issue. The parties state in their notice (#266) that they have stipulated the terms of that award as follows:

1. The parties stipulate that the amount of attorneys’ fees to be awarded by the Court [to Plaintiff Clark] for work through May 27, 2015, is One Million Five Hundred Thousand Dollars (\$1,500,000.00), without prejudice to Toyota to challenge on appeal Toyota’s liability for payment of any attorneys’ fees, and without prejudice to Clark’s ability to seek additional fees for work after May 27, 2015, including appellate work.
2. The parties stipulate that for any future attorney work done on Clark’s behalf that might be sought and awarded if the judgment in favor of Clark is affirmed on appeal, a blended hourly rate of \$340 for all attorneys shall be utilized, with the parties to negotiate in good faith the reasonable amount of future hours, with the Court to determine such reasonable amount if agreement is not reached.

3. If after appeal there is a remand requiring trial court work, the parties stipulate that they will negotiate in good faith the reasonable rates and future hours to be awarded if attorneys' fees are sought and awarded by the Court after remand, with the Court to determine such reasonable amount if agreement is not reached.

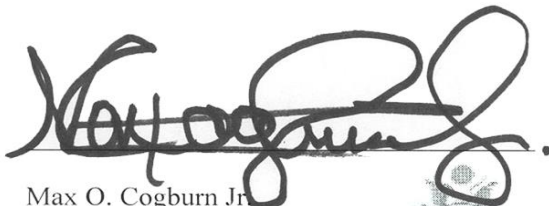
See (#266). The court finds the agreement both fair and reasonable in light of difficult issues ably litigated in this litigation, and commends the parties and their skilled counsel in reaching such amicable resolution. The court will therefore approve the terms of the agreement as set forth in (#266) and as reiterated above, and enter an Amended Judgment reflecting the above agreed-to award of attorneys' fees to Plaintiff.

### **ORDER**

**IT IS, THEREFORE, ORDERED** the Parties' Notice and Stipulation Regarding Amount of Attorneys' Fees (#266) is approved and **GRANTED**, and Plaintiff's Motion for attorneys' fees (#230) is therefore **GRANTED as stipulated by the parties**.

**IT IS FURTHER ORDERED** that the Clerk of Court enter an Amended Judgment in this case reflecting an award of attorneys' fees to Plaintiff Clark Material Handling Company for work through May 27, 2015 in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00).

Signed: July 17, 2015



Max O. Cogburn Jr.  
United States District Judge