

Civil Nos. 11-1858 (GAG)

1 VSI's memorandum in support of reconsideration does not demonstrate any reason the court
2 should reconsider its previous Opinion and Order. However, the court does take this opportunity
3 to clarify its use of the First Circuit's opinion in Civil No. 11-1871 (GAG). The court's reliance and
4 discussion of this case did not displace its duty to evaluate whether BIL had an objectively
5 reasonable basis for removing Civil No. 11-1858 (GAG). As the court previously discussed, the
6 controlling precedent from the Supreme Court is Martin v. Franklin Capital Corp., 546 U.S. 132.
7 In that case, the Court established that "absent unusual circumstances, attorney's fees should not be
8 awarded when the removing party has an objectively reasonable basis for removal." See id. at 136.
9 To evaluate whether BIL had an objectively reasonable basis for removing Civil No. 11-1858
10 (GAG), the court needed to analyze whether it was reasonable for BIL to argue that BC was a
11 nominal party. The First Circuit opinion in Civil No. 11-1871 (GAG) shed light on this subject and
12 its analysis was relied upon by the court in determining that BIL had an objectively reasonable basis
13 for removing the case to federal court. That is the extent the court relied upon the First Circuit's
14 reasoning.

15 To be clear, the denial of costs and attorney's fees was not controlled by the First Circuit's
16 opinion. However its rationale assisted the court in determining whether VSI was a prevailing party
17 and whether BIL had an objectively reasonable basis for removing the case.

18 **III. Conclusion**

19 For the abovementioned reasons, the court **DENIES** VSI's motion for reconsideration at
20 Docket No. 107.

21 **SO ORDERED.**

22 In San Juan, Puerto Rico this 22nd day of August 2013.

23 S/Gustavo A. Gelpí
24 GUSTAVO A. GELPI
25 United States District Judge
26
27