Defendants.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

CHRISTOPHER G. GRANT, JOHN B. HUMPHRIES, and STEVEN P. DEGEN)))
Plaintiffs,)
v. LAFARGE NORTH AMERICA, INC., and DONALD MARK NATHAN,)) No. 3:08-CV-332) (Phillips/Guyton)))

MEMORANDUM AND ORDER

)

On December 1, 2009, the Honorable H. Bruce Guyton, United States Magistrate Judge, filed a Report and Recommendation ("R&R") [Doc. 32] in which he recommended that defendants' Application for Attorneys' Fees [Doc. 27] be granted. Judge Guyton recommended that defendants be awarded \$8,887.50 in attorneys' fees. This represents the reasonable attorneys' fees incurred in litigating discovery issues arising due to plaintiffs' failure to participate in the discovery process and comply with the Court's orders.

This matter is presently before the Court on defendants' timely objection to the R&R [Doc. 33]. As required by 28 U.S.C. § 636(b)(1) and Rule 72(b) of th Federal Rules of Civil Procedure, the Court has undertaken a *de novo* review of those portions of the R&R to which defendants object. The R&R [Doc. 32] did not address how to allocate responsibility for the payment of the attorneys' fees. Defendants request that the district court accept the R&R, but modify it to hold plaintiffs jointly and severally liable for the attorneys' fees.

The Court finds itself in complete agreement with Judge Guyton's thorough analysis of the legal issues regarding the award of attorney's fees. However, the defendants' objection is well-taken, and the Court will modify the award of attorneys' fees so that plaintiffs are held jointly and severally liable for the payment of \$8,887.50 in attorneys' fees. Accordingly, the R&R [Doc. 32] is **ACCEPTED AND MODIFIED IN PART**, whereby defendants are awarded \$8,887.50 in attorneys' fees. Plaintiffs are jointly and severally liable for the payment of the attorneys' fees.

ENTER:

s/ Thomas W. Phillips United States District Judge