

United States District Court  
Southern District of Texas

**ENTERED**

August 28, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

GEOPHYSICAL SERVICES, INCORPORATED,	§	
	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. 14-1368
	§	
TGS-NOPEC GEOPHYSICAL SERVICES,	§	
	§	
	§	
Defendant.	§	

**ORDER**

TGS moved for attorneys’ fees under 17 U.S.C. § 505. (Docket Entry No. 103). Geophysical argues that the court should stay the attorneys’ fees proceedings because Geophysical has timely filed a notice of appeal. (Docket Entry No. 113 at 5).

The court has discretion to consider the motion for fees now, or at the conclusion of the pending appeal. The Federal Rules of Civil Procedure Advisory Committee Comment to Rule 54 explained:

Filing a motion for fees under this subdivision does not affect the finality or the appealability of a judgment, though revised Rule 58 provides a mechanism by which prior to appeal the court can suspend the finality to resolve a motion for fees. If an appeal on the merits of the case is taken, the court may rule on the claim for fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing under subdivision (d)(2)(B) a new period for filing after the appeal has been resolved.


FED. R. CIV. P. 54, Advisory Committee Note, 1993 amendment.

Courts routinely defer ruling on fees motions while an appeal is pending. *See, e.g., Mailk & Sons, LLC v. Circle K Stores, Inc.*, No. 15-6938, 2017 U.S. Dist. LEXIS 87426, at \*5 (E.D. La. May 22, 2017) (collecting cases); *Celtic Marine Corp. v. James C. Justice Cos.*, No. 11-3005, 2014

U.S. Dist. LEXIS 72582 (E.D. La. May 28, 2014); *Dulin v. Bd. of Comm'rs of Greenwood Leflore Hosp.*, No. 4:07-CV-194-A-V, 2013 U.S. Dist. LEXIS 140664 (N.D. Miss. Sept. 30, 2013); *see also Nat'l Farmers' Org., Inc. v. Assoc. Milk Producers, Inc.*, 850 F.2d 1286, 1312 (8th Cir. 1988) (“[R]ather than undertaking the time-consuming task of determining a reasonable attorney’s fee, only to see the effort overturned on appeal, . . . the district court wisely deferred ruling on attorney’s fees and costs pending appeal.”). The court agrees with this approach.

TGS’s motion for attorneys’ fees, (Docket Entry No. 103), is denied without prejudice to refile at the conclusion of the pending appeal. TGS must file a renewed motion no later than 14 days after an opinion on the appeal is issued.

SIGNED on August 28, 2018, at Houston, Texas.

  
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Lee H. Rosenthal  
Chief United States District Judge