

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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AFTON CALLAHAN,  
Plaintiff,

vs.

MILLARD COUNTY, et al.,  
Defendants.

MEMORANDUM DECISION AND  
ORDER DENYING MOTION FOR  
ATTORNEY FEES

Case No. 2:04-CV-952 TS

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This matter is before the Court on Plaintiff's Motion for Attorney Fees, filed on February 4, 2009, with this Court and with the Tenth Circuit. Prior to the present Motion, on May 18, 2006, Summary Judgment was granted to Defendants. Plaintiff appealed and on September 17, 2007, the Tenth Circuit reversed the grant of summary judgment to Defendants. However, on February 23, 2009, the United States Supreme Court reversed the decision of the Tenth Circuit, granting costs to Defendants. On April 22, 2009, the Tenth Circuit issued its ruling, affirming the grant of summary judgment for Defendants and denying Plaintiff's Motion for Attorney Fees.

In order to recover attorney's fees under 42 U.S.C. § 1988, Plaintiff must be the "prevailing party," in that he must have "prevailed on the merits"<sup>1</sup> by obtaining an enforceable judgment<sup>2</sup> or some comparable relief through a consent decree or settlement.<sup>3</sup> Because the United States Supreme Court, the Tenth Circuit, and this Court have all found that summary judgment was appropriate for the Defendants, there are no grounds upon which Plaintiff can be considered the prevailing party. It is therefore

ORDERED that Plaintiff Afton Callahan's Motion for Attorney Fees (Docket No. 108) is DENIED.

DATED April 23, 2009.

BY THE COURT:

  
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TED STEWART  
United States District Judge

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<sup>1</sup>*Hanrahan v. Hampton*, 446 U.S. 754, 758 (1980).

<sup>2</sup>*Hewitt v. Helms*, 482 U.S. 755, 760 (1987).

<sup>3</sup>*Maher v. Gagne*, 448 U.S. 122, 129 (1980).