

1  
2  
3  
4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT SEATTLE

7 MONEY MAILER, LLC,

8 Plaintiff,

9 v.

10 WADE G. BREWER,

11 Defendant.

12  
13 \_\_\_\_\_  
14 WADE G. BREWER,

15 Counterclaim Plaintiff,

16 v.

17 MONEY MAILER, LLC, and MONEY  
18 MAILER FRANCHISE CORP.,

19 Counterclaim Defendants.  
20 \_\_\_\_\_

Case No. C15-1215RSL

ORDER

21  
22 This matter comes before the Court on “Wade Brewer’s Motion for  
23 Reconsideration or Certification re Petition for Reasonable Attorneys’ Fees, Expenses, and  
24 Costs.” Dkt. # 326. The Court is persuaded that it erred to the extent that the prior analysis  
25 turned on the fact that Brewer did not defeat Money Mailer’s contract claims on the merits.  
26 Money Mailer’s claims were dismissed with prejudice and cannot be reasserted against  
27

1 Brewer. He therefore prevailed on those claims even if Money Mailer’s abandonment of  
2 the claims deprived Brewer of the opportunity to prove the merits of his defense.

3           Nevertheless, the outcome remains the same. Both parties asserted claims in this  
4 litigation,<sup>1</sup> both parties prevailed on major issues, and both parties must therefore bear  
5 their own attorney’s fees under Washington law. *See Am. Nursery Prod., Inc. v. Indian*  
6 *Wells Orchards*, 115 Wn.2d 217, 234-35 (1990); *Country Manor MHC, LLC v. Doe*, 176  
7 Wn. App. 601, 613 (2013). Regardless whether one counts every claim asserted in this  
8 litigation (in which case the tally is thirteen successes for Money Mailer and two for  
9 Brewer) or only the major claims (in which case Money Mailer succeeded on two and  
10 Brewer succeeded on one), Brewer was not the substantially-prevailing party. Because  
11 Washington law is clear that a contractual fee award is appropriate in these circumstances  
12 only where the party has obtained affirmative relief and/or substantially prevailed,  
13 certification to the Washington Supreme Court is not warranted.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

//

//

---

27 <sup>1</sup> Contrary to his repeated assertions, Brewer’s thirteen statutory, tort, and contract claims were not merely  
28 defenses to Money Mailer’s claims.

1 For all of the foregoing reasons, the Court reconsiders its Order Denying Brewer's  
2 Motion for Attorney's Fees (Dkt. # 325), again finds that Brewer does not qualify as a  
3 prevailing party in the circumstances presented here, and denies Brewer's request for  
4 certification.  
5

6  
7 Dated this 29th day of August, 2022.

8   
9 \_\_\_\_\_  
10 Robert S. Lasnik  
11 United States District Judge  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28