

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

HOMESTREET BANK, a Washington
chartered savings bank,

Plaintiff,

v.

LOUIS J. STEINER,
individually, STEINER
DEVELOPMENT, LLC, an Idaho
limited liability company,
ROBERT M. CHAVEZ,
individually, RMC
CONSTRUCTION, LLC, an Idaho
limited liability company,

Defendants.

Case No.: 09-CV-00113-BLW
09-CV-00116-BLW

REPORT AND RECOMMENDATION

On May 20, 2009, United States District Judge Tena Campbell, sitting by special designation, granted Plaintiff Homestreet Bank's motion to remand the case to state court and awarded Plaintiff attorney's fees. (No. 1:09-CV-113, Doc. 19; No. 1:09-CV-116, Doc. 17.) Judge Campbell then referred the case to United States Magistrate Judge Samuel Alba, also sitting by special designation, for the purpose of determining the amount of attorney's fees to award to Plaintiff. (No. 1:09-CV-113, Doc. 22.)

Pursuant to Judge Campbell's order, Plaintiff submitted its requested attorney's fees. (No. 1:09-CV-113, Doc. 21; No. 1:09-CV-116, Doc. 19.) Defendants Robert M. Chavez and RMC Construction, LLC objected to Plaintiff's claimed attorney's fees, arguing that the requested amount is excessive and unreasonable. (No. 1:09-CV-116, Doc. 21.) Defendants Louis J. Steiner and Steiner Development, LLC also filed an objection to Plaintiff's claimed attorney's fees, arguing that Plaintiff's request was untimely and that the requested amount is excessive and unreasonable. (No. 1:09-CV-113, Doc. 23; No. 1:09-CV-116, Doc. 22.) On February 9, 2010, pursuant to this Court's order, Plaintiff responded to Defendants' two pleadings that objected to the requested amount of attorney's fees.

On February 22, 2010, the Court held a hearing on the disputed amount of attorney's fees. Plaintiff and both sets of Defendants presented their arguments to the Court.

FINDINGS OF FACT

Having carefully read the pleadings submitted by each party, and having heard counsels' arguments, the Court makes the following findings:

(1) The request for attorney's fees is timely in light of the circumstances of this case and in light of the order Judge Campbell entered ordering Plaintiff to provide the material and brief the issue of attorney's fees.

(2) The amount of attorney's fees requested by Plaintiff is excessive. The Court finds there was quite a bit of duplicative work done by Mr. Clifford and Mr. Lauritsen (counsel for Plaintiff).

(3) The amount of \$12,500, including the cost associated with this case, is what is an appropriate amount for attorney's fees and costs in this case.

RECOMMENDATION

IT IS RECOMMENDED that the Court order Defendants to pay \$12,500 to Plaintiff, pursuant to the Court's order awarding Plaintiff costs and attorney's fees, by April 1, 2010. **IT IS FURTHER ORDERED** that the \$12,500 must be divided evenly between the two sets of defendants: Mr. Steiner and Steiner Development, LLC shall pay \$6,250 (50 percent of \$12,500), and Mr. Chavez and RMC Construction, LLC shall pay \$6,250 (50 percent of \$12,500).

Copies of this Report and Recommendation are being sent to all parties, who are hereby notified of their right to object. The parties must file any objection to this Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1), within

fourteen (14) days after receiving it. Failure to file objections may constitute a waiver of those objections upon subsequent appellate review.

DATED this 11th day of March, 2010.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Samuel Alba", written in a cursive style.

SAMUEL ALBA
United States Magistrate Judge