

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CHICO'S FAS, INC., a Florida
corporation

Plaintiff,

v.

Case No: 2:13-cv-792-FtM-38MRM

ANDREA CLAIR, ANASTASIOS
KOSKINAS and 1654754 ONTARIO,
INC.,

Defendants.

ORDER¹

This matter comes before the Court on Plaintiff Chico's FAS, Inc.'s Motion for Attorneys' Fees ([Doc. #142](#)) filed on December 17, 2015. Defendants Andrea Clair, Anastasios Koskinas, and 1654754 Ontario, Inc. filed a Response in Opposition ([Doc. #145](#)) on December 31, 2015. The matter is ripe for review.

A notice of appeal generally divests the Court of jurisdiction "over those aspects of the case involved in the appeal." [Green Leaf Nursery v. E.I. DuPont De Nemours & Co.](#), 341 F.3d 1292, 1308 (11th Cir. 2003) (citation omitted). But, pursuant to [Fed. R. Civ. P. 54\(d\)](#), the Court retains discretion to deny a motion for attorney's fees without prejudice with leave to re-file after the appeal has concluded. Here, both parties have filed appeals with the Federal Circuit. Therefore, the Court chooses to exercise its discretion and deny

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

Plaintiff's Motion without prejudice until the cross-appeals are resolved. Plaintiff may renew its Motion no later than fourteen days after entry of a mandate by the Federal Circuit on the parties' respective appeals.

Accordingly, it is now

ORDERED:

Plaintiff Chico's FAS, Inc.'s Motion for Attorneys' Fees ([Doc. #142](#)) is **DENIED without prejudice**. Plaintiff may renew its motion for attorneys' fees no later than fourteen days after entry of a mandate by the Federal Circuit on the parties' respective appeals.

DONE and **ORDERED** in Fort Myers, Florida, this 19th day of February, 2016.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record