

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

FEB 26 2009 *PK*

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____
DEPUTY CLERK

ROTHE DEVELOPMENT)
CORPORATION,)
)
Plaintiff,)
)
VS.)
)
THE U.S. DEPARTMENT)
OF DEFENSE and)
THE U.S. DEPARTMENT)
OF AIR FORCE,)
)
Defendants.)

Civ. No. 98-CA-1011-XR

FINAL JUDGMENT

In accordance with the mandate of the United States Court of Appeals for the Federal Circuit issued December 29, 2008, the Court hereby orders (1) that Judgment be entered for Defendants on Plaintiff's claims for declaratory and injunctive relief challenging the facial constitutionality of the 1999 and 2002 reauthorizations of 10 U.S.C. § 2323, and that Plaintiff take nothing on those claims; (2) that Judgment be entered for Plaintiff on its claim for declaratory relief challenging the facial constitutionality of the present 10 U.S.C. § 2323, and that the present 10 U.S.C. § 2323 is held facially unconstitutional; (3) that all application of the present 10 U.S.C. § 2323 is enjoined.

With regard to any award of attorney's fees, any motion for an award of attorney's fees shall be filed and served no later than fourteen (14) days after entry of judgment pursuant to Rule 54 of the Federal Rules of Civil Procedure. Counsel for the parties shall meet and confer for the purpose of resolving all disputed issues relating to attorney's fees prior to making application. The application

shall certify that such a conference has occurred. If no agreement is reached, the applicant shall certify the specific reason(s) why the matter could not be resolved by agreement. The motion for attorney's fees shall include a supporting document organized chronologically by activity or project, listing attorney name, date, and hours expended on the particular activity or project, as well as an affidavit certifying (1) that the hours expended were actually expended on the topics stated, and (2) that the hours expended and rate claimed were reasonable. Such application shall also be accompanied by a brief memo setting forth the method by which the amount of fees was computed, with sufficient citation of authority to permit this court the opportunity to determine whether such computation is correct. The request shall include reference to the statutory authorization or other authority for the request. Detailed time sheets for each attorney for whom fees are claimed may be required to be submitted upon further order of the Court.

Any objections to any motion for attorney's fees shall be filed on or before eleven (11) days after the date the motion for award of attorney's fees is filed. If there is no timely objection, the Court may grant the motion as unopposed.

The motion shall be resolved without further hearing, unless an evidentiary hearing is requested, reasons therefor presented, and good cause shown, whereupon hearing on the motion may be granted.

Any motion for award of attorney's fees filed beyond the fourteen (14) day period may be deemed untimely and a waiver of entitlement to fees.

Signed this 26th day of February, 2009.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE