

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MARSH SUPERMARKETS, INC.,)
)
Plaintiff/Counterclaim-Defendant,)
)
vs.)
)
DON E. MARSH,)
)
Defendant/Counterclaim-Plaintiff,)
)
vs.)
)
EMPLOYMENT AGREEMENT BY)
AND BETWEEN DON E. MARSH AND)
MARSH SUPERMARKETS, INC.)
DATED AUGUST 3, 1999, AS AMENDED)
JANUARY 1, 2005 AND)
DECEMBER 30, 2005,)
)
Third-Party Defendant)

No. 1:09-cv-00458-SEB-TAB

ORDER ON DEFENDANT-COUNTERCLAIMANT’S RULE 58 MOTION

This cause is before the Court on Defendant-Counterclaimant Don E. Marsh’s motion for issuance of order pursuant to Federal Rules of Civil Procedure 58(e) [Docket No. 301]. Mr. Marsh asks that we order under Rule 58(e) of the Federal Rules of Civil Procedure, and consistent with Appellate Rule 4(a)(4), that Mr. Marsh’s motion for attorneys’ fees under Rule 54(d)(2) be given the same effect on appellate deadlines as a motion under Rule 59 of the Federal Rules of Civil Procedure.

Where applicable and not unjust to either party, such a ruling may have “the benefit of promoting judicial efficiency by allowing an appeal relating to a fee award to be heard at the same time as an appeal relating to the merits.” *Fincher ex rel. Fincher v. Prudential Prop. &*

Cas. Ins. Co., 374 Fed. App'x 833, 838 (10th Cir. 2010). Plaintiff has interposed no objection to this motion, and we see no reason why, in the absence of objection, promoting the consolidation of the issues for appeal prejudices either party.

Defendant-Counterclaimant's motion is accordingly GRANTED.

IT IS SO ORDERED.

Date: 10/11/2013



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Distribution:

Andrew M. McNeil
BOSE MCKINNEY & EVANS, LLP
amcneil@boselaw.com

Jonathan Lamont Mayes
BOSE MCKINNEY & EVANS, LLP
jmayes@boselaw.com

Winthrop James Hamilton
BOSE MCKINNEY & EVANS, LLP
jhamilton@boselaw.com

David K. Herzog
FAEGRE BAKER DANIELS LLP - Indianapolis
david.herzog@faegrebd.com

Munjot Sahu
FAEGRE BAKER DANIELS LLP - Indianapolis
munjot.sahu@faegrebd.com

Ryan Michael Hurley
FAEGRE BAKER DANIELS LLP - Indianapolis
ryan.hurley@FaegreBD.com

C. Joseph Russell
KRIEG DEVAULT LLP
crussell@kdlegal.com

Linda Joy Cooley
KRIEG DEVAULT, LLP
lcooley@kdlegal.com