

FILED: September 26, 2012

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-1692
(6:06-cv-00293-HMH)

MONSTER DADDY, LLC,

Plaintiff - Appellee

v.

MONSTER CABLE PRODUCTS, INCORPORATED,

Defendant - Appellant

ORDER

This matter is before the Court on the motion of Monster Daddy, LLC (Monster Daddy) for an award of attorneys' fees and costs incurred in connection with the appeal filed by Monster Cable Products, Inc. (Cable Products). In that appeal, Cable Products challenged an order of the district court awarding attorneys' fees to Monster Daddy, based on the court's holding that Cable Products breached a forum selection clause contained in the parties' settlement agreement.

On June 19, 2012, this Court affirmed the decision of the district court. Monster Daddy, LLC v. Monster Cable Prods., No. 11-1692, slip op. at 15 (4th Cir. June 19, 2012). The panel concluded, as had the district court, that Cable Products breached the forum selection clause in the parties' settlement agreement by filing an action in federal district court in California, rather than in a South Carolina state or federal court. Slip op. at 11. The parties' settlement agreement contained a provision that allowed for an award of attorneys' fees, which stated:

Attorney Fees and Costs. In the event of any breach of this Agreement, the prevailing party shall be entitled to recover not only the amount of any judgment which may be awarded in its favor but also all such other damages, costs and expenses that may be incurred by the party, including but not limited to court costs, reasonable attorneys' fees, and all other reasonable costs and expenses.

Id. at 3. Based upon this broad language, the panel held that the district court's award of attorneys' fees that were incurred by Monster Daddy in responding to Cable Products' breach was permitted under the plain language of the parties' agreement.

Id. at 12. The panel concluded that none of Cable Products' arguments on appeal had any merit.

For the reasons that Monster Daddy was entitled to those attorneys' fees awarded by the district court, this Court now holds that Monster Daddy is entitled to additional

reasonable attorneys' fees and court costs incurred in connection with Cable Products' appeal in this case. The Court notes that Cable Products has not disputed that Monster Daddy is entitled to such additional attorneys' fees and costs under the terms of their settlement agreement. Therefore, the Court remands the matter to the district court for a determination of those reasonable attorneys' fees and costs to which Monster Daddy is entitled in the first instance.

Entered at the direction of Judge Keenan with the concurrence of Judge Wynn and Judge Floyd.

For the Court

/s/ Patricia S. Connor, Clerk