

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Todd Andra v. MobileOne LLC

Andra v. MobileOne · No. 2:23-cv-00188-AMA · Decided June 8, 2026

SUMMARY

The United States District Court for the District of Utah granted Plaintiff Todd Andra’s motion to defer ruling on Defendant MobileOne LLC’s motion for attorneys’ fees and litigation costs. The court denied the fees motion without prejudice pending resolution of Andra’s appeal by the Tenth Circuit and permitted MobileOne to renew the motion within 14 days after the appellate mandate issues.

CASE DETAILS

COURT	United States District Court for the District of Utah
WRITING FOR THE COURT	Ann Marie McIff Allen
JURISDICTION	United States District Court for the District of Utah
DECIDED	June 8, 2026
DOCKET	2:23-cv-00188-AMA
DISPOSITION	other
PROCEDURAL POSTURE	After granting summary judgment to Defendant, the district court considered Defendant's motion for attorneys' fees and litigation costs while Plaintiff's appeal on the merits was pending. The court granted Plaintiff's motion to defer ruling and denied Defendant's fee-and-cost motion without prejudice.
STANDARD OF REVIEW	The district court exercises discretion in deciding whether to resolve, defer, or deny without prejudice a motion for attorneys' fees and costs while an appeal on the merits is pending.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Todd Andra v. MobileOne LLC

TOPICS

- attorney fees
- costs
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- attorney fees
- costs

QUESTIONS PRESENTED

1. Whether the district court retains jurisdiction over a motion for attorneys' fees and costs while an appeal on the merits is pending.
2. Whether the district court should exercise its discretion to defer ruling on, or deny without prejudice, the pending motion for attorneys' fees and litigation costs until the appeal is resolved.

HOLDINGS

1. A district court retains jurisdiction to address attorneys' fees and costs even while an appeal on the merits is pending.
2. A district court is not required to resolve a motion for attorneys' fees or costs before completion of the merits appeal and may rule on the motion, defer ruling, or deny it without prejudice and set a new filing period after the appeal.
3. The court granted Andra's motion to defer ruling and denied MobileOne's motion for attorneys' fees and litigation costs without prejudice, allowing renewal no later than 14 days after the Tenth Circuit issues its mandate unless the motion is mooted.

KEY QUOTATIONS

"The law is well settled the district judge retains jurisdiction over the issue of attorneys' fees even though an appeal on the merits of the case is pending." (Discussion)

"Nonetheless, a "district judge is not required to resolve a motion for attorneys' fees or costs before the appeal is completed"" (Discussion)

"If an appeal on the merits of the case is taken, the court may rule on the claim for fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing under subdivision (d)(2)(B) a new period for filing after the appeal has been resolved." (Discussion)

"Here, the Court finds that the interests of judicial efficiency and fairness will be best served by waiting for a mandate from the Tenth Circuit before addressing whether to award or deny the requested attorneys' fees and costs." (Discussion)

FACTUAL BACKGROUND

The district court had entered summary judgment in favor of MobileOne LLC and against Todd Andra. Andra appealed that merits ruling, while MobileOne sought attorneys' fees and litigation costs as the prevailing party. Because the outcome of the appeal could affect whether MobileOne remained entitled to fees and costs, the court determined that waiting for the Tenth Circuit's mandate would promote judicial efficiency and fairness.

PROCEDURAL HISTORY

On September 29, 2025, the court granted summary judgment for MobileOne LLC. Andra filed a notice of appeal on October 29, 2025. MobileOne then moved for attorneys' fees and litigation costs, and Andra moved to defer the ruling until the Tenth Circuit resolved the appeal. The district court deferred consideration and authorized renewal of the fee motion after the Tenth Circuit issues its mandate, unless the motion is mooted.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. Defendant may renew its motion for attorneys' fees and litigation costs, unless mooted by the Tenth Circuit's resolution of the appeal, no later than 14 days after the Tenth Circuit issues its mandate.

CASES CITED

- City of Chanute v. Williams Nat. Gas Co., 955 F.2d 641, 658 (10th Cir. 1992)
- Systemcare, Inc. v. Wang Lab'ys Corp., 117 F.3d 1137 (10th Cir. 1997)
- Chung v. Lamb, No. 14-cv-03244-WYD-KLM, 2019 WL 8060186 (D. Colo. Apr. 30, 2019)
- Johnson v. Heath, No. 2:17-cv-00416, 2020 WL 5659105 (D. Utah Sept. 23, 2020)
- Ewing v. TWA Rest. Grp., Inc., No. 08-2024-CM, 2009 WL 976490 (D. Kan. Apr. 10, 2009)
- Aden v. Life Care Ctrs. of Am., Inc., No. 05-2286-CM, 2008 WL 4198513 (D. Kan. Sept. 12, 2008)
- Terra Venture Inc. v. JDN Real Estate-Overland Park, L.P., No. 02-2593-CM, 2005 WL 2122644 (D. Kan. Aug. 8, 2005)
- Sharif v. Wellness Int'l Network LTD a/k/a WIN, No. 3:05-cv-01367-B, 2008 WL 2885186 (N.D. Tex. July 22, 2008)
- Sunday's Child, LLC v. Irongate Azrep BW LLC, No. 13-00502-DKW-RLP, 2018 WL 6628938 (D. Haw. Oct. 4, 2018)
- Mhany Mgmt. Inc. v. Inc. Vill. of Garden City, 44 F. Supp. 3d 283 (E.D.N.Y. 2014)
- Doe ex rel. Doe v. E. Lyme Bd. of Educ., No. 3:11-cv-291(JBA), 2014 WL 4370504 (D. Conn. Sept. 2, 2014)
- Dulin v. Bd. of Comm'rs of Greenwood Leflore Hosp., No. 4:07-cv-194-A-V, 2013 WL 5464689 (N.D. Miss. Sept. 30, 2013)
- Hetrick v. Ideal Image Dev. Corp., No. 8:07-cv-871-T-33TBM, 2009 WL 1788376 (M.D. Fla. June 22, 2009)

OPINION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH TODD ANDRA, Plaintiff, MEMORANDUM DECISION & ORDER GRANTING PLAINTIFF'S MOTION TO v. DEFER RULING & DENYING WITHOUT PREJUDICE DEFENDANT'S MOBILEONE LLC, MOTION FOR ATTORNEYS' FEES & LITIGATION COSTS Defendant. Civil No. 2:23-cv-00188-AMA District Judge Ann Marie McIff Allen This matter comes before the Court on Defendant MobileOne's Motion for Attorneys' Fees and Litigation Costs,¹ as well as on Plaintiff Todd Andra's Motion to Defer Ruling on Defendant's Motion for Attorneys' Fees and Litigation Costs.² Based on the parties' briefing and the applicable law, the Court grants Plaintiff's Motion to Defer Ruling and denies without prejudice Defendant's Motion.

BACKGROUND On September 29, 2025, the Court granted summary judgment in favor of Defendant and against Plaintiff.³ Plaintiff filed a Notice of Appeal on October 29, 2025.⁴ Defendant filed its Motion for Attorneys' Fees and Litigation Costs, as well as a Bill of 1 ECF No. 124, filed October 14, 2025. 2 ECF No. 140, filed January 27, 2026. 3 ECF No. 122. 4 ECF No. 128.

Costs, on October 14, 2025.⁵ Plaintiff filed his opposition on November 4, 2025,⁶ to which Defendant replied on November 26, 2025.⁷ On January 27, 2026, Plaintiff filed his Motion to Defer Ruling on Defendant's Motion for Attorneys' Fees and Litigation Costs.⁸ Defendant opposed on February 10, 2026,⁹ and Plaintiff replied on February 24, 2026.¹⁰ DISCUSSION "The law is well settled the district judge retains jurisdiction over the issue of attorneys' fees even though an appeal on the merits of the case is pending."¹¹ Nonetheless, a "district judge is not required to resolve a motion for attorneys' fees or costs before the appeal is completed"¹² but rather "retains discretion to determine whether it will consider such issues in the face of a pending appeal."¹³ As such, "[i]f an appeal on the merits of the case is taken, the court may rule on the claim for fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing under subdivision (d)(2)(B) a new period for filing after the appeal has been resolved."¹⁴ While the parties dispute the typicality of the practice, many district courts have chosen to exercise their discretion to defer ruling on motions for attorneys' fees and costs or to 5 ECF Nos. 124–25.

6 ECF No. 132. 7 ECF No. 139. 8 ECF No. 140. 9 ECF No. 141. 10 ECF No. 143. 11 *City of Chanute v. Williams Nat. Gas Co.*, 955 F.2d 641, 658 (10th Cir. 1992), overruled on other grounds by *Systemcare, Inc. v. Wang Lab'ys Corp.*, 117 F.3d 1137 (10th Cir. 1997). 12 *Chung v. Lamb*, No. 14-cv-03244-WYD-KLM, 2019 WL 8060186, at *1 (D. Colo. Apr. 30, 2019). 13 *Johnson v. Heath*, No. 2:17-cv-00416, 2020 WL 5659105, at *1 (D.

Utah Sept. 23, 2020). 14 Fed. R. Civ. P. 54(d), adv. comm. note to 1993 amendments. deny the motions without prejudice pending the resolution of an appeal on the merits.¹⁵ Here, the Court finds that the interests of judicial efficiency and fairness will be best served by waiting for a mandate from the Tenth Circuit before addressing whether to award or deny the requested attorneys' fees and costs.

The outcome of Plaintiff's appeal may impact the Court's analysis of the issues presented in Defendant's Motion. If the order on summary judgment is reversed, Defendant will not be entitled to attorneys' fees or costs as the prevailing party. Deferring consideration on these issues "will conserve the resources of both the court and the parties."¹⁶ 15 See, e.g., *Chung*, 2019 WL 8060186, at *3; *Johnson*, 2020 WL 5659105, at *2; *Ewing v. TWA Rest.*

Grp., Inc., No. 08-2024-CM, 2009 WL 976490, at *1 (D. Kan. Apr. 10, 2009) (deferring ruling on attorneys' fees until after resolution of pending appeal); *Aden v. Life Care Ctrs. of Am., Inc.*, No.

05-2286-CM, 2008 WL 4198513, at *1 (D. Kan. Sept. 12, 2008) (same); *Terra Venture Inc. v. JDN Real Estate-Overland Park, L.P.*, No. 02-2593-CM, 2005 WL 2122644, at *1 (D.

Kan. Aug. 8, 2005) (same); *Sharif v. Wellness Int'l Network LTD a/k/a WIN*, No. 3:05-cv-01367-B, 2008 WL 2885186, at *1 n.1 (N.D. Tex. July 22, 2008) (noting that district court previously denied defendant's motion for attorneys' fees without prejudice, to be re-filed after final disposition from the Fifth Circuit); *Sunday's Child, LLC v. Irongate Azrep BW LLC*, No. 13-00502-DKW-RLP, 2018 WL 6628938, at *2 (D.

Haw. Oct. 4, 2018) ("Because the Motion is predicated on an order that is currently on appeal, the Court and the parties' interests would best be served by waiting for the Ninth Circuit's decision before determining if and/or what amount of attorneys' fees and costs should be awarded."); *Mhany Mgmt. Inc. v. Inc. Vill. of Garden City*, 44 F. Supp. 3d 283, 286–87 (E.D.N.Y.

2014) (deferring ruling on motion for attorneys' fees until after Second Circuit rendered a decision); *Doe ex rel. Doe v. E. Lyme Bd. of Educ.*, No. 3:11-cv- 291(JBA), 2014 WL 4370504, at *2–3 (D. Conn. Sept. 2, 2014) (same); *Dulin v. Bd. of Comm'rs of Greenwood Leflore Hosp.*, No. 4:07-cv-194-A-V, 2013 WL 5464689, at *2 (N.D. Miss. Sept. 30, 2013) (collecting cases); *Hetrick v. Ideal Image Dev.*

Corp., No. 8:07-cv-871-T-33TBM, 2009 WL 1788376, at *2 (M.D. Fla. June 22, 2009) (denying motion for attorneys' fees without prejudice). 16 Johnson, 2020 WL 5659105, at *2. ORDER Based on the foregoing, the Court rules as follows: 1. Plaintiff's Motion to Defer Ruling on Defendant's Motion for Attorneys' Fees and Litigation Costs (ECF No. 140) is GRANTED. 2.

Defendant's Motion for Attorneys' Fees and Litigation Costs (ECF No. 124) is DENIED WITHOUT PREJUDICE. Defendant may renew such motion, if not mooted by the Tenth Circuit's resolution of Plaintiff's appeal, no later than 14 days after the date the Tenth Circuit issues a mandate in this case. DATED this 8th day of June 2026. BY THE COURT: Ann Marie McIff Allen
United States District Judge