UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

TB FOOD USA, LLC, a Delaware Limited Liability Company,

Plaintiff,

v. CASE NO. 2:17-cv-9-FtM-29NPM

AMERICAN MARICULTURE, INC., a Florida Corporation, AMERICAN PENAEID, INC., a Florida Corporation, and ROBIN PEARL,

Defendants.

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AMERICAN MARICULTURE, INC., a Florida Corporation,

Third-Party Plaintiff,

v.

PB LEGACY, INC. a Texas Corporation,

Third-Party Defendant.

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**ORDER**

On August 8, 2022, Defendants filed a Renewed Motion For Determination of Entitlement To Attorney's Fees and Costs and Incorporated Memorandum of Law (Doc. #557), and Plaintiff and Third-Party Defendant filed a Joint Renewed Motion for Attorney's Fees and Expenses With Incorporated Memorandum Of Law In Support (Doc. #558) on August 22, 2022, along with the parties' Responses

in Opposition. (Docs. ##563, 567.) All parties claimed to be prevailing parties who are entitled to an award of attorney fees and costs.

On November 16, 2022, the Court issued an Order (Doc. #584) requesting supplemental memoranda as to three matters: (1) whether the Court should stay its resolution of the motions for attorney's fees and costs until after the Eleventh Circuit of Appeals sorts out various claims of error asserted in the direct appeals being taken by the parties; (2) the impact of Royal Palm Properties, LLC v. Pink Palm Properties, LLC, 38 F.4th 1372 (11th Cir. 2022), which held that in a mixed judgment situation there could be no more than one prevailing party for purposes of costs, and there need not be any prevailing party; and (3) whether the prevailing party analysis in Royal Palm Properties, LLC is applicable to attorney's fees, not simply costs. (Id., p. 2.)

Defendants American Mariculture, Inc., American Penaeid, Inc. and Robin Pearl filed a Response To Order Of the Court on December 1, 2022. (Doc. #585.) Defendants state that all parties have conferred and agree that the resolution of the pending appeal may change the posture of the case with regard to which parties should be considered prevailing parties, and would impact the Court's analysis of the second and third matters it raised in the aforementioned Order, such that staying resolution of the motions would be the most efficient utilization of judicial resources and

would not be prejudicial to any party. (Id., pp. 2-3.) The parties therefore request that the Court stay its resolution of the motions for attorney's fees and costs until completion of the appellate process. (Id., p. 3.)

The Court will grant a stay of the resolution of the pending motions for determination of entitlement to attorney's fees and costs until completion of the appellate process.

Accordingly, it is hereby

**ORDERED:**

1. Resolution of Defendants' Renewed Motion For Determination of Entitlement To Attorney's Fees and Costs and Incorporated Memorandum of Law (Doc. #557), and Plaintiff and Third-Party Defendant' Joint Renewed Motion for Attorney's Fees and Expenses With Incorporated Memorandum Of Law In Support (Doc. #558) is stayed.
2. Upon completion of the appellate process, the parties are directed to file supplemental memoranda as to the second and third matters set forth in its Order (Doc. #584) with regard to Royal Palm Properties, LLC v. Pink Palm Properties, LLC, 38 F.4th 1372 (11th Cir. 2022). The parties shall file supplemental memoranda with this Court within **TWENTY-ONE (21) DAYS** of issuance of a mandate.

**DONE AND ORDERED** at Fort Myers, Florida, this 1st day of December, 2022.

JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Counsel of record