

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

T.T. INTERNATIONAL CO., LTD,

Plaintiff,

v.

Case No. 8:19-cv-02044-CEH-AEP

BMP INTERNATIONAL, INC.,
BMP USA, INC.

Defendants.

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ORDER

This matter comes before the Court upon Plaintiff's Motion for Attorney Fees (Doc. 328) and subsequent Notice of Supplemental Filing (Doc. 337). Plaintiff initiated this action against Defendants on August 16, 2019, following Defendants' acceptance and nonpayment for Plaintiff's shipped goods (Doc. 1). During the course of the litigation, Plaintiff served an offer of judgment against BMP International, Inc. in the amount of \$5,000,000 and BMP USA, Inc. in the amount of \$24,000,000 (Doc. 337). Neither offer was accepted, and on March 6, 2023, following a bench trial, the Clerk entered judgment against Defendant BMP International, Inc. in the amount of \$17,616,549.74 (Doc. 225) and Defendant BMP USA, Inc. in the amount of \$71,165,915.64 (Doc. 226). Plaintiff now seeks reimbursement of its attorney's fees and litigation expenses (Doc. 328).

Local Rule 7.01 prescribes a bifurcated procedure for determining attorney's fees, noting that "[a] party claiming post-judgment attorney's fees and related non-

taxable expenses must obtain an order determining entitlement before providing a supplemental motion on amount.” M.D. Fla. R. 7.01(a). Under Section 768.79 of the Florida Statutes:

if a defendant files an offer of judgment which is not accepted by the plaintiff within 30 days, the defendant shall be entitled to recover reasonable costs and attorney’s fees incurred by her or him or on the defendant’s behalf pursuant to a policy of liability insurance or other contract from the date of filing of the offer if the judgment is one of no liability or the judgment obtained by the plaintiff is at least 25 percent less than such offer

Fla. Stat. § 768.79 (2024). A valid offer of settlement must: 1) be in writing and state that it is being made pursuant to this section; 2) name the party making it and the party to whom it is being made; 3) state with particularity the amount offered to settle a claim for punitive damages, if any; and 4) state its total amount. *Id.* For Erie purposes, this Circuit has found Section 768.79 to be substantive law. *Jones v. United Space*, 494 F.3d 1306, 1309 (11th Cir. 2007)

Accordingly, having reviewed Plaintiff’s filings and the offers of judgment incorporated therein, this Court finds that the offers of judgement meet the requirements of Section 768.79, and Plaintiff is entitled to the reasonable attorney’s fees and costs expended during the course of this litigation.

ORDERED:

1. Plaintiff’s Motion for Attorney Fees (Doc. 328) is GRANTED.
2. Plaintiff shall file within thirty (30) days from entry of this Order a supplemental motion for attorney’s fees and costs that complies with Local Rule 7.01(c). However, before said motion is filed, Plaintiff shall

meet and confer with Defendants to determine which fees and costs, if any, Defendants are objecting to. Any entry which is disputed shall be notated in the motion with the coordinating reason for the objection.

DONE AND ORDERED in Tampa, Florida, on this 24th day of October 2024.



ANTHONY E. PORCELLI
United States Magistrate Judge

cc: Counsel of Record