

Juan T. LIZAMA, et al.
vs.
Jose S. RIOS, individually and as
Mayor of Saipan

Jose S. Rios
vs.
Marianas Public Land
Corporation, et al.; Marianas
Public Land Trust

Civil Action No. 85-0011
District Court NMI

Decided May 22, 1986

1. Civil Rights - Attorney Fees
Where litigation on all claims is still in progress, award of attorney fees under civil rights statute is premature notwithstanding issuance of permanent injunction on claim. 42 U.S.C. §1983.

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

JUAN T. LIZAMA, et al.,
Plaintiffs,
vs.
JOSE S. RIOS, individually
and as Mayor of Saipan,
Defendant.

CIVIL ACTION NO. 85-0011

DECISION AND ORDER

JOSE S. RIOS,
Third-Party Plaintiff,
vs.
MARIANAS PUBLIC LAND CORPO-
RATION, et al.,
Third-Party Defendants.
MARIANAS PUBLIC LAND TRUST,
Applicant for Intervention.

FILED
Clerk
District Court

MAY 22 1986

For The Northern Mariana Islands
By
(Printed Name)

Plaintiffs, Juan T. Lizama and Jesus T. Lizama, filed this action on August 28, 1985, alleging that defendant, Jose S. Rios, individually and as the Mayor of Saipan, was interfering with their right to a certain parcel of real property referred to as the "Hyatt Lot." Rios counterclaimed against the Lizamas and the Marianas Public Land Corporation (MPLC) alleging that the counter-defendants had conspired to deprive Rios and other Northern Marianas descent citizens of their right to be treated

1 fairly in the exchange of public lands in contravention of the
2 Fourteenth Amendment to the United States Constitution. The
3 Lizamas' claim and Rios' counterclaim were brought under 42
4 U.S.C. §1983. Rios' counterclaim sought to:

- 5 1. void all previous MPLC land exchanges
6 including the Hyatt exchange; and
- 7 2. require MPLC to promulgate rules and
8 regulations governing future land
9 exchanges.

9 The counterclaim sought compensatory and punitive
10 damages in the amount of \$9,500,000 to redress alleged wrongs.

11 On March 11, 1986, a Stipulation for a Permanent
12 Injunction and Judgment was filed pursuant to which an Order and
13 Judgment of the Court was filed on the same day.

14 Under the stipulation, MPLC is permanently enjoined
15 from exchanging public lands until rules and regulations are
16 adopted to govern such exchanges. The rules and regulations will
17 insure that public lands are only exchanged for private lands of
18 equal or greater value. The stipulation also requires that MPLC
19 have public hearings in which the reasonableness of an exchange
20 is considered and that each exchange must be ratified by a board
21 vote. Rios agreed to drop his claims against MPLC in exchange
22 for this stipulated Order and Judgment.

23 Rios now moves for reasonable attorney's fees pursuant
24 to 42 U.S.C. §1988, which states that:

25 In any action or proceeding to enforce a
26 provision of section(). . . 1983. . . of this
title. . . the court, may in its discretion,

1 allow the prevailing party, other than the
2 United States, a reasonable attorney's fee as
part of the costs.

3 In support of his motion for attorney's fees, counter-
4 claimant's attorney has presented the Court with his regular
5 monthly billings to Mr. Rios. These billings include hours spent
6 pursuing the counterclaim against MPLC and the Lizamas as well as
7 his defense against the Lizamas' original complaint. Counter-
8 claimant's attorney informed the Court at a hearing on this
9 matter that at that time he could not separate the hours spent in
10 pursuing the counterclaim against MPLC from the hours spent
11 pursuing the counterclaim against the Lizamas and defending
12 against their original complaint.

13 [1] The Court feels that this motion for attorney's fees is
14 premature. Though there are cases supporting the availability of
15 interim attorney's fees the Court believes that interim fees are
16 not appropriate here in light of the fact that Rios is still
17 pursuing certain claims against the Lizamas as well as defending
18 against the original complaint. When these claims are resolved,
19 counter-claimant's attorney and the Court can better address the
20 issue of attorney's fees.

21 IT IS SO ORDERED.

22 DATED this 22nd day of May, 1986.

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26 JUDGE ALFRED LAURETA