

**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.



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.

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

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

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

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

26 In any action or proceeding to enforce a  
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 22<sup>nd</sup> day of May, 1986.

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26 JUDGE ALFRED LAURETA