

STATE OF INDIANA) IN THE MARION SUPERIOR COURT NO. 13
) SS:
COUNTY OF MARION) CAUSE NO. 49D13-2106-PL-018812

SALINI IMPREGLIO/S.A. HEALY JOINT)
VENTURE and THE LANE)
CONSTRUCTION CORPORATION,)
)
 Petitioners,)
)
 v.)
)
INDIANA DEPARTMENT OF)
LABOR and the INDIANA)
OCCUPATIONAL SAFETY & HEALTH)
ADMINISTRATION,)
)
 Respondents.)

ORDER GRANTING PETITION FOR ATTORNEYS’ FEES AND COSTS

This matter comes before the Court pursuant to the Findings of Fact, Conclusions of Law & Final Order entered in this matter on June 10, 2024 (the “Order”). The findings of fact and conclusions of law from the Order are hereby incorporated. On October 9, 2024, the Court held an in person hearing on Petitioners’ Petition for Attorneys’ Fees and Costs. Petitioners and Respondents appeared by counsel.

Having reviewed the evidence and exhibits, having considered the arguments, having considered the parties’ written submissions, having observed multiple proceedings and activities of the parties and counsel throughout this matter, and otherwise being duly advised, the Court hereby GRANTS the Petition for Attorneys’ Fees and Costs and awards Petitioners \$ **\$373,300.23** in attorneys’ fees,

costs, and expenses. Respondents and the Indiana Attorney General's Office shall be jointly and severally liable for paying this award. Respondents and/or the Indiana Attorney General's Office shall tender payment of said fees and costs to Petitioners within thirty (30) days of this order.

This sanction is appropriate for the reasons discussed in the Order and *Little v. Martinez*, 2020 WL 42776 at *38 ("None of these practices can continue, and increasingly severe sanctions will be warranted if they do."). In short, Respondents and their counsel committed multiple types of unacceptable misconduct on numerous occasions. (Order, ¶¶ 9-11, 15, 24-26.) They acted in an unreasonable manner with disregard for Petitioners, the Court, and the orderly process of justice. (*Id.* at ¶ 25.) Further, Respondents failed to explain why the repeated acts of misconduct occurred and went uncured, failed to accept responsibility for the misconduct, failed to express remorse, and failed to identify steps that have been taken to prevent such unacceptable misconduct from occurring in the future.

In making this award, the Court notes that Respondents did not dispute the evidence Petitioners submitted in support of their Petition for Attorneys' Fees and Costs, which included the Declaration of David Bondanza and affidavits of Bradley Sugarman. The Court also notes that Respondents failed to rebut the compelling evidence and arguments Petitioners presented that the egregious misconduct committed and recalcitrant litigation tactics employed by Respondents and their counsel were the main

drivers of the attorneys' fees and costs Petitioners incurred to defend themselves and uncover the truth. The declaration, affidavits, and exhibits attached thereto establish that through October 8, 2024, Petitioners incurred \$373,300.23 in legal fees and costs. Further, they show that Petitioners paid all the fees and costs incurred except those not yet due (Bose McKinney & Evans LLP's invoices are due within 30 days of receipt). The total amount paid through October 8, 2024, is \$349,715.45. (*See* Exs. A, B, H, I.)

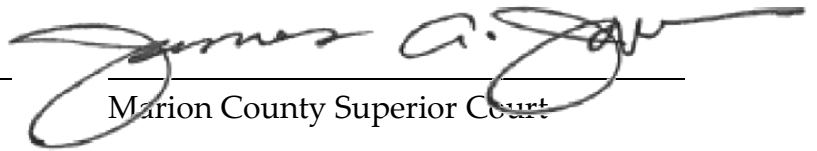
Because Petitioners paid the fees and costs, they are presumed reasonable. *Thomson Inc. v. Ins. Co. of N. Am.*, 11 N.E.3d 982, 1023-1024 (Ind. Ct. App. 2014); *Balcor Real Est. Holdings, Inc. v. Walentas-Phoenix Corp.*, 73 F.3d 150, 153 (7th Cir. 1996). Respondents have not offered any evidence rebutting this presumption and instead offer argument of counsel only. Based on the evidence submitted, relevant law, the Court's own "personal expertise," *Weiss v. Harper*, 803 N.E.2d 201, 208 (Ind. Ct. App. 2003), and considering all the circumstances, the Court finds and concludes that the attorneys' fees and costs that Petitioners incurred and seek to recover are reasonable.

Finally, the Court rejects Respondents' request to dissect the line-by-line details of Bose McKinney & Evans LLP's over three years' worth of time entries. The law does not require this type of review, and such a time-consuming exercise would not be a proper use of the Court's resources, especially considering the fact that Respondents have not disputed the declaration and affidavits submitted by Petitioners. *Metavante Corp. v. Emigrant Sav. Bank*, 619 F.3d 748, 774-776 (7th Cir. 2010); (Fee Pet., Ex. C, ¶ 37).

The Court, finding no just reason for delay, hereby enters a final appealable order on the attorneys' fees and costs set forth above.

SO ORDERED

Date: 10/15/2024



Marion County Superior Court

Distribution: All counsel of record.