

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

DUSTIN SHANE MARTIN,)	
)	Case No. CV-05-156-S-BLW
Plaintiff,)	
)	MEMORANDUM DECISION
v.)	AND ORDER
)	
INCLUSION, INC.,)	
)	
Defendant.)	
_____)	

In an earlier decision, the Court held that counsel for plaintiff Martin shall pay the attorney fees and costs incurred by defendant Inclusion in preparing and arguing a motion for summary judgment. The Court ordered defense counsel to submit a petition for those fees and costs, and that has been done. Counsel for Martin filed a notice that he did not oppose Inclusion's petition.

The Court has examined the petition and finds that it is proper in all respects and that the fees and costs set forth therein are reasonable. In its prior decision, the Court stated that counsel for Martin must pay the fees and costs within ten days from the date of this Order, and that upon notification of timely payment, the Court will withdraw the admissions made by Martin and will deny the motion for summary judgment filed by Inclusion. If timely payment is not made, the Court

will deny Martin's motion to withdraw the admissions and will grant Inclusion's motion for summary judgment. Accordingly,

ORDER

NOW THEREFORE IT IS HEREBY ORDERED, that Defendant's Motion for Attorney Fees (Docket No. 42) shall be, and the same is hereby, GRANTED.

IT IS FURTHER ORDERED, that Attorney Dean Martin shall have ten (10) days from the date of this order to pay to Inclusion's counsel \$2,960 in fees and costs incurred by Inclusion's counsel in preparing and arguing Inclusions motion for summary judgment and Martin's oral motion to withdraw admissions.

IT IS FURTHER ORDERED, that upon receiving verification in writing that the fees and costs have been paid, the Court will enter an order, to be prepared by Martin's counsel, which grants Martin's oral motion to withdraw the deemed admissions and denies Inclusion's motion for summary judgment. If the costs and fees are not paid within ten (10) days, the Court will enter an order, prepared by Inclusion's counsel, which denies the oral motion to withdraw the deemed

admissions and grants Inclusion's motion for summary judgment.



DATED: **September 6, 2006**

A handwritten signature in black ink, reading "B. Lynn Winmill".

B. LYNN WINMILL

Chief Judge

United States District Court