

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH P. HAGARTY : CIVIL ACTION
 :
 v. : NO. 02-102
 :
 SUNOCO, INC. :

MEMORANDUM AND ORDER

Juan R. Sánchez, J.

February 14, 2005

Plaintiff brought this action under the Americans with Disabilities Act¹ claiming Defendant discriminated against him because of his psychiatric illness. After a jury trial, judgment was entered in favor of Defendant. Defendant subsequently filed a motion for attorney's fees. This Court denies Defendant's motion for the reasons that follow.

Jurisdiction is no longer vested in the district court once a notice of appeal is filed. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58. This rule prevents “the confusion and inefficiency which would of necessity result were two courts to be considering the same issue or issues simultaneously.” *Venen v. Sweet*, 758 F.2d 117, 121 (3d Cir. 1985). There are, however, exceptions to this general rule. Specifically, “during the pendency of an appeal, the district court may review applications for attorney’s fees” *Bensalem Twnshp. v. International Surplus Lines Ins. Co.*, 38 F.3d 1303, 1314 n.9 (3d Cir. 1994) (citing other exceptions to the general rule). This Court, therefore, has jurisdiction to deny this motion.

The prevailing party in a claim under the Americans with Disabilities Act is entitled to reasonable attorney's fees and costs. 42 U.S.C. § 12205. The standard for awarding fees to a prevailing defendant, however, is more stringent than the standard for a prevailing plaintiff. A

¹42 U.S.C. §§ 12101-12213.

prevailing plaintiff “should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust.” *EEOC v. L.B. Foster Co.*, 123 F.3d 746, 750 (3d Cir.1997), *cert. denied*, 522 U.S. 1147 (1998). Awards of fees to prevailing defendants “are not routine, but are to be only sparingly awarded.” *Id.* at 751. A prevailing defendant may receive attorney's fees only if the court finds the plaintiff's “claim was frivolous, unreasonable or groundless, or that the plaintiff continued to litigate after it clearly became so.” *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412 (1978). A district court must “resist the understandable temptation to engage in *post hoc* reasoning by concluding that, because a plaintiff did not ultimately prevail, his action must have been unreasonable or without foundation.” *Id.* at 421-22.

This Court finds Plaintiff's claim was not frivolous, unreasonable or groundless. Plaintiff presented a genuine issue regarding his alleged disability and his employer's actions in response to such alleged disability. Plaintiff's claim also survived a motion for summary judgment and a judgment as a matter of law. This Court will not award attorney's fees to Defendant simply because the jury returned a verdict in Defendant's favor. Accordingly, this Court enters the following:

ORDER

And now this 14th day of February, 2005, it is hereby ORDERED that Defendant's Motion for Petition for Fees (docket #120) is DENIED.

BY THE COURT:

Juan R. Sánchez, J.