

FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta

JUL 26 2011

**UNITED STATES COURT OF APPEALS  
For the Eleventh Circuit**

JAMES N. HATTEN, CLERK

*J. Brannon*  
Deputy Clerk

\_\_\_\_\_  
No. 10-15424  
\_\_\_\_\_

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
JUNE 24, 2011  
JOHN LEY  
CLERK

District Court Docket No.  
1:08-cv-03341-RLV

AETNA GROUP USA, INC.,

Plaintiff - Counter  
Defendant-Appellant,

versus

AIDCO INTERNATIONAL, INC.,

Defendant - Counter  
Claimant-Appellee.

A True Copy - Attested  
Clerk U.S. Court of Appeals,  
Eleventh Circuit

By: *[Signature]*  
Deputy Clerk  
Atlanta, Georgia

\_\_\_\_\_  
Appeal from the United States District Court for the  
Northern District of Georgia  
\_\_\_\_\_

**JUDGMENT**

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.

Entered: June 24, 2011  
For the Court: John Ley, Clerk of Court  
By: Djuanna Clark

ISSUED AS MANDATE  
JUL 25 2011  
U.S. COURT OF APPEALS  
ATLANTA GA

117

FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta

[DO NOT PUBLISH]

JUL 26 2011

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

JAMES N. HATTEN, CLERK  
*J. Brannon* Deputy Clerk

\_\_\_\_\_  
No. 10-15424  
Non-Argument Calendar  
\_\_\_\_\_

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
JUNE 24, 2011  
JOHN LEY  
CLERK

D.C. Docket No. 1:08-cv-03341-RLV

AETNA GROUP USA, INC.,

Plaintiff - Counter  
Defendant-Appellant,

versus

AIDCO INTERNATIONAL, INC.,

Defendant - Counter  
Claimant-Appellee.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Georgia  
\_\_\_\_\_

(June 24, 2011)

Before MARCUS, WILSON and KRAVITCH, Circuit Judges.

PER CURIAM:

Aetna Group USA, Inc. appeals the district court's denial of attorney's fees

and costs of litigation. The court granted Aetna's unopposed Motion for Summary Judgment against AIDCO International, Inc. ("AIDCO"), but denied Aetna's request for fees and expenses because Aetna submitted insufficient evidence for the court to determine the reasonableness of its request. Aetna now appeals, arguing the district court erred by denying attorney's fees based on an insufficient factual record without first allowing Aetna an opportunity to supplement the supporting affidavit and billing record.

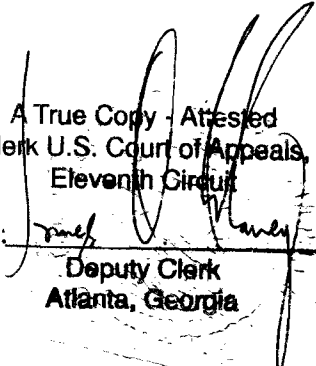
We review the denial of attorney's fees for an abuse of discretion. *In re Trinity Indus., Inc.*, 876 F.2d 1485, 1496 (11th Cir. 1989). A fee applicant "bears the burden of establishing entitlement and documenting the appropriate hours and hourly rates. . . . [And fee counsel must supply] the court with specific and detailed evidence from which the court can determine the reasonable hourly rate." *Norman v. Hous. Auth.*, 836 F.2d 1292, 1303 (11th Cir. 1988). At a minimum, the party seeking attorney's fees must produce more than an affidavit from the attorney performing the work. *Id.* at 1299.

Aetna fell short of meeting this burden. However, we have held that "[w]here documentation is inadequate, the district court is not relieved of its obligation to award a reasonable fee . . . the district court traditionally has had the power to make such an award without the need of further pleadings or an

evidentiary hearing.” *Id.* at 1303; *see also Thompson v. Pharmacy Corp. of Am.*, 334 F.3d 1242, 1246 (11th Cir. 2003) (per curiam) (holding the “district court’s conclusion that [the attorney] should receive *no compensation*” was an abuse of discretion because “we are confident that *some* legitimate time was expended by [the attorney]”). Thus, the district court should have given Aetna “an adequate opportunity to respond to the court’s concerns regarding the fee application and to correct perceived inadequacies in that application before making its decision.” *See NAACP v. City of Evergreen*, 812 F.2d 1332, 1338 (11th Cir. 1987) (per curiam).

Accordingly, the judgment of the district court is reversed. On remand, the court should permit fee counsel to supplement its inadequate fee application.

**REVERSED.**

A True Copy - Attested  
Clerk U.S. Court of Appeals,  
Eleventh Circuit  
By:   
Deputy Clerk  
Atlanta, Georgia