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SUPERIOR COURT  
OF GUAM

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CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM

By: 

JOSHUA F. PETER, et al.,

Plaintiffs,

vs.

FRANCIS GILL, et al.,

Defendants.

CIVIL CASE NO. CV0426-18

**DECISION AND ORDER DENYING  
MOTION FOR AWARD OF  
ATTORNEY'S FEES AND COSTS**

Defendants Cyfred, Ltd. and Francis Gill move the Court for an award of attorney's fees and costs following the resolution of all claims in this case. Upon review of the parties' arguments and the applicable law, the Court determines that Defendants are not entitled to attorney's fees or costs.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiffs brought this action against Defendants for fraud, breach of contract, promissory estoppel, and violation of Guam's Deceptive Trade Practices Act (DTPA), among other claims. *See generally* Fourth Am. Compl. (July 13, 2020). The contract alleged to have been breached was a settlement agreement between parties to several cases involving the Gill-Baza subdivision. Compl. at Ex. 1 (Apr. 30, 2018). As part of the agreement, Defendants and sixty-two homeowners, including some Plaintiffs to this case, agreed to release each other from claims that were brought or could have been brought in fifteen separate cases. *Id.*, Ex. A.

In the case's pretrial phase, the Court granted summary judgment against Plaintiffs on their breach of contract claims. Dec. & Order Re. Defs.' Mot. Partial Summ. J. (Oct. 3, 2019).

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The Court subsequently granted Plaintiffs summary judgment on quiet title claims against all Defendants as well as a Declaratory Judgment in Plaintiffs' favor concerning fourteen lots in the Gill-Baza subdivision. Dec. & Order Re. Pls.' Renewed Mot. Summ. J. (Mar. 13, 2020); Dec. & Order Re. Mot. Partial Summ. J. on Pls.' Ninth Count (Aug. 20, 2021).

The parties proceeded to trial on four counts: breach of the duty of good faith and fair dealing, fraud/negligent misrepresentation, violation of the DTPA, and breach of an assistance contract. The Court ruled in favor of Defendants on all remaining claims and issued a Judgment. *See generally* Finds. Fact & Concls. Law (Aug. 11, 2025); Judgment (October 22, 2025).

After disposition of post-judgment motions filed by Plaintiffs, the Court now determines whether the Defendants are entitled to an award of attorney's fees and costs.

## II. LAW AND DISCUSSION

Guam follows the American Rule governing attorney's fees. *Fleming v. Quigley*, 2003 Guam 4 ¶ 35. "[U]nder the American Rule, attorney's fees are generally not recoverable unless authorized by statute, contract, or under equitable circumstances." *Id.* ¶ 20. Contractual provisions between parties that permit cost-shifting are a common exception to the American Rule. *Mobil Oil Guam, Inc. v. Tendido*, 2004 Guam 7 ¶¶ 42–43. The Guam Rules of Civil Procedure generally permit a prevailing party to recover costs other than attorneys' fees as a matter of course. GRCP 54(d)(1).

### A. **Defendants are not entitled to attorney's fees.**

Defendants claim an entitlement to attorney's fees under contractual provisions, the DTPA, and the bad faith exception to the American Rule. First, Defendants cite contractual provisions in the Settlement Agreement and its accompanying Mutual Release of Claims. Compl., Ex. 1 at 30–31, Ex. C. The relevant provisions state:

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If any party to this Agreement breaches it, the other party or parties may bring an action against the breaching party for such breach; and if that other party or parties prevail in such action, the other party or parties may recover from the breaching party, the reasonable amount of attorney's fees and costs related to such action.

Compl., Ex. 1 at 30–31; *id.*, Ex. C. Defendants claim that this language entitles them to an award of attorney's fees because they “successfully brought actions to defend against this frivolous action” and that they “were the prevailing parties in this litigation.” Defs. Francis Gill & Cyfred, Ltd.'s Mot. Award of Attorney's Fees and Costs at 3 (Aug. 18, 2025). Defendants argue the Plaintiffs became the breaching party when they brought this action in violation of the Mutual Release of Claims; however, this argument was not brought as a counterclaim. The Court therefore rejects this argument as a basis for attorney's fees.

Moreover, the Court finds that the contractual provisions above are inapplicable to Defendants. *See United Pac. Islanders Corp. v. Gill*, CV0934-15 (Dec. & Order at 5–6 (Apr. 18, 2017) (declining to award attorney's fees based on the same language because the defendants were the alleged breaching party)). The Agreement does not provide blanket authorization to a prevailing party to recover attorney's fees—it only applies to a party that successfully initiates a breach of contract claim. The alleged breaching party in this action was Defendants, not Plaintiffs. Further, neither party in this case was successful in bringing a breach of contract claim.

Second, Defendants seek recovery of fees and costs under the DTPA and for reasons of “bad faith.” To obtain such recovery, the Court must find that the action was groundless and in bad faith, or for the purpose of harassment. Although the Court ruled in Defendants' favor on the DTPA claim, it has not found that Plaintiffs acted in bad faith or for harassment purposes. No such finding appears in the Findings of Fact and Conclusions of Law, and the Court makes no

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such finding here. Instead, the Court enforces the American Rule, requiring each party to bear its own attorney's fees.

**C. Defendants are not entitled to costs.**

Finally, Defendants argue that they are entitled to costs as the prevailing party. Guam Rule of Civil Procedure 54(d)(1) provides that "costs other than attorneys' fees shall be allowed as of course to the prevailing party unless the court otherwise directs." The determination of a prevailing party "requires the trial court to look at the lawsuit as a whole to determine which party, if any, prevailed." *Rahmani v. Park*, 2011 Guam 7 ¶ 64. Relevant factors include recovery of a net judgment, "whether [a] party prevailed on any significant issue in litigation, and the proportion between what was sought by [a] party and what was actually recovered." *Id.* This analysis may lead to the conclusion that both parties prevailed or that neither did. In either instance, it is within the discretion of the court to determine that both parties should bear their own costs. *Id.*


Here, Plaintiffs were unsuccessful in proving claims that would have entitled them to damages. *See generally* Judgment. They prevailed on three claims, which ultimately divested Defendants of interest in the disputed lots and awarded title to Plaintiffs. *Id.* The lots at issue were a central part of the Settlement Agreement; thus, Plaintiffs succeeded on a significant issue in the litigation. Nevertheless, there is a considerable disparity between what was sought and what was actually recovered. Defendants were successful in avoiding liability on all breach of contract, fraud, and deceptive trade practice claims that would have entitled Plaintiffs to monetary damages. Under these circumstances, the Court finds that neither party should be determined to have prevailed for purposes of the recovery of costs.

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**III. CONCLUSION**

For the reasons stated above, the Court DENIES Defendants' request for attorney's fees and costs.

**SO ORDERED**, 14 January 2026.

  
**HON. ELYZE M. IRIARTE**  
**Judge, Superior Court of Guam**

**Appearing Attorneys:**

Wayson W.S. Wong, Law Offices of Wayson Wong, for Plaintiffs  
Curtis C. Van de veld, the Vandeveld Law Offices, for Defendants  
Stephanie Mendiola, Esq., self-represented

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