

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**In Re: Beazer Homes USA, Inc.
ERISA Litigation**

) **CIVIL ACTION NO.**
)
) **1:07-CV-00952-RWS**
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**DECLARATION OF MICHAEL I. FISTEL, JR. IN SUPPORT OF MOTION
FOR AWARD OF ATTORNEYS’ FEES, REIMBURSEMENT OF
EXPENSES AND CASE CONTRIBUTION AWARDS**

I, Michael I. Fistel, Jr., declare as follows:

1. I am a member in the law firm of Holzer Holzer & Fistel, LLC. I submit this declaration in support of Plaintiffs’ request for an Award of Attorneys’ Fees and Reimbursement of Expenses based on my personal knowledge.

2. My firm served as Court-appointed Liaison Counsel during the pendency of this case. As Liaison Counsel, my firm assisted Co-Lead Counsel in facilitating coordination and communications among counsel for the parties and with the Court and, among other things, received and distributed pleadings, notices, orders, motions, and briefs and advised Co-Lead Counsel on the local rules of the Court and otherwise assisted in the coordination of activities and positions throughout the case.

3. During the period from the inception of this case through November 4, 2010, my firm performed 188.15 hours of work in connection with the litigation for which I seek payment. Based upon current hourly rates ordinarily charged to my firm's clients, the total lodestar value of this time is \$100,516.75. Attached hereto as Exhibit A is a chart, which indicates the attorneys, paralegals and professional staff who worked on this litigation, their current hourly rates and their respective lodestar values.

4. The hourly rates utilized by my firm in computing its lodestar are at or below its usual and customary hourly rates charged for other similar matters. No upward adjustment in billing rates was made, notwithstanding the contingency and risk of the matters involved, the opposition encountered, the preclusion of other employment, the delay in payment, or other factors present in the case which would justify a higher rate of compensation.

5. The time and services provided by my firm for which fees are sought in the petition are reflected in contemporaneously maintained records of my firm. All of the services performed by my firm in connection with this litigation were reasonable and necessary in the prosecution of this case. No time is included in the fee petition for work in connection with the fee and expense application or accompanying documents, including this declaration.

6. My firm has expended or incurred costs and expenses totaling \$1,243.50 in connection with the prosecution of this litigation. All of the expenses incurred by my firm for which reimbursement is sought were reasonable and necessary in the prosecution of this case. Attached hereto as Exhibit B is a chart which details the expenses incurred by my firm.

7. The expenses paid by my firm for which reimbursement is sought are reflected in the books and records of my firm. These books and records are prepared from checks, bills and expense vouchers, which are regularly kept and maintained by my firm and accurately reflect the expenses incurred.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 4th day of November, 2010.

/s/Michael I. Fistel, Jr.
Michael I. Fistel, Jr.

EXHIBIT A

BEAZER ERISA LITIGATION FEE REPORT**FIRM NAME:** Holzer Holzer & Fistel, LLC**REPORTING PERIOD:** March 2007 - August 2010

Timekeeper	Hours	Rate	Lodestar
Attorneys:			
Corey D. Holzer	24.75	\$595	\$ 14,726.25
Michael I. Fistel, Jr.	149.70	\$545	\$ 81,586.50
Marshall P. Dees	8.20	\$395	\$ 3,239.00
William W. Stone	1.00	\$365	\$ 365.00
Total Attorney Time:	183.65		\$ 99,916.75
Professional Time:			
Diana Hotnog	1.50	\$150	\$ 225.00
Nicholas Lacin	3.00	\$125	\$ 375.00
Total Professional Time:	4.50		\$ 600.00
Total:	188.15		\$ 100,516.75

EXHIBIT B

BEAZER ERISA LITIGATION EXPENSE REPORT**FIRM NAME:** HOLZER HOLZER & FISTEL, LLC**REPORTING PERIOD:** March 2007 - August 2010

DESCRIPTION	MONTHLY EXPENSES	CUMULATIVE EXPENSES
Assesments		
Travel/Meals		
Telephone/Facsimile		
Postage/Express Delivery/Messenger		\$ 302.00
Commercial Copies		
Internal Reproduction/Copies		
Experts/Consultants		
Court Fees		\$ 700.00
Court Reporters/Transcripts		
Witness/Service Fees		
Computer Research		\$ 41.50
Clerical Overtime		
Miscellaneous - Press Release		\$ 200.00
Total Expenses	\$ -	\$ 1,243.50