

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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GREAT LAKES HIGHER EDUCATION  
GUARANTY CORPORATION,

Plaintiff,

v.

EDFUND INC.,

Defendant.

ORDER

99-C-786-C

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In reviewing the file while deciding the parties' competing discovery motions, I realized that I have not yet ruled on plaintiff Great Lakes' request for costs based on my July 12, 2000 order in this case. Great Lakes submitted affidavits, exhibits, and a brief in support of its claim for \$5,577.50. Edfund filed a brief in opposition. Having carefully considered the parties' arguments (and being careful *not* to be influenced by my order on the most recent discovery dispute), I find that Great Lakes is entitled to one-third of its requested expenses but no more.

Great Lakes was the prevailing party insofar as obtaining all the information it sought in its motion. On the other hand, as I noted at the hearing, if Great Lakes had been more amenable to entry of a protective order, a large part of the dispute would have dissipated prior to any motion being filed. Edfund objects to any cost-shifting on this basis, particularly because

after my ruling, Great Lakes would not provide information it deemed confidential without Edfund agreeing to a broad protective order. Edfund views this as highly disingenuous.

Great Lakes' post-hearing conduct has no bearing on whether costs should be shifted. In any event, this court would expect both sides to shift their conduct to conform with the court's orders; it was not improper for Great Lakes to switch positions once it learned what the court required of the parties in that regard.

IT IS ORDERED that defendant Edfund Inc. and its attorneys are jointly and severally liable to pay \$1,857.30 to counsel for Great Lakes Higher Education Guaranty Corporation not later than October 18, 2000.

Entered this 18<sup>th</sup> day of September, 2000.

BY THE COURT:

STEPHEN L. CROCKER  
Magistrate Judge