Attorney Fees

Denver University Law Review

Bhattacharya v. Copple, 898 F.2d 766
Per Curiam

Plaintiff Bhattacharya's attorneys appealed an order of the district court which calculated fees to be paid pursuant to a settlement agreement. The agreement indicated that Bhattacharya's attorneys would receive $450,000 subject to a district court determination of reasonableness. After applying Kan. Stat. Ann § 7-121(b), which lists eight criteria to be used in determining reasonableness of attorney's fees, the district court awarded Bhattacharya's attorneys $182,640. Bhattacharya's attorneys argued that the district court should have awarded the $450,000 in fees as contemplated by the settlement agreement. Defendant, Copple, in an *amicus curiae* brief, contended that since the case was settled, the Tenth Circuit lacked jurisdiction.

The Tenth Circuit affirmed the district court's finding. The court held that an appeal was not prohibited since the settlement agreement recognized that the district court was required to make an independent determination. Furthermore, the district court's decision to use an hourly rate figure to determine fees, despite a fifty-percent contingency agreement between Bhattacharya and his attorneys, was not an abuse of discretion. Finally, Copple's request that the attorneys be sanctioned under Fed. R. Civ. P. Rule 11 was denied. The court reasoned that the outcome of the appeal was not obvious and, therefore, the appeal was not frivolous.

Chynoweth v. Sullivan, 920 F.2d 648
Author: Judge Baldock

Plaintiff, Chynoweth, appealed a district court order denying her request to exceed the seventy-five dollar per hour cap on attorney fees imposed pursuant to the Equal Access to Justice Act. Chynoweth argued that her attorney's expertise in social security benefits law constituted a special factor justifying an increase in her rate.

The Tenth Circuit affirmed the district court's order denying the increase. The court ruled that the social security benefits law does not constitute a specialized practice area warranting the special factor exception to the seventy-five dollar limit. The court explained that the cap may be exceeded only in the unusual situation where specialized training, unattainable by a competent attorney, is required.

Cooper v. Utah, 894 F.2d 1169
Author: Judge West, sitting by designation

Plaintiff, Cooper, was the class representative in an action challenging a Utah statute which prohibited the marriage of a person who was

delinquent in paying child-support. The district court granted summary judgment for Cooper and determined that attorney's fees should be the lodestar amount. This amount is based on the number of hours reasonably spent on the case multiplied by an appropriate hourly rate. The district court then decreased this amount by half on the grounds that the same issues were litigated in Salt Lake City, and an extensive summary of the arguments supporting Cooper's motion appeared in the *Utah Law Review*. Cooper subsequently appealed the district court's reduction of his attorney's fees.

The Tenth Circuit reversed and awarded the full lodestar amount. The court based its decision on the Civil Rights Attorney's Fee Awards Act of 1976, 42 U.S.C. § 1988. This Act authorizes district courts to award reasonable attorney's fees to prevailing parties in civil rights litigation to ensure effective access to the courts. The lodestar amount is presumptively reasonable. While courts may adjust this amount, neither the complexity nor the novelty of issues may be considered in making such an adjustment.

Dahlem v. Board of Educ., 901 F.2d 1508
Author: Judge Anderson, sitting by designation

Plaintiff, Dahlem, appealed the district court's order denying his motion for attorney's fees. In the district court, Dahlem prevailed over defendant, Board of Education of Denver Public Schools (the "Board"), and was granted injunctive relief. Dahlem's substantive claims, however, were rendered moot before obtaining a final judgment on merits and prior to a possible challenge to the injunction's validity by the Board.

The Tenth Circuit affirmed the judgment of the district court. The court found that while Dahlem was a "prevailing party" inasmuch as he won the relief sought, such status did not entitle him to recover attorney's fees. The court explained that the reversal of a companion case rendered the relief he obtained legally disputable. Moreover, the reversal of the companion case constituted a special circumstance which highlighted Dahlem's lack of entitlement to the relief he obtained. Furthermore, such reversal rendered the award of attorney's fees to Dahlem unjust because only fortuity prevented Dahlem's judgment from being reversed at the same time.

Federal Land Bank of Wichita v. Ferguson, 896 F.2d 1244
Per Curiam

Plaintiff, Federal Land Bank ("FLB"), appealed the district court's determination that its claim for foreclosure-related attorney's fees was subordinate to the junior lien of Farmers Home Administration ("FmHA"). On appeal, FLB argued that the district court erred in applying federal first-in-time and choateness principles rather than applicable state laws in determining lien and fee priority.

The Tenth Circuit reversed the decision of the district court. The court ruled that FLB's claim for attorney's fees should be given the same senior priority as its associated mortgage and, therefore, placed ahead of FmHA's lien. The court reasoned that state law, which provides that senior lienholder can recover attorney's fees before additional proceeds are distributed to junior lienholder, governs the lien priority.

Iqbal v. Golf Course Superintendents Ass'n of Am., 900 F.2d 227
Author: Judge Anderson

Defendant, Golf Course Superintendents Association of America ("GCSAA"), appealed the district court's award of attorneys' fees in a race discrimination and retaliatory discharge case. On appeal, GCSAA argued: (1) plaintiff, Iqbal, only achieved limited or partial success, whereas GCSAA prevailed on a number of issues, which justified a reduced award to Iqbal; and (2) the attorneys' fee award should be limited by the contingency fee agreement between Iqbal and his attorney. Iqbal cross-appealed the district court's reduction of his attorney's hourly rate and thirty-percent reduction of the lodestar.

The Tenth Circuit affirmed the district court's judgment and remanded for calculation of fees and costs to be awarded for the work done on appeal. First, the court rejected GCSAA's argument that Iqbal's "limited success" justified a reduced award to Iqbal offset by an award of fees to GCSAA. The court reasoned that Iqbal was the prevailing party and entitled to attorneys' fees under 42 U.S.C. § 1988. Second, the court affirmed the rejection of the contingency fee agreement as a cap on attorneys' fees. Last, on cross-appeal, the court found no abuse of discretion in the district court's approval of an hourly rate lower than what Iqbal's counsel would normally charge, but higher than rates it had allowed in previous cases. The higher rate was an "appropriate adjustment" for inflation and delay in payment of attorneys' fees. At the same time, the court held that the district court was within its discretion in reducing the lodestar to reflect Iqbal's limited success. Moreover, the court held that Iqbal was entitled to fees and costs for the appeal. Tenth Circuit precedent is inconsistent on the issue of attorneys' fees for an appeal of a fee award, but Iqbal should be awarded fees because his counsel was forced to defend a statutory fee award and did so successfully.