

Selected Massachusetts Cases Governing Attorney's Fees Awards

- *Bogan v. City of Boston*, 432 F.Supp.2d 222, 235 (D.Mass.2006). Post-judgment interest. “This district has adopted the majority rule that post judgment interest begins to accrue when the plaintiffs are entitled to the award, not necessarily when the award is quantified.”
- *Fabre v. Walton*, 441 Mass. 9, 10 (2004). Sets out the procedure for requesting attorney's fees on appeal; in cases where requesting fees for appellate work, need to make that request in the appellate brief. A party who wins on appeal shall file with the Appellate Court its submission detailing their professional qualifications, their hourly rates, and detailed listings of the number of hours expended.
- *Haddad v. Wal-Mart (2)* (2010). In determining the amount of a reasonable attorney fee award, a court considers the nature of the case and the issues presented, the time and labor required, the amount of damages involved, the result obtained, the experience, reputation and ability of the attorney, the usual price charged for similar services by other attorneys in the same area, and the amount of awards in similar cases, citing *Linthicum v. Archambault*, 379 Mass. 381, 388-389 (1979). No compensation for the congratulatory business lunch.
- *Hanover Ins. Co. v. Sutton*, 46 Mass. App. Ct. 153, 177 (1999) It is appropriate to award fees for work on both claims, where common-law and G.L. c. 93A claims were underpinned by “a common core of facts.”
- *In re Estate of King*, 455 Mass. 796 (2010). Court may in its discretion award fees under G.L. c. 215, §45 to the defendant, even where there was no evidence of bad faith or wrongful conduct. “In contested cases before a probate court or before the supreme judicial court on appeal, costs and expenses in the discretion of the court may be awarded to either party... as justice and equity may require.”
- *Johnson v. Commissioner of Public Welfare*, 419 Mass. 185 (1994). Where the plaintiff alleges a violation of State law and also a violation of Federal statutory or regulatory law and seeks recovery under 42 U.S.C. § 1983, the plaintiff is entitled to attorneys' fees under 42 U.S.C. § 1988 if he establishes his claim under State law and his Federal statutory or regulatory claim arises from the same nucleus of facts on which the State law claim is based, and is substantial. The Federal law claim is substantial unless it is so obviously without merit that there can be no reasonable controversy about it.
- *Linthicum v. Archambault*, 379 Mass. 381, 388-389 (1979). Articulates a multi-factor test to determine a reasonable attorney's fee. While the amount of a reasonable attorney's fee is largely discretionary, a judge “should consider the nature of the case and the issues presented, the time and labor required, the amount of damages involved, the result obtained, the experience, reputation and

ability of the attorney, the usual price charged for similar services by other attorneys in the same area, and the amount of awards in similar cases.”

- *McGrath v. Mishara*, 386 Mass. 74 (1982). The amount of damages is not the only factor in determining the reasonableness of a fee award. In *McGrath*, the Supreme Judicial Court upheld an attorney's fee award that exceeded five times the amended judgment.
- *Stowe v. Bologna*, 417 Mass. 199, 203 (1994), the judge "should not only consider the plaintiff's financial interests at stake but also the plaintiff's other interests sought to be protected by the statute in question and the public interest in having persons with valid claims under the statute represented by competent legal counsel."
- *Stratos v. Department of Pub. Welfare*, 387 Mass. 312 (1982). Plaintiff need not obtain a final, favorable determination of his constitutional claims in order to claim an attorney's fee under § 1988. It is enough that the constitutional (or federal statutory or regulatory) claims are “substantial,” and arise from the same nucleus of facts on which the State law claims are based. Plaintiff's attorney is also entitled to reasonable attorney's fees for work required in order to recover her attorney's fees.
- *T & D Video, Inc. v. City of Revere*, 66 Mass.App.Ct. 461, 476-77 (2006). In determining a reasonable attorney's fee, the court “engages in a ‘lodestar’ analysis, the essence of which is the multiplication of the ‘number of hours reasonably expended on the litigation’ by ‘a reasonable hourly rate’ ... In making this calculation, the court should consider the time counsel spent on the case exclusive of the hours that are excessive, redundant, duplicative, or unproductive ... The rate applied to the reasonable hours expended should be the prevailing rate in the community, taking into account the experience and qualifications of the attorneys involved ... The fee applicant bears the burden of documenting in detail the hours expended and of establishing the market rate ... After making its initial calculation, the court then may adjust the fee upward or downward based on other considerations, including the results obtained.”
- *Twin Fires Inv., LLC v. Morgan Stanley Dean Witter & Co.*, 445 Mass. 411 (2005). SJC upheld trial court's award of \$1,000,000 in attorney's fees and costs to investment company as reasonable, even though company was only awarded \$118,950 in treble reliance damages;
- *Wojcik v. Lynn Housing Authority*, 66 Mass.App.Ct. 103 (2006) – Not every erroneous determination gives rise to a federal statutory or constitutional claim; no award of attorney's fees under §1988.
- *Yorke Management v. Castro*, 406 Mass. 17, 19 (1989). Right to attorney's fees to prevailing party includes right to fee award for appellate work. See also, *Bournemouth Hosp., Inc. v. Massachusetts Comm'n Against Discrimination*, 371 Mass. 303, 311-312, (1976).