

U.S. Supreme Court Evaluates Entitlement to Attorney's Fees Under 42 U.S.C. 1983

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A successful candidate for police chief sued the incumbent chief of police and the town, alleging defamation, federal civil rights claims, and other state law claims. After discovery and investigation concluded that the federal claims had no merit, the federal court dismissed those claims and sent the case back to state court where it originated. Based upon a statutory provision providing for the recovery of fees for the prevailing party in such a claim, the town and incumbent chief asked the court to award attorneys' fees for their work on the federal court claims. The U.S. Supreme Court reviewed 42 U.S.C. §§ 1983 and 1988, and determined that while defendants may recover fees as the "prevailing party," defendants may not obtain recovery for fees associated with non-frivolous, successful claims. Thus, when a suit involves both frivolous and non-frivolous claims, under the statute at issue, the courts may award reasonable attorney's fees to the prevailing party, but only for costs that the prevailing party would not have incurred but for the frivolous claims. The potential for attorney's fees awards is part and parcel of every lawsuit, and must be considered when undertaking the defense of any employment-related claim, especially where there is the possibility of an award of fees in favor of a prevailing *defendant*.

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