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## U.S. District Court in Maine Reduces Fee Award by Nearly \$40,000

In a recent decision from the U.S. District Court of Maine, the Court reviewed Plaintiffs' motion for attorneys' fees and expenses following a judgment in the plaintiff's favor under Maine's Clean Election Act. The end result was a reduction of close to \$40,000 in attorneys' fees and expenses awarded to Plaintiffs.

The Court found that time spent on unsuccessful motions should be excluded from the fee award, finding those hours to be severable from the Plaintiffs' successful efforts. The Court eliminated 50% of the hours billed by the lead firm and local counsel related to unsuccessful motions.

Next, the Court held that hours billed for the search for local counsel and for potential plaintiffs must be excluded from the fee award. The Court also deducted time spent on media relations, noting that "federal cases are unanimous in denying awards for attorneys' fees for media related time." The Court then found that time billed for experts and discovery was "excessive and unnecessary," and deducted time billed for those activities.

The Court then reduced the \$250 hourly rate for three attorneys from the lead firm with four to six years experience to \$175 per hour, the prevailing rate in Maine for attorneys with comparable experience. The Court also reduced the hourly rate for time spent preparing the Fee Motion to \$150 per hour.

Finally, the Court reduced the award for costs associated with legal research and *pro hac vice* admission fees. The Court only allowed reimbursement for the *pro hac vice* admission of one attorney from the lead firm. The Court also reduced costs billed for legal research related to the unsuccessful motions by 50%.

After a careful review of the billing records, the Court awarded Plaintiffs attorneys' fees totaling \$30,073.50 and costs of \$3,376.32, for a grand total of \$33, 449.82, approximately 45.7% of the originally requested award of

# TIME SPENT ON UNSUCCESSFUL MOTIONS SHOULD BE EXCLUDED FROM THE FEE AWARD

\$73,190.59.

**Implications for Legal Billing:** The Court reiterated its authority here to exclude time spent on unsuccessful claims and unproductive hours. This includes time spent on legal research related to unsuccessful motions, as well as redundant and unnecessary use of experts and discovery.

The Court also reaffirmed that time spent on media relations and time spent in search for local counsel and potential plaintiffs is not reimbursable.

Finally, this decision reaffirms the Court's authority to reduce hourly rates for Fee Motions and to reduce attorneys' hourly rates that exceed the prevailing market standard.

\* Cushing III v. McKee, 2012 WL 1119237 (D. Me. 2012). Full copies of court decisions may be available through counsel or through various Internet links or paid services.

By Molly Fitzpatrick

**Sterling Analytics** is a consulting and advisory firm that helps companies reduce their legal expenses. Our proven methodologies are based on legal precedent, guidelines and ethical standards that compel law firms to significantly modify improper billing practices. Although our clients come from a broad range of industries with different legal budgets, they share a concern about their legal expenses and are looking for solutions to manage outside counsel while maintaining the highest service level standards. We are able to audit legal fees based on our extensive database of proprietary benchmark data and our solid understanding of traditional legal practices. Our process is fair, independent, cost effective and maintains attorney-client privilege. We are able to measure the extent to which our clients' legal expenses exceed industry standards, and will manage the negotiation and recovery of excessive fees. To institutionalize cost controls, we assist clients by installing systems and protocols that monitor billing activity and catch improper practices.

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