

Winter 2026 CLE Civil
Rights Litigation
Session VI:
Attorneys Fees & Costs

Natalia Friedlander, Esq.,

RWU School of Law

Chloe Davis, Esq.,

Sinapi Law Associates,
Ltd.


Jessica Schachter Jewell, Esq.,

Nixon Peabody

Kevin Hubbard, Esq.,

DeLuca, Weizenbaum,
Barry & Revens, Ltd.;
Lawyers' Committee for
Rhode Island,
Cooperating Counsel,

Attorneys Fees and Costs Topics

- Fee Shifting Statutes
 - Prevailing Party
 - Fee Petitions – Records required
 - Fee Petitions – Lodestar method, type of work, rate
 - Defending Against Fee Petitions
 - Costs
 - How petitions resolved
- 

Fee Shifting Statutes

- Over 200 fee-shifting statutes in Federal Law
- Dual Standard Model
- FLSA/FMLA
- PLRA
- State Fee-Shifting Statutes
- EAJA

Prevailing Party

- “material alteration of the legal relationship of the parties”
- No more catalyst Theory, post-*Buckhannon*
- *Lackey v. Stinnie*, 604 U.S. 192 (2025)
- Declaratory Relief
- Prevailing Party in Employment Context

Fee Petitions – Records Required

- Contemporaneous time records
- Affidavits
- Individual versus Class/Collective Claims
- Attys expected to “make a good faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise unnecessary”
 - *Hensley v. Eckerhart*, 461 U.S. 424 (1983)

Fee Petitions – Lodestar method, type of work, rate

- Lodestar Method: reasonable hrs x reasonable hourly (market) rate
- Whose time can be compensated?
 - Attorneys, paralegals, interns, other staff?
- What work can be billed?
 - Admin work? E-filing? Organizing? Scheduling? Media relations? EEOC?
- What is market rate?
- Multiplier in Complicated Cases
 - “indeed in some cases of exceptional success an enhanced award may be justified.” *Hensley*, 461 U.S. at 435
- Cutting Hours

Compensable Time

- 42 USCS § 1988 - *Missouri v. Jenkins*, 491 U.S. 274 (1989) – “reasonable attorney's fees” may include compensation for non-attorney work (paralegals, law clerks, other support staff) if work contributes to the attorney's work product
- EAJA - *Richlin Sec. Serv. Co. v. Chertoff*, 553 U.S. 571 (2008) – non-attorney work (inc. paralegals) recoverable at prevailing market rates
- Can recover fees even if litigating pro bono

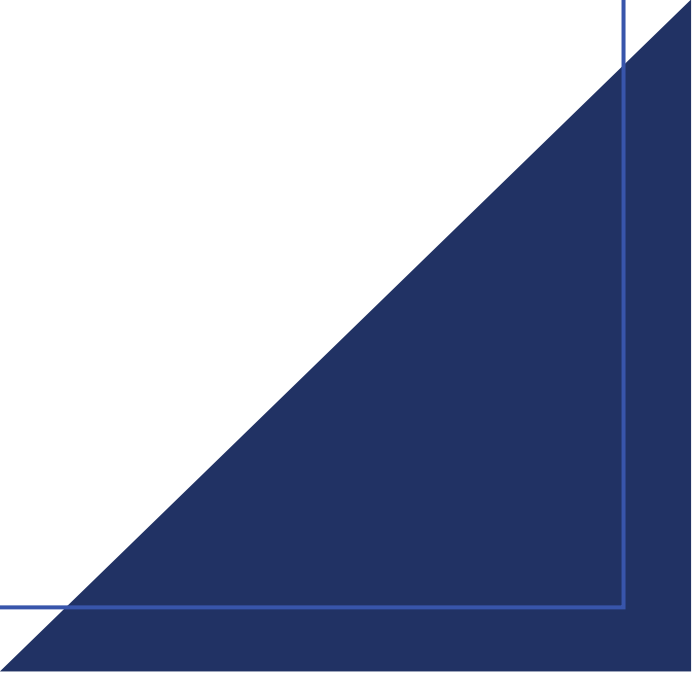
Defending Against Fee Petitions

- What can defendants challenge?
 - Hours
 - Rates
 - Limited success for prevailing on partial claims
 - Ex: *Garcia v. State Ins. Fund Corp.*, No. 24-1786, 2026 WL 555414 (1st Cir. Feb. 27, 2026)

Defending Against Fee Petitions

4/5/21	Partial drafting of Complaint; legal research re: irreparable damage; review letter from EEOC – NDRTS.	3.80
4/8/21	Legal research re: irreparable damage in First Circuit; initial drafting of Request for Injunctive Relief.	2.30
4/27/21	Meeting with KGC and Juan Nieves González, Esq. to discuss draft of Verified Complaint; preliminary and permanent injunction; and continued drafting Verified Complaint.	5.20
4/29/21	Further drafting Verified Complaint; Review and Edit Motion for Preliminary Injunction; review statements and telephone conferences with KGC.	6.40

Costs

- Federal Court:
 - FRCP 54(d)(1) and 28 U.S.C. § 1920 control in fed courts
 - Expert fees
 - Defendant petitions for costs
 - State Court differences (if any)
- 

FRCPP 54(d)(1)

(1) *Costs Other Than Attorney's Fees.* Unless a federal statute, these rules, or a court order provides otherwise, costs—other than attorney's fees—should be allowed to the prevailing party. But costs against the United States, its officers, and its agencies may be imposed only to the extent allowed by law. ...

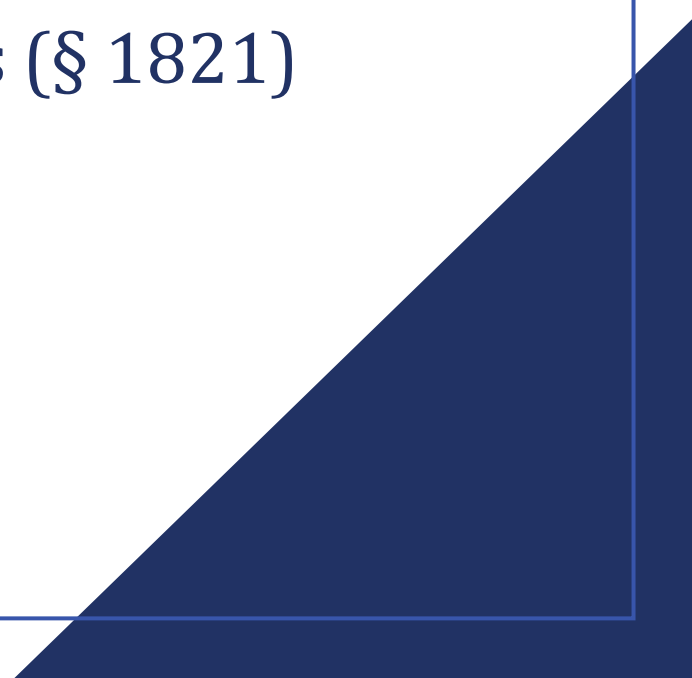
28 U.S.C. § 1920

A judge or clerk of any court of the United States may tax as costs the following:

- (1) Fees of the clerk and marshal;
- (2) Fees for printed or electronically recorded transcripts necessarily obtained for use in the case;
- (3) Fees and disbursements for printing and witnesses;
- (4) Fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in the case;
- (5) Docket fees under section 1923 of this title;
- (6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.

Expert Fees - § 1983 Actions

Recoverable:

- Court-appointed expert (28 U.S.C. § 1920(6))
 - Attendance fee (\$40/day) and travel expenses (§ 1821)
 - No other expert fees
- 

Expert Fees - EAJA

28 U.S.C. § 2412(d)(1)(B)

A party seeking an award of fees and other expenses shall... submit to the court an application for fees and other expenses which shows that the party is a prevailing party and is eligible to receive an award under this subsection, and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing in behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed.

Expert Fees – Title VII

42 USCS § 2000e-5

In any action or proceeding under this title, the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the Commission and the United States shall be liable for costs the same as a private person.

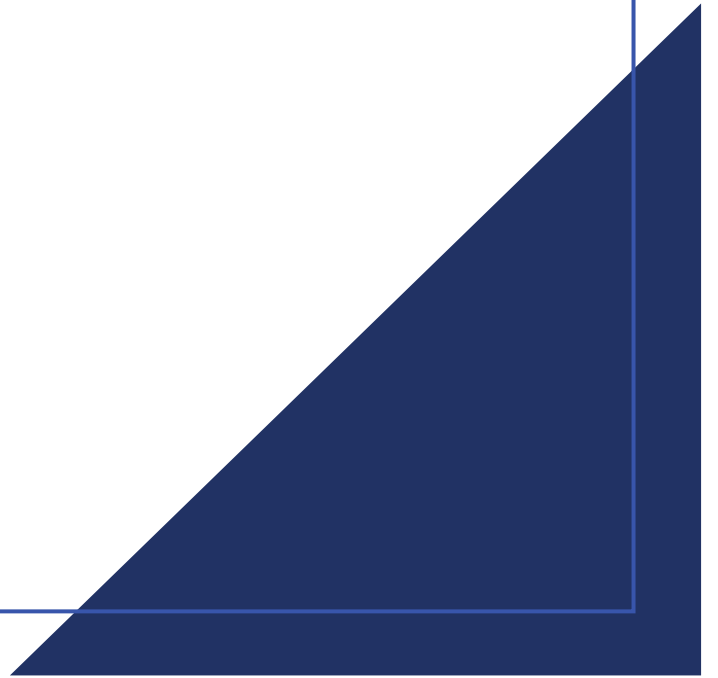
Expert Fees – ADA

42 U.S.C. § 12205

In any action or administrative proceeding commenced pursuant to this chapter, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

Fee petitions resolved

- Examples and Discussion



Questions? Contact Us

- Natalia Friedlander – nfriedlander@rwu.edu, (401) 254-4576
 - Chloe Davis – cad@sinapilaw.com, (401) 593-0461
 - Jessica Schachter Jewell – jsjewell@nixonpeabody.com, (401)454-1046
 - Kevin Hubbard – kevin@dwbrlaw.com, (860) 617-8004
- 