

U.S. Supreme Court Makes it Slightly Easier for Employers to Recover Attorney's Fees Under Title VII

It is a rare occasion when an Employer is awarded its attorney's fees in a Title VII discrimination or harassment case, even when the employer prevails. Title VII provides for recovery of attorney's fees, in the court's discretion, to the prevailing party. An employer, however, can recover its fees as a prevailing party only if the plaintiff's claim was "frivolous, unreasonable, or without foundation." Although it may seem to employers that many claims are frivolous, unreasonable, or without foundation, the reality is that those standards are quite high, and it is unlikely that an employer will recover its attorney's fees in discrimination or harassment cases.

In *CRST Van Expedited, Inc. v. EEOC*, the EEOC brought claims against a trucking company (CRST Van) on behalf of approximately 250 women who were allegedly sexually harassed while employed by the company. The district court dismissed the case in its entirety, including the claims on behalf of 67 women where the court found the EEOC did not adequately investigate those claims or attempt to conciliate them before filing suit. The court found the standard was met to award fees to the company and awarded it \$4 million in attorney's fees. The Eighth Circuit Court of Appeals reversed the attorney's fee award, holding that, to be considered a prevailing party, the employer needed to prevail on the merits (as opposed to the technicality of the EEOC failing to satisfy its prerequisite duties before filing suit).

In a victory for employers, the U.S. Supreme Court reversed the Eighth Circuit's decision. The Supreme Court held that it did not matter whether the dismissal was based on a technicality or on the merits of the underlying claims, if the employer successfully defends against the claim, it is the prevailing party.

The standards of "frivolous, unreasonable, or without foundation" are still high standards for employer's to meet to be eligible to recover fees. But, at least the Supreme Court in *CRST Van* has aided employers in making it clear that, when the standard is met, it does not matter how the employer prevails (on the merits or on a technicality) for the employer to be eligible to recover its attorney's fees.

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