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Court of Appeal Affirms Across the Board Reduction of 30 % for Attorney's Fees for a
Prevailing Party Based Upon "Unreasonable Padding" and "Duplicative Work"

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While, as a general rule, parties in litigation pay their own attorney's fees, the California legislature has created several statutory exceptions to this rule. Two exceptions involve California Fair Employment and Housing Authority Act claims and California Labor Code claims based on employer retaliation. *See*, Government Code, § 12965 and Labor Code § 1102.5. In determining attorney's fees for a prevailing party under the two statutes, the trial court is to determine a "reasonable attorney fee" as its goal. As a starting point, the trial court must calculate a "lodestar" figure, which is defined as the time spent representing the prevailing party and the issues for which the party prevailed, multiplied by a reasonable hourly compensation.

Very often, there are disputes as to the lodestar factor and the number of hours that may be billed. In a case of significance as to this issue, Michael Cash v. County of Los Angeles (2025) Lexis 347, addressed a retaliation claim by a former Captain of the Los Angeles County Fire Department, Michael Cash, who had sued the County of Los Angeles for retaliation, alleging that his removal constituted retaliation for reporting gender discrimination. The matter proceeded to a 20-day jury trial in the spring of 2023 and the jury found for Mr. Cash, awarding \$450,000. After the trial, Mr. Cash's lawyers filed a Motion requesting \$705,730 in attorney's fees. The County opposed the Motion and requested that the trial court reduce the lodestar factor to reflect a lower hourly rate, as set forth in the Plaintiff's own attorney declaration, and also asked that the award be reduced by at least 30 percent due to excessive and duplicative billing. The trial court ruled that a 30 percent across the board cut in the lodestar factor for the attorney's fees was appropriate. The trial court then awarded slightly in excess of \$455,000 in fees.

Cash then appealed, chiefly arguing that the trial court's decision to cut the lodestar factor by 30 percent, on an across the board basis, was an abuse of discretion.

On appeal, the Court of Appeal acknowledged the trial court had imposed a 30 percent reduction due to padding as a result of the Plaintiff's attorneys excessive and duplicative billing. The Court of Appeal also acknowledged that the trial court had not provided detail with respect to the claim of "padding" of billing, but ruled that the trial court did not abuse its discretion in expressing that Plaintiff's attorneys had engaged in "duplicative" billing, and ruled that more specific findings are not required.

The Cash case is significant in that it provides that, in the context of prevailing attorney's fees, a trial court is not required to provide specific findings as to a reduction of a lodestar factor on an across the board basis.

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