

PA Superior Court

Case: *Signora v. Liberty Travel, Inc.*, 886 A.2d 284 (Pa. Sup.2005) **[Overruled by *Andrews v. Cross Atlantic Capital Partners, Inc.*, Pa. Super., March 21, 2017 on other matters]**

Judges: Bowes, McCaffery*, McEwen

Date: Oct. 28, 2005

Tags: Attorney fees, class action, lodestar, contingency multiplier, statutory fee shifting

Facts: Class action claim by terminated employees for violations of the Minimum Wage Act and the Wage Payment and Collection Law. After extra evidentiary hearing, trial court awarded \$864,067 in attorney fees. Challenge on appeal (*inter alia*) to contingency multiplier of 1.5 applied to the lodestar calculation of attorney fee award.

Gravamen/Question(s) at issue: (*inter alia*) Was contingency multiplier of 1.5 appropriate for attorney fees that were already mandated under the Wage Payment and Collection statute?

Holdings: Yes, lower court is affirmed in its award of attorney fees.

Rationale: “The prevailing party’s degree of success is the critical consideration in determining an appropriate fee award.” (293)

Dicta/Discussion:

- “As a general rule, the method of determining a fee for legal services provided on an hourly basis is to multiply the total number of hours reasonably expended by the reasonable hourly rate.” (293)
- “...the court has the discretion to adjust the lodestar fee in light of the degree of success, the potential public benefit achieved, and the potential inadequacy of the private fee arrangement.” (293)
- “Here, the trial court increased the lodestar fee based upon the contingencies and quality of work performed. The court properly considered the lengthy and unending defense challenges to the validity of the default judgment in its consideration of the contingency multiplier.” (293)
- SCOTUS has said, “No contingency multipliers for federal fee-shifting statutes,” but since we haven’t heard from Big Brother in the PA SC that we’re supposed to follow this rule, we think it’s still okay to use them.
- Re. challenges to appropriateness of hours expended & hourly rate: trial court “acted well within the proper exercise of its discretion in accepting the testimony of Appellant’s counsel and expert as to the reasonableness and necessity of the legal services provided.” (294)
- “We find particularly bizarre Cross-Appellants’ argument against the award of attorneys’ fees, that the litigation would have proceeded to judgment more quickly if . . . We trust that the mere articulation of this position is sufficient demonstration of the sagacity of the trial court’s rejection of it.” (294)
- “Finally, regarding the proper hourly rate to apply, we conclude that the trial court did not err in refusing to limit its consideration of hourly rates to those prevailing in Delaware County only.” (294)

- “In addition, Appellant submitted evidence, including detailed time records and resumes of class lead counsel and co-counsel, to substantiate the trial court’s assessment as to the proper hourly rate to use.” (294)

Attorneys’ Arguments:

- **For Liberty Travel:** no contingency multiplier should be involved where statute mandates attorney fee recovery.

Appeals to Statute & Precedent:

- **Minimum Wage Act**
- **Wage Payment and Collection Law (WPCL):** mandatory award of attorneys’ fees, amount left to discretion of trial court.
- **Pa.R.C.P. 1716:** pertains to the award of counsel fees in class actions—okay to consider contingent nature of the receipt of a fee in calculation.
- ***Oberneder v. Link Computer Corp.*, 548 Pa. 201, 696 A.2d 148 (1997):** awarding attorney fees under WPCL.
- ***Logan v. Marks*, 704 A.2d 671 (Pa. Super.1997):** Degree of success critical factor in determining attorney fee award.
- ***City of Burlington v. Dague*, 505 U.S. 557, 112 S.Ct. 2638, 120 L.Ed.2d 449 (1992):** No contingency multipliers for attorney fees guaranteed by fee-shifting statutes.

Commentary:

- There were lots of other things decided in this appeal, but this summary just focuses on the attorney fee part.
- *Andrews* overruled a portion of the Labor and Employment recovery holdings in this opinion, but did not mess with the attorney fee award part. (In fact, *Andrews* notes that the attorney fee recovery is a separate issue, at 135-136.)