

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

Sprague v. Ticonic Nat. Bank

28 F. Supp. 229 (D. Me. 1939) · Decided June 29, 1939

SUMMARY

The court considers a petition for counsel fees and expenses incurred by Lottie F. Sprague in litigation establishing a lien on trust-held Danish bonds, benefiting her and fourteen similarly situated beneficiaries. Applying equitable principles following a remand from the Supreme Court, the court awards \$1,214.51 for the original litigation but denies a separate petition seeking fees and expenses incurred in obtaining that award.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                               |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of Maine                                                                                                                                                                                                                                        |
| WRITING FOR THE COURT | Peters                                                                                                                                                                                                                                                                                        |
| JURISDICTION          | Maine                                                                                                                                                                                                                                                                                         |
| DECIDED               | June 29, 1939                                                                                                                                                                                                                                                                                 |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | Petition for an award of counsel fees and expenses incurred in prior litigation that established a lien benefiting the petitioner and fourteen similarly situated trust beneficiaries, following remand from the Supreme Court for consideration of the reimbursement petition on its merits. |
| PRECEDENTIAL VALUE    | published district court opinion                                                                                                                                                                                                                                                              |
| PARTIES               | Lottie F. Sprague v. Ticonic National Bank, receiver of the Peoples-Ticonic National Bank                                                                                                                                                                                                     |

TOPICS

- trust administration
- attorney fees
- equitable relief
- remedies
- appellate procedure

PRACTICE AREAS

- trusts
- equitable remedies
- attorney fees
- bank receivership

QUESTIONS PRESENTED

1. Whether equitable considerations justified awarding Sprague counsel fees and expenses incurred in establishing the lien that benefited her and similarly situated trust beneficiaries.
2. Whether the court could award fees and expenses when the litigation had not created a fund under the court's direct control.
3. Whether Sprague could recover fees and expenses incurred in litigating her petition for the initial counsel-fee award.

## HOLDINGS

1. Counsel fees and expenses may be awarded as between solicitor and client when exceptional circumstances and dominating reasons of justice exist, including when a litigant's efforts establish rights benefiting numerous similarly situated parties.
2. The absence of a fund directly controlled by the court does not preclude an equitable award when the litigation produces the practical equivalent of a common fund or establishes a fund from which the benefited claims and related expenses may be paid.
3. Fees and expenses incurred in litigating a petition for counsel fees are not recoverable under the exceptional-circumstances principle applied to the underlying litigation.

## KEY QUOTATIONS

*“in view of the consequences of stare decisis, the petitioner by establishing her claim necessarily established the claims of fourteen other trusts pertaining to the same bonds.” (230)*

*“The issue in the instant case is sufficiently different from that presented by the ordinary questions regarding taxable costs that it was impliedly covered neither by the original decree nor by the mandates, and that neither constituted a bar to the disposal of the petition below on its merits” (230)*

*“the funds out of which the plaintiffs and others similarly situated claim payment are trust funds set apart from the general assets of the banks and in which the general creditors have no rights until after the secured claims are paid.” (231)*

## FACTUAL BACKGROUND

Sprague successfully prosecuted litigation establishing a lien on \$20,000 of Kingdom of Denmark bonds held by the receiver of the Peoples-Ticonic National Bank. Her claim was identical to those of fourteen other beneficiaries of similar trusts, and her litigation necessarily established their claims through stare decisis even though they did not join the action. The litigation required proceedings in three courts, caused substantial delay and expense, and produced a benefit substantially greater than the benefit directly received by Sprague.

## PROCEDURAL HISTORY

The petitioner previously litigated in the District Court, the First Circuit, and the Supreme Court to establish a lien on proceeds from Denmark bonds held by a bank receiver. The Supreme Court reversed the First Circuit and directed the District Court to entertain the petition for reimbursement in light of appropriate equitable considerations. On remand, the District Court allowed the first petition for \$1,214.51, representing counsel fees

and expenses from the underlying litigation, but denied a second petition seeking \$1,877.30 for fees and expenses incurred in pursuing the fee award.

#### DISPOSITION

other

#### REMAND INSTRUCTIONS

The court ordered entry of a decree allowing the first petition for \$1,214.51 with taxable costs and denying the second petition for \$1,877.30.

#### CASES CITED

- Sprague et al. v. Ticonic National Bank et al., 14 F. Supp. 900 (D. Me.)
- Ticonic National Bank v. Sprague et al., 90 F.2d 641 (1st Cir.)
- Ticonic Nat. Bank v. Sprague et al., 303 U.S. 406, 58 S. Ct. 612, 82 L. Ed. 926 (1938)
- Sprague et al. v. Picher, 23 F. Supp. 59 (D. Me.)
- Sprague et al. v. Picher, 99 F.2d 583 (1st Cir.)
- Lottie F. Sprague, petitioner, v. Ticonic Nat. Bank et al., 59 S. Ct. 777, 781, 83 L. Ed. (1939)