

SUPREME COURT OF IOWA

Dennis L. Smith v. Iowa State University of Science and Technology,
State of Iowa

885 N.W.2d 620 (Iowa 2016) · No. No. 15-0852 · Decided September 23, 2016

SUMMARY

The Iowa Supreme Court reviewed an attorney-fee award to a former Iowa State University employee who prevailed on intentional infliction of emotional distress and statutory whistleblower claims. The court held that the district court improperly awarded all requested fees without accounting for time spent on unrelated claims and the plaintiff’s limited success on the fee-eligible whistleblower claim. It vacated the court of appeals decision, reversed the district court’s fee award, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Iowa
DECIDED	September 23, 2016
DOCKET	No. 15-0852
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendants appealed an attorney-fee award entered after the plaintiff prevailed in part on a statutory whistleblower claim and on a common-law intentional-infliction-of-emotional-distress claim. The Iowa Supreme Court granted further review of the court of appeals decision, which had reversed and remanded the district court's fee award.
STANDARD OF REVIEW	A challenge to a district court's grant of attorney fees is reviewed for abuse of discretion. The court will reverse only when the ruling rests on clearly unreasonable or untenable grounds, but it will correct erroneous applications of law.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Iowa State University of Science and Technology, State of Iowa v. Dennis L. Smith

TOPICS

whistleblower employment law remedies appellate procedure

PRACTICE AREAS

employment law whistleblower attorney fees appellate procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by awarding Smith essentially all attorney fees and costs when the statutory whistleblower claim was only one of several claims and Smith achieved only limited success on that claim.
2. Whether the fee award should be calculated using the principles governing fees for partially successful plaintiffs, including reductions for unrelated work and for limited success.
3. Whether counsel must submit billing records identifying the amount of time spent on each task for each day before any attorney-fee recovery may be awarded.
4. What instructions should govern the district court's reconsideration of the attorney-fee award on remand.

HOLDINGS

1. The district court abused its discretion by awarding Smith all requested attorney fees merely because the claims arose from a common core of facts. Fees could be awarded only for work reasonably expended in pursuit of the statutory whistleblower claim, together with work devoted generally to the litigation as a whole, subject to appropriate reductions.
2. When a plaintiff achieves only partial or limited success on the claim for which fees are recoverable, the district court must consider whether a further reduction in the fee award is warranted, even when the litigation arises from a common core of facts.
3. Counsel need not submit a new affidavit identifying the amount of time spent on each task each day as a prerequisite to attorney-fee recovery. Inadequate documentation may be considered in determining an appropriate reduction, but block billing does not automatically bar recovery.
4. The district court is not required to make dollar-by-dollar reductions for every unsuccessful litigation task or to sift through all legal work using a rigid formula. It may consider litigation setbacks, such as an overlong brief, in exercising its discretion, but must evaluate the overall reasonableness of the award.
5. The Hensley and Lee III principles govern attorney-fee awards under Iowa Code section 70A.28(5)(a), even though the statute does not expressly require the plaintiff to be a prevailing party.

KEY QUOTATIONS

“First, while fees can be awarded for time devoted generally to the litigation as a whole, the district court should make an appropriate reduction for unrelated time spent on unsuccessful claims—or as here, unrelated time spent on claims for which fees are not recoverable. Then, after this initial step has been performed, if the plaintiff only obtained partial or limited success on the claim for which the legislature has authorized fees, the court must consider the reasonableness of the hours expended in light of this ultimate result.” (at 8-9)

“There is no precise rule or formula for making these determinations” (at 10)

“A request for attorney’s fees should not result in a second major litigation.” (at 10)

“Our present point is simply that when the actual billing records do not reflect how much time was spent on each task during each day, this should not be a sine qua non of any attorney fee recovery.” (at 11)

FACTUAL BACKGROUND

Dennis Smith was formerly employed as a technical writer in the engineering department at Iowa State University, and his position was eliminated after events occurring between approximately 2002 and 2010. He sued the university and the State of Iowa, asserting intentional infliction of emotional distress and statutory whistleblower claims, among others. Although he initially received substantial damages on both claims, the Iowa Supreme Court later held there was no evidence that he suffered retaliation for reports made to the university president and left only \$150,000 in whistleblower-related reputational damages in place because of error-preservation rules. Smith then sought essentially all attorney fees incurred in the litigation and related proceedings, including work on claims for which fees were unavailable.

PROCEDURAL HISTORY

Smith obtained a jury award of \$500,000 for intentional infliction of emotional distress and \$784,027 for statutory whistleblower violations. In a prior appeal, the Iowa Supreme Court affirmed the emotional-distress award, reversed most of the whistleblower award, and left \$150,000 in reputational damages intact because error had not been preserved. On remand, the district court awarded Smith \$368,607.35 in attorney fees and costs. The court of appeals reversed and remanded, concluding that the district court failed to account for unrelated work and Smith's limited success, and directed counsel to provide more detailed billing records. The Iowa Supreme Court vacated the court of appeals decision, reversed the fee award, and remanded for reconsideration under a different set of instructions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must reconsider the attorney-fee award under the two-step Hensley/Lee III framework: first, reduce the award for time spent on matters clearly unrelated to the statutory whistleblower claim; second, consider whether Smith's partial or limited success warrants an additional reduction. The court may consider inadequate billing detail through an appropriate discount, but may not require a new day-by-day task affidavit as a sine qua non of recovery. It should determine whether fees are warranted for the appeal, make findings of fact, and provide a concise but clear explanation for its award. The court of appeals decision is vacated and the district court's fee judgment is reversed.

CASES CITED

- Smith v. Iowa State Univ. of Sci. & Tech., 851 N.W.2d 1 (Iowa 2014)

- *Branstad v. State ex rel. Nat. Res. Comm'n*, 871 N.W.2d 291, 294 (Iowa 2015)
- *Bethards v. Shivvers, Inc.*, 355 N.W.2d 39, 47 (Iowa 1984)
- *NevadaCare, Inc. v. Dep't of Human Servs.*, 783 N.W.2d 459, 469 (Iowa 2010)
- *Hensley v. Eckerhart*, 461 U.S. 424 (1983)
- *Davis v. County of Los Angeles*, No. 73-63-WPG, 1974 WL 180, at *3 (C.D. Cal. June 5, 1974)
- *Fox v. Vice*, 563 U.S. 826, 834 (2011)
- *Lee v. State (Lee III)*, 874 N.W.2d 631, 648-50 (Iowa 2016)
- *Avgoustis v. Shinseki*, 639 F.3d 1340, 1344-46 (Fed. Cir. 2011)
- *Vaughan v. Must, Inc.*, 542 N.W.2d 533, 541-42 (Iowa 1996)
- *Worthington v. Kenkel*, 684 N.W.2d 228, 234 (Iowa 2004)
- *Boyle v. Alum-Line, Inc.*, 773 N.W.2d 829, 834 (Iowa 2009)

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