

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Haddad v. Wal-Mart Stores, Inc. (No. 2)

455 Mass. 1024 (2010) · No. SJC-10261a · Decided January 22, 2010

SUMMARY

The Supreme Judicial Court of Massachusetts considers the plaintiff’s request for appellate attorney’s fees and costs after prevailing in an employment discrimination appeal. The court awards \$154,912 in attorney’s fees and \$5,923.63 in costs, after reducing the requested amount for excessive preparation, duplication, unnecessary tasks, and excessive staffing. Postjudgment interest accrues from the date of entry of the order, which is to be enforced by the Berkshire Division of the Superior Court Department.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
JURISDICTION	Massachusetts
DECIDED	January 22, 2010
DOCKET	SJC-10261a
DISPOSITION	other
PROCEDURAL POSTURE	The plaintiff, having prevailed in an employment-discrimination appeal and obtained reinstatement of a punitive-damages award, moved in the Supreme Judicial Court for appellate attorney's fees and costs.
STANDARD OF REVIEW	The court independently determined the reasonable amount of statutory appellate attorney’s fees and costs, considering the lodestar factors and the reasonableness and necessity of the time and expenses claimed.
PRECEDENTIAL VALUE	Published Massachusetts Supreme Judicial Court per curiam opinion; precedential.
PARTIES	Cynthia Haddad v. Wal-Mart Stores, Inc.

TOPICS

- employment discrimination
- remedies
- appellate procedure
- damages

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a prevailing plaintiff in a gender-based employment-discrimination action under G. L. c. 151B is entitled to reasonable attorney's fees and costs for appellate proceedings.
2. What amount of appellate attorney's fees and costs was reasonable in light of the work performed, counsel's rates and experience, the result obtained, documentation, duplication, staffing, and unnecessary work.
3. Whether postjudgment interest on the fee award accrues from the date of entry of the fee order.

HOLDINGS

1. A prevailing plaintiff in a discrimination claim under G. L. c. 151B is entitled to an award of reasonable attorney's fees and costs for appellate proceedings, including reasonable fees incurred in pursuing recovery of attorney's fees.
2. The reasonable fee is determined by assessing objectively reasonable hours and hourly rates, using the lodestar method as the basic calculation and considering the nature and complexity of the case, time and labor, damages, result obtained, counsel's experience and reputation, prevailing rates, comparable awards, and the statutory and public interests involved.
3. Block billing is disfavored, but a court need not impose an across-the-board reduction when the entries adequately describe short-duration tasks and the court can reasonably apportion the time among them.
4. The court may reduce a fee request for excessive preparation, excessive attorney communication, unnecessary staffing, duplicative or unnecessary tasks, inadequately documented work, and unreasonable costs, while evaluating the bill as a whole rather than item by item.
5. Postjudgment interest on the appellate attorney's-fee and cost award accrues from the date of entry of the fee order.

KEY QUOTATIONS

"As the prevailing party in her claim of discrimination in employment based on gender, in violation of G. L. c. 151B, § 4, the plaintiff is entitled to an award of "reasonable" appellate attorney's fees pursuant to G. L. c. 151B, § 9." (455 Mass. at 1024)

"[W]here the award is provided for by statute and is assessed against the party having no contractual relationship with the attorney involved, the standard of reasonableness depends not on what the attorney usually charges but, rather, on what his services were objectively worth." (455 Mass. at 1026)

FACTUAL BACKGROUND

The plaintiff prevailed on a gender-based employment-discrimination claim under G. L. c. 151B and obtained reinstatement on appeal of a \$1 million punitive-damages award. Her appellate counsel requested \$290,516.67 in attorney's fees and \$6,383.21 in costs, based on 929.38 hours of work by four attorneys. Wal-Mart challenged

the request as excessive, inadequately documented, duplicative, and involving inappropriate staffing and unreasonable hourly rates.

PROCEDURAL HISTORY

In *Haddad v. Wal-Mart Stores, Inc.* (No. 1), the court reversed the trial judge's judgment notwithstanding the verdict on the jury's punitive-damages award and reinstated the award, while affirming the judgment in all other respects. The plaintiff then sought appellate attorney's fees and costs. The Supreme Judicial Court allowed the request in a reduced amount and directed enforcement by the Berkshire Division of the Superior Court Department.

DISPOSITION

other

REMAND INSTRUCTIONS

The fee order shall be enforced in all respects by the Berkshire Division of the Superior Court Department. The plaintiff was awarded \$154,912 in attorney's fees and \$5,923.63 in costs, with postjudgment interest accruing from entry of the order.

CASES CITED

- *DeRoche v. Massachusetts Comm'n Against Discrimination*, 447 Mass. 1, 18 (2006)
- *Lowell v. Massachusetts Comm'n Against Discrimination*, 65 Mass. App. Ct. 356, 357 (2006)
- *Stratos v. Department of Pub. Welfare*, 387 Mass. 312, 325 (1982)
- *Fabre v. Walton*, 441 Mass. 9, 10 (2004)
- *Fontaine v. Ebttec Corp.*, 415 Mass. 309, 324 (1993)
- *Linthicum v. Archambault*, 379 Mass. 381, 388-389 (1979)
- *Stowe v. Bologna*, 417 Mass. 199, 203 (1994)
- *Gasior v. Massachusetts Gen. Hosp.*, 446 Mass. 645, 654 (2006)
- *Pielech v. Massasoit Greyhound, Inc.*, 47 Mass. App. Ct. 322, 327 (1999)
- *Borne v. Haverhill Golf & Country Club, Inc.*, 58 Mass. App. Ct. 306, 324 n.17 (2003)
- *Nardone v. Patrick Motor Sales, Inc.*, 46 Mass. App. Ct. 452, 453 (1999)
- *Berman v. Linnane*, 434 Mass. 301, 303 (2001)
- *Heller v. Silverbranch Constr. Corp.*, 376 Mass. 621, 629 (1978)
- *T & D Video, Inc. v. Revere*, 66 Mass. App. Ct. 461, 476-477 (2006), S.C., 450 Mass. 107 (2007)
- *Twin Fires Investment, LLC v. Morgan Stanley Dean Witter & Co.*, 445 Mass. 411, 428-429 (2005)
- *Costa v. Fall River Hous. Auth.*, 453 Mass. 614, 633 n.28 (2009)
- *Haddad v. Wal-Mart Stores, Inc.* (No. 1), 455 Mass. 91 (2009)

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