

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT

Misty Blanchette Porter, M.D. v. Dartmouth-Hitchcock Medical Center, Dartmouth-Hitchcock Clinic, Mary Hitchcock Memorial Hospital, and Dartmouth-Hitchcock Health

Porter v. Dartmouth Health · No. 2:17-cv-194 · Decided November 26, 2025

SUMMARY

This Opinion and Order addresses Plaintiff Misty Blanchette Porter’s motion for attorney fees and bill of costs following a jury trial. The jury found in Dr. Porter’s favor on her disability-discrimination claim under the Vermont Fair Employment Procedures Act and awarded \$1,125,000 in damages, while rejecting her other claims and request for punitive damages. The document recounts the case’s procedural history and analyzes the standards governing reasonable attorney fees and litigation costs.

CASE DETAILS

COURT	United States District Court for the District of Vermont
JURISDICTION	United States District Court for the District of Vermont
DECIDED	November 26, 2025
DOCKET	2:17-cv-194
DISPOSITION	other
PROCEDURAL POSTURE	Post-trial ruling on the prevailing plaintiff's motion for attorney fees and bill of costs following a jury verdict on a Vermont disability-discrimination claim.
STANDARD OF REVIEW	Attorney-fee awards are reviewed for abuse of discretion; the district court determines reasonable rates and hours based on the litigation record and its experience. Costs are likewise committed to the district court's discretion, subject to 28 U.S.C. § 1920.
PRECEDENTIAL VALUE	Unknown

TOPICS

- employment law
- disability discrimination
- attorney fees
- costs
- civil procedure

PRACTICE AREAS

- employment law
- disability discrimination
- civil rights
- remedies
- civil procedure

QUESTIONS PRESENTED

1. What amount of attorney fees was reasonable under the Vermont Fair Employment Procedures Act after Dr. Porter prevailed on one of six interrelated claims?
2. Whether the lodestar should be reduced for excessive, vague, block-billed, duplicative, or otherwise unreasonable time entries and staffing.
3. Whether the attorney-fee award should be reduced based on Dr. Porter's partial success and the amount of damages recovered.
4. Whether Dr. Porter was entitled to supplemental attorney fees incurred litigating the fee application and other post-trial motions.
5. Whether prejudgment or postjudgment interest should be awarded on the attorney-fee award and what interest rate applied.
6. Which litigation expenses were recoverable as taxable costs under 28 U.S.C. § 1920.

HOLDINGS

1. A prevailing plaintiff in a VFEPA action may recover reasonable attorney fees, calculated by determining reasonable hourly rates and reasonable hours, with appropriate adjustments for exceptional circumstances and the results obtained.
2. The lodestar must be reduced by 20% to account for vague and block-billed entries, duplicative attendance at depositions, substitution of counsel before trial, excessive preparation of the opening statement and discovery materials, and excessive work on the fee motion.
3. Because Dr. Porter prevailed on only one of six claims, received less than the amount sought, and did not receive punitive damages, the revised lodestar warranted an additional 10% reduction.
4. Dr. Porter was entitled to recover reasonable attorney fees incurred from May 8 through July 1, 2025, in litigating the fee application and other post-trial motions, subject to the same reasonableness review and a 20% reduction.
5. Prejudgment interest was denied, but postjudgment interest was allowed from April 24, 2025, at the federal rate specified by 28 U.S.C. § 1961.
6. Recoverable costs include properly documented deposition and trial transcript fees, clerk and docket fees, witness fees, and the documented service fee, while unsupported copy charges and other inadequately documented expenses were not awarded.

KEY QUOTATIONS

“For purposes of an award of attorney’s fees under Vermont law, the touchstone is reasonableness.”
(Analysis § I)

“Attorney fees for the preparation of an attorney fee application and other post-trial motions [are] compensable, particularly in civil rights cases.” (Analysis § II)

“federal law governs post-judgment interest.” (Analysis § III)

FACTUAL BACKGROUND

Dr. Porter, a physician employed by Dartmouth Health, claimed that she was terminated because of her disability and because she complained to supervisors about allegedly incompetent and unethical conduct by other physicians. Dartmouth Health maintained that her termination resulted from legitimate business reasons associated with closing its Reproductive Endocrinology and Infertility Division. After trial, the jury found a VFEPA disability-discrimination violation and awarded Dr. Porter \$1,125,000, while rejecting her other claims and punitive damages.

PROCEDURAL HISTORY

Dr. Porter initially asserted wrongful-discharge, whistleblower, disability-discrimination, and retaliation claims under federal, New Hampshire, and Vermont law. The district court initially granted summary judgment for Dartmouth Health, but the Second Circuit affirmed in part and vacated and remanded in part for trial on the termination and whistleblower-related claims. After a fourteen-day jury trial in 2025, the jury found for Dr. Porter on her VFEPA disability-discrimination claim, rejected her other claims and punitive-damages request, and awarded \$1,125,000 in damages. The court then ruled on attorney fees, costs, and postjudgment interest.

DISPOSITION

other

CASES CITED

- Grand Union Co. v. Cord Meyer Dev. Co., 761 F.2d 141 (2d Cir. 1985)
- Ring v. Carriage House Condo. Owners' Ass'n, 2014 VT 127, 198 Vt. 109, 112 A.3d 754
- Spooner v. Town of Topsham, 2010 VT 71, 188 Vt. 293, 9 A.3d 672
- Hensley v. Eckerhart, 461 U.S. 424 (1983)
- Blanchard v. Bergeron, 489 U.S. 87 (1989)
- Arbor Hill Concerned Citizens Neighborhood Ass'n v. County of Albany, 522 F.3d 182 (2d Cir. 2008)
- Merck Eprova AG v. Gnosis S.p.A., 760 F.3d 247 (2d Cir. 2014)
- Grant v. Martinez, 973 F.2d 96 (2d Cir. 1992)
- Weyant v. Okst, 198 F.3d 311 (2d Cir. 1999)
- Cappiello v. ICD Publ'ns, Inc., 720 F.3d 109 (2d Cir. 2013)
- U.S. Football League v. Nat'l Football League, 887 F.2d 408 (2d Cir. 1989)
- LaBrie, Inc., 164 Vt. 237, 668 A.2d 659
- Perez v. Travelers Ins. ex rel. Ames Dep't Stores, Inc., 2006 VT 123, 181 Vt. 45, 915 A.2d 750
- Post & Beam Equities Grp., LLC v. Sunne Vill. Dev. Prop. Owners Ass'n, 2015 VT 60, 199 Vt. 313, 124 A.3d 454
- Kassim v. City of Schenectady, 415 F.3d 246 (2d Cir. 2005)
- Whitfield v. Scully, 241 F.3d 264 (2d Cir. 2001)
- In re Air Crash Disaster at John F. Kennedy Int'l Airport on June 24, 1975, 687 F.2d 626 (2d Cir. 1982)

- Lasek v. Vt. Vapor, Inc., 2014 VT 33, 196 Vt. 243, 95 A.3d 447
- Crawford Fitting Co. v. J.T. Gibbons, Inc., 482 U.S. 437 (1987)

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