



CLAIMING AND COLLECTING ATTORNEYS' FEES: AN INTRODUCTION

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Introduction

- Welcome
- Importance of effectively claiming and collecting attorneys' fees for clients and programs
 - Increased leverage, bargaining power, better results for clients
 - May lead to faster settlements
 - Greater incentive for defendants to change practices – achieving broader relief
 - Deter future bad acts
 - Increase program resources

Introduction

- Not just for “big cases.” May be available in cases programs handle every day.
 - Consumer
 - Housing (federal, some state laws)
 - Employment (e.g., unpaid wage claims)
 - Cases against federal agencies
 - Cases raising federal constitutional claims (due process, equal protection); ADA claims
 - Check your state law for others, including family law!
- Should be routine part of case analysis from the very beginning

Introduction

- Art and discipline to pursuing fees effectively and ethically
 - Knowledge
 - Thinking strategically before and throughout litigation process
 - Having adequate internal systems
 - Program guidelines and standards
 - Adequate timekeeping
 - Supervision and training of staff

Amendment of pleadings in pending cases

- LSC-funded programs may seek recovery of fees with respect to work performed in pending cases prior to change in law.
- Seeking leave to amend:
 - Consider strategic benefits/requirement of prior notification of opposing counsel
 - Motion (e.g., sample in materials)
 - Generally discretionary but freely granted
 - Suggest keep opening motion very short
 - Likely defendant responses; rebuttal arguments

Amendment of pleadings

- Systems issues:
 - Develop template motion, memo, proposed order, booked arguments in response to defendants
 - Get timekeeping in order
 - Institute system of supervisory checks – on-going record keeping