

[Family Law Judge Has the Authority to Award "Just and Reasonable" Attorney Fees](#)

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In [Kevin Q. v. Lauren W.](#), 2011 DJDAR 6909 (2011), the [California Fourth District Court of Appeal](#) affirmed the grant of an attorney fee award to a husband in a paternity case.

A husband was involved in a paternity suit with his ex wife. The case was initially decided in the husband's favor, but was later reversed. Both sides incurred substantial attorney fees in litigating the dispute. The wife incurred a total of \$311,242 in fees, compared to the husband's fees of \$141,384. The wife's attorney charged \$575 per hour compared to the husband's counsel, who worked at rate of \$400 an hour. The wife filed a motion seeking an order requiring the husband to pay her fees.

The husband filed objections to the motion and pointed out that the attorney had billed the wife a total of \$4,200 in driving time for court appearances. In response, and in an effort to bolster the equitable case in support of a fee award, the wife claimed she was currently unemployed and had no income. She did disclose \$8,700 in monthly support from "**other sources**." The court considered the support income in determining whether she had the current ability to pay the fees. The court concluded that she had the necessary resources and denied her motion.

The appellate court affirmed the lower court's decision.

The Court of Appeal held that the trial court has the discretion to order an award of reasonable attorney fees in a situation such as the one posed. However, in making the decision, the trial court is required to ask whether the award is "**just and reasonable under the relative circumstances of the respective parties**."

The Court of Appeal concluded that the trial judge performed the appropriate evaluation of the parties' respective abilities to pay. The court also concluded that the support disclosed in the wife's application was relevant to the issue of her need and ability to pay fees. The Court of Appeal affirmed the decision on this basis.