

Federal Courts Have Jurisdiction to Review Title VII Administrative Attorney Fee Awards

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The Ninth Circuit has clarified that a Title VII claimant can file a civil suit in district court strictly concerning the amount of attorneys' fees awarded in the Title VII administrative proceeding. In other words, the claim need not involve the substantive liability ruling in order to grant the district court jurisdiction to review the fees awarded to the prevailing party.

In *Porter v. Winter*, 10 C.D.O.S. 5541 (June 5, 2010), a former civilian employee of the Navy complained to the Equal Employment Opportunity Commission (EEOC) of the Navy's gender discrimination against him. The EEOC found the Navy liable to Porter for retaliation but not for gender discrimination.

However, when the EEOC granted only a small portion of Porter's fees, he sued the Navy in district court challenging the amount of the attorneys' fees awarded. The district court dismissed the case for lack of subject matter jurisdiction, but the Ninth Circuit reversed.

The Ninth Circuit was asked to reconcile the seemingly contradictory U.S. Supreme Court decisions of *North Carolina Dept. of Trans. v. Crest Street Community Council, Inc.*, 479 U.S. 6 (1986) and *New York Gaslight Club, Inc. v. Carey*, 447 U.S. 54 (1980). In *Crest Street* the Supreme Court held that 42 U.S.C. section 1988 did not allow such claims "solely to recover attorneys' fees." In contrast, in *Carey* the Supreme Court decided that Title VII allows such a civil suit, "solely to obtain an award of attorneys' fees for legal work done in state and local proceedings."

The Ninth Circuit, citing slightly different statutory language and legislative history between section 1988 and Title VII, relied upon *Carey* and reversed the District Court's dismissal. The court also reasoned that imposing such a limitation would be inconsistent with the responsibility of federal courts to ensure that Title VII claimants received complete relief for their injuries.