

## **Trial Court Abuses Its Discretion in Applying Negative Multiplier To Set Attorney Fees**

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In *Rogel v. Lynwood Redevelopment Agency*, 2011 DJDAR 6173 (2011), the [Second District California Court of Appeal](#) concluded that the trial court abused its discretion in utilizing a negative attorney fee multiplier on behalf of a losing government entity.

The litigation arose from a plan by a city redevelopment agency to modify an existing mobile home park into townhouses. The residents of the park sued the redevelopment agency, alleging that the plan was improper as it would result in the loss of low-income housing. After lengthy and contentious litigation, the parties entered into a settlement. The agreement provided that the plaintiffs would not be precluded from seeking attorney fees and that the redevelopment agency could raise its financial condition in response to plaintiff's petition for attorney fees.

The plaintiffs moved for attorney fees, asking the trial court to apply a multiplier of 1.2 to the lodestar. The fee request totaled approximately \$2.7 million. The judge ruled that he would quantify the attorney fees award by applying a negative multiplier of 0.2 to the lodestar requested by the plaintiffs. The court concluded that the settlement agreement authorized it to consider the redevelopment agency's financial condition. Thus, the award was reduced from \$2.7 million to \$540,000. On appeal, the plaintiffs argued that the court improperly used a negative multiplier.

The Court of Appeal reversed the trial court's decision on the amount of the fee award.

The court noted that the lodestar approach is utilized to set a fee for comparable legal work, and may be adjusted to "fix a fee at the fair market value for the particular action."

The court also noted that under some circumstances, the court may decide to diverge from the lodestar. However, the court noted that a trial court is not permitted to use a litigant's status to negate an appropriate lodestar. The trial court applied a negative multiplier based on the defendant's status as a government entity. This was not an appropriate factor upon which to reduce otherwise documented attorney fees.