

# Appeals Court Upholds One Million Dollar Attorney Fee Award To Plaintiff Who Recovered Only Thirty Thousand Dollars In Damages

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In a December 21, 2007 decision, *Harman v. City and County of San Francisco*, the California Court of Appeal upheld a trial court's decision to award more than one million dollars in attorneys' fees to a plaintiff who recovered only thirty thousand dollars in damages. Allen Harman, a white male, worked at San Francisco International Airport. In 1999, Harman and two white male co-workers sued the City and County of San Francisco, members of the San Francisco Airport Commission, and the director of the airport, alleging race and gender discrimination. The case worked its way through the courts for eight years.

By virtually every measure, the lawsuit was a failure. The courts threw out the claims of two of the three original plaintiffs, leaving only Harman. The courts rejected all but one of Harman's claims, including the claim for injunctive relief that had originally motivated his lawsuit. Harman did prevail on the single claim that went to trial, but the jury awarded him only \$30,300, far less than the \$600,000 he had demanded to settle the case.

In most circumstances, each party to a lawsuit must pay its own attorneys' fees. However, because Harman had sued for violations of his civil rights, federal law permitted him to seek an order requiring the defendants to pay his attorneys' fees. Despite his limited success, the trial court awarded Harman more than one million dollars in attorneys' fees.

The appellate court acknowledged the "obvious" fact that the damages Harman recovered were "quite disproportionate to the award of attorney fees." The appellate court also noted, "if the decision had been presented to us in the first instance we may not have awarded attorney fees that so far exceed the recovery of damages." Nonetheless, the appellate court upheld the award, reasoning that "the trial judge was presumably in the best position to determine the value of the services rendered by counsel." In reaching this conclusion, the appellate court relied on precedent from the United States Supreme Court holding that fee awards need not be proportionate to the amount of damages a plaintiff recovers. The Supreme Court decided that such a rule was necessary in order to "encourage lawyers to accept civil rights cases, which frequently involve substantial expenditures of time and effort but produce only small monetary recoveries."

Although the *Harman* decision arose in the context of federal civil rights law, similar attorney fee statutes exist under state and federal employment laws. The decision therefore highlights the litigation risks facing employers, even from claims by employees who have suffered only slight economic damages as a result of the employers' allegedly unlawful conduct.