LEGAL UPDATES

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Supreme Court Sets the Bar for Recovering Attorneys' Fees in Civil Rights Cases

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KATHARINE D. DAVID
HOUSTON:
713.525.6258
KATE.DAVID@
HUSCHBLACKWELL.COM

BEN STEPHENS
HOUSTON:
713.525.6263
BEN.STEPHENS@
HUSCHBLACKWELL.COM

SEBASTIAN WAISMAN
HOUSTON:
713.647.6800
SEBASTIAN.WAISMAN@
HUSCHBLACKWELL.COM

CAROLINE THOMPSON
HOUSTON:
713.630.6408
CAROLINE.THOMPSON@
HUSCHBLACKWELL.COM

On February 25, 2025, the U.S. Supreme Court ruled in *Lackey v. Stinnie* that plaintiffs who gain preliminary injunctive relief before an action becomes moot do not qualify as "prevailing parties" for attorney's fees under 42 U.S.C. § 1988(b). *Lackey v. Stinnie,* 604 U.S. – 145 S. Ct. 659 (2025).

In the underlying case, the State of Virginia suspended the licenses of certain drivers for failure to pay court fines and fees from traffic infractions, pursuant to a state statute. The drivers sued in a class action under 42 U.S.C. § 1983, asserting that the state statute authorizing the suspension of their licenses was unconstitutional. The District Court granted a preliminary injunction blocking enforcement of the statute.

Before trial, Virginia repealed the challenged statute and reinstated the suspended licenses. The district court subsequently dismissed the case as moot. The class of drivers nevertheless sought attorney's fees under 42 U.S.C. § 1988(b), which allows the prevailing party (other than the U.S.) in a civil rights action an award of reasonable attorney's fees. The District Court denied the award of attorney's fees to the class, but the *en banc* Fourth Circuit reversed. The Fourth Circuit reasoned that some preliminary injunctions which provide lasting, merits-based relief can qualify plaintiffs as "prevailing parties" under § 1988(b) even if the case becomes moot before final judgment. Every other circuit to have considered the issue had ruled similarly to the Fourth Circuit.

But in a 7-2 decision, the Supreme Court reversed and remanded the Fourth Circuit's decision, ruling that to qualify as a "prevailing party" under § 1988(b), the court must "conclusively resolve the claim by granting enduring relief on the merits that materially altered the legal relationship between the parties."

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Thus, a preliminary injunction granted before the case was rendered moot did not qualify the class as a "prevailing party" for purposes of collecting attorney's fees.

The Court came to this by applying the definition of "prevailing party" as "one who successfully maintains its claim when the matter is finally resolved."

The Court also examined its own precedent regarding preliminary injunctive relief, including cases holding that a party who obtains only temporary injunctive relief is not a "prevailing party." First, in *Buckhannon Board & Home Health Care, Inc. v. West Virginia Department of Health & Human Resources*, the Court held that a party only prevails when "there is a judicially sanctioned change in the legal relationship of the parties." *Buckhannon Board & Home Health Care, Inc. v. West Virginia Department of Health & Human Resources*, 532 U.S. 598, 605 (2001). Voluntary change in the defendant's conduct was not enough to show that the plaintiff prevailed. *Id.* at 601. Then, in *Sole v. Wyner*, the Court held that the change in legal relationship must be "enduring." *Sole v. Wyner*, 551 U.S. 74, 86. A temporary win, such as a preliminary injunction, is not enduring because it could be reversed. Although a preliminary injunction is granted when the court believes that the claimant is likely to succeed on the merits, there is always a chance that the claimant may not win, so the injunction is reversed. Combining these cases, the Court held that a "plaintiff prevails when a court grants enduring judicial relief that materially alters the legal relationship between the two parties."

The drivers' arguments were centered on favoring equity by awarding attorney's fees before a final judgment. First, the drivers argued that § 1988(b) was enacted against a "historical backdrop" when awarding costs in equity was favored. But the Court had already rejected this argument in a 1975 decision. Second, the drivers argued that because fees were sometimes available during ongoing litigation, § 1988(b) was not meant to apply only to final decisions. But the Court reasoned that this only means that attorney's fees may be awarded when conclusive, enduring judicial relief is "meted out on an incremental basis."

What this means to you

A plaintiff suing under Section 1983 may no longer simply rely on obtaining a preliminary injunction to obtain attorney's fees. Instead, a party must actually prevail over the opposing party in a conclusive decision that resolves the claim by granting some sort of enduring relief on the merits of the case. This may disincentivize plaintiffs and their attorneys from bringing a constitutional claim forward, and will be a higher hurdle to meet, especially for claimants that cannot otherwise afford counsel.

Contact us

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If you have questions regarding how *Lackey v. Stinnie* could impact litigation involving public or governmental entities, contact Kate David, Ben Stephens, Sebastian Waisman, Caroline Thompson, or your Husch Blackwell attorney.

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