

Court award seldom includes attorney fees

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The Record

**Q. I operate a manufacturing company, and one of my suppliers is refusing to honor the terms of our contract. If I sue the supplier, can I recover my attorneys' fees?**

As a general rule, litigants must pay their own attorneys' fees unless the lawsuit seeks to enforce a contract containing a "fee-shifting" provision or involves a state or federal statute that allows for an award of fees.

You should first review the supplier contract to determine if it contains a provision allowing you to recover attorneys' fees in connection with a lawsuit. Although courts generally disfavor these provisions, they will enforce them under certain circumstances. Courts will only award fees to a party who "prevails" in the case. In other words, you must obtain all or some portion of the relief you requested in the lawsuit.

In addition, any award of attorneys' fees must be reasonable under the circumstances. To determine that, courts consider a number of factors, such as the complexity of the case, the time and effort expended by your attorney, and your attorney's skill and experience. When you are seeking money damages, the difference between the amount of your original claim and the amount of your ultimate recovery also is relevant.

Even if the supplier contract lacks a provision allowing for a fee award, certain federal and state statutes authorize courts

to award attorneys' fees to parties who successfully bring claims under those laws. It is unlikely, however, that any of these statutes will apply to a straightforward commercial breach of contract action involving your supplier.

In order to determine your right to an award of attorneys' fees in a legal action you may be contemplating, you should consult with an attorney who can provide advice based on your circumstances.

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