

Index

ABSENT CLASS MEMBERS

Common fund fee awards, § 2:27

ABUSE OF DISCRETION

Awards under EAJA, § 26:1,
26:13

Employee Retirement Income
Security Act (ERISA), § 27:2

Procedures for statutory fees,
§ 6:16

ADJUSTMENTS

Arguments, procedures for statu-
tory fees, § 6:11

Basic guidelines, statutory fee
calculation, § 4:1

Delay in payment, statutory fee
calculation, § 4:33

Final fees, statutory fee calcula-
tion, § 4:34, 4:35

Lodestar method, statutory fee
calculation, § 4:27, 4:28

Proof, statutory fee calculation,
§ 4:25

ADMINISTRATION TIME

Statutory fee calculation, § 4:9

ADMINISTRATIVE LAW JUDGE FINDINGS

Disability actions, § 12:10

ADMINISTRATIVE PROCEEDINGS

Awards under EAJA, § 26:2

Employment discrimination,
§ 11:4, 11:5, 11:9

Federal agency participation,
§ 25:2

Statutory fee award entitlement,
§ 3:7

ADMINISTRATIVE

PROCEEDINGS—Cont'd

Tax cases, § 21:4

Voting Rights Act, § 14:2

ADMINISTRATIVE TIME

Statutory fee calculation, § 4:9,
4:19

ADVISORY COMMITTEES

Multiple fee applications, common
fund fee awards, § 2:15

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Desegregation and education,
§ 16:3

Employment discrimination,
§ 11:8, 11:9, 11:16

ALLOCATION

Among counsel, common fund fee
awards, § 2:16

Award as sanction, § 7:41

Liability, procedures for statutory
fees, § 6:15

Taxable costs, securities laws,
§ 8:2

AMERICANS WITH DISABILITIES ACT (ADA)

Disability actions, § 12:3

AMICI CURIAE

Statutory fee award entitlement,
§ 3:8

AMOUNT OF FEES

Appellate rule 38, award as sanc-
tion, § 7:57

AMOUNT OF FEES—Cont'd

Freedom of Information Act
(FOIA), § 20:9
Prevailing defendants, § 5:4
Rule 11, award as sanction, § 7:42
Tax cases, § 21:10

ANTITRUST CASES

Chart, common fund fee awards,
§ 2:10, 2:25, 2:32

ANTITRUST STATUTES

Generally, § 9:1
Clayton Act, section 4
generally, § 9:2
state attorneys general, § 9:3
Clayton Act, section 16, § 9:4

APPEALS

Award as sanction, § 7:15, 7:52
Awards under EAJA, § 26:12
Common fund fee awards, § 2:18,
2:21, 2:29
Consumer credit, § 19:2
Employment discrimination,
§ 11:9
Prisoner rights, § 13:7
Procedures for statutory fees,
§ 6:4, 6:13, 6:16
Social security cases, awards
under EAJA, § 26:6

APPEAL TIME

Merits and fee issues, statutory fee
calculation, § 4:23

APPELLATE GUIDELINES

Statutory fee calculation, § 4:19

**APPELLATE RULE 38 AND 28
USC SEC 1912**

Procedural and due process
considerations, § 7:56

APPLICATION TIME

Statutory fee calculation, § 4:21

ARBITRATION

Statutory fee calculation, § 4:19

ARGUMENTS

Adjustments, procedures for statu-
tory fees, § 6:11

ASBESTOS EXPOSURE

Bankruptcy, § 22:9

ASSOCIATE-LEVEL WORK

Statutory fee calculation, § 4:9

AT-LARGE VOTING

Voting rights act, § 14:2

ATTORNEYS

Debtor's attorney
See DEBTOR'S ATTORNEY
Expertise for prefiling inquiry,
award as sanction, § 7:29,
7:31
Individual plaintiffs, common fund
fee awards, § 2:25
Liability, award as sanction,
§ 7:20
Parties, award as sanction, § 7:7
Trustees, bankruptcy, § 22:8
Unreasonable and vexatious
conduct, award as sanction,
§ 7:58

AUTHORITY

Duty of candor, award as sanction,
§ 7:38

AUTHORIZATION

Basic fee award considerations,
§ 1:3

**AVAILABILITY OF
ATTORNEYS**

Awards under EAJA, § 26:9,
26:10

AWARD AS SANCTION

Generally, § 7:1
Allocation, § 7:41

INDEX

AWARD AS SANCTION—Cont'd

- Amount of fees under appellate rule 38, § 7:57
- Amount of rule 11 fees awarded, § 7:42
- Appeals
 - generally, § 7:43, 7:52
 - sanctions, § 7:15
- Bad faith
 - determination, § 7:12
 - exception, § 7:2
- Bankruptcy cases, court's inherent authority, § 22:2
- Bankruptcy Rule 9011, § 7:59
- Documentation
 - grounding in fact, § 7:35
 - no evidence, § 7:36
 - reasonable judgment on merits, § 7:38
 - warranted by law, § 7:37
- Duty to amend or withdraw documents, § 7:34
- Fees awarded under bad faith exception, § 7:13
- Improper purposes, § 7:39
- Liability under rule 11
 - attorneys, § 7:20
 - clients, § 7:24
 - law firms and nonsigning attorneys, § 7:22
 - local counsel, § 7:21
 - pro se litigants, § 7:23
 - United States, § 7:25
- Litigation bad faith, § 7:11
- Nonparties, § 7:9
- Objective standard of appellate rule 38, § 7:53
- Parties
 - generally, § 7:4
 - attorneys, § 7:7
 - government, § 7:8
 - prevailing v nonprevailing parties, § 7:6
 - pro se litigants, § 7:5

AWARD AS SANCTION—Cont'd

- Persons liable under appellate rule 38
 - generally, § 7:54
 - pro se litigants, § 7:55
- Prefiling inquiry
 - generally, § 7:26
 - attorney expertise, § 7:29
 - availability of evidence, § 7:30
 - costs, § 7:33
 - information from client, § 7:28
 - litigant's experience, § 7:32
 - reliance on other attorneys, § 7:31
 - time for investigation, § 7:27
- Prelitigation conduct, § 7:10
- Procedure and due process, § 7:56
- Procedure for rule 11 motions, § 7:40
- Rule 11 sanctions
 - evolution, § 7:17
 - improper pleadings, motions, and other filed papers, § 7:16
 - purposes, § 7:18
 - scope, § 7:19
- Rule 16(f) and pretrial conferences, § 7:44
- Rule 26(g) and discovery, § 7:45
- Rule 37
 - generally, § 7:46
 - rule 37(a)(4), § 7:47
 - rule 37(b), § 7:48
 - rule 37(d), § 7:50
 - rule 37(g), § 7:51
- Scope of power, § 7:3
- Time spent on fee petition, § 7:14
- 28 USC Sec 1927, § 7:58
- Unreasonable and vexatious attorney conduct, § 7:58

AWARD OPTIONS

- Procedures for statutory fees, § 6:13

AWARDS RELATIVE TO FINAL JUDGMENT

Common fund fee awards, § 2:21

AWARDS UNDER EAJA

Generally, § 26:1

Chart, § 26:15

Eligibility for fee awards, § 26:7

Eligible proceedings, § 26:2

Extent of awards

generally, § 26:9

special factors, § 26:1, 26:10

Final judgment and appeal, § 26:8, 26:12

Hyde Amendment, § 26:14

Position of United States, § 26:3

Social security awards, § 26:8

Standard of review, § 26:13

Substantial justification

generally, § 26:4

objective indicia, § 26:6

reasonableness test, § 26:5

28 USC Sec 2412(b), § 26:11

BACKGROUND

DESCRIPTIONS

Lawyers, procedures for statutory fees, § 6:8

BACKGROUND READING

Statutory fee calculation, § 4:20

BACK PAY ACT

Awards under EAJA, § 26:2

BAD FAITH

Award as sanction, § 7:2, 7:3, 7:10-7:13, 7:15

Basic fee award considerations, § 1:4

Civil Rights Attorney's Fees Awards Act (CRAFAA), § 10:6

Employee Retirement Income Security Act (ERISA), § 27:2

Employment discrimination, § 11:9, 11:13

BAD FAITH—Cont'd

Freedom of Information Act (FOIA), § 20:8

Prevailing defendants, § 5:5

Securities laws, § 8:2

BANKRUPTCY

Generally, § 22:1

Attorney as trustee, § 22:8

Chart, Bankruptcy Reform Act, § 22:10

Conflicts of interest, § 22:7

Debtor's attorney, § 22:3

Interim compensation, § 22:6

Judicial approval of retention, § 22:4

Mass torts

action fees, § 22:9

Sanction under Bankruptcy Rule 9011, § 7:59

BANKRUPTCY REFORM ACT

Bankruptcy, § 22:10

BASIC FEE AWARD

CONSIDERATIONS

Calculation, reasonable fee guideline, § 1:6

Contingent fee award practice

generally, § 1:7, 1:8

common fund, § 1:9

statutory award practice, § 1:10

Entitlement and calculation

generally, § 1:1

major factors, § 1:2

Entitlement and who pays

generally, § 1:3

exceptions to no-fee rule, § 1:4

threshold entitlement, statutory fee entitlement, § 1:5

Procedures for obtaining and granting awards, § 1:11

BASIS FOR WITHHOLDING INFORMATION

Freedom of Information Act (FOIA), § 20:7, 20:8

INDEX

BENEFITS WITHOUT JUDGMENT

Statutory fee award entitlement,
§ 3:7

BIFURCATION

Procedures for statutory fees,
§ 6:5

BLENDED APPROACH

Common fund fee awards, § 2:4

BLUM V STENSON

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:5

BRIGHT LINE SOLUTION

Statutory fee calculation, § 4:19

BUCKHANNON BOARD AND CARE HOME V WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:4

BURDEN OF PROOF

Lodestar adjustments, statutory fee
calculation, § 4:28
Statutory fee calculation, § 4:3
Supporting affidavit, procedures
for statutory fees, § 6:8

CALCULATION

Basic fee award considerations,
§ 1:1, 1:2, 1:6
Fees to prevailing defendants,
§ 5:5
Statutory fee calculation
See STATUTORY FEE
CALCULATION

CAPITAL DEFENDANTS

Prisoner rights, § 13:11

CAUSATION

Freedom of Information Act
(FOIA), § 20:3
Statutory fee award entitlement,
§ 3:7

CEILINGS ON FEES

Prisoner rights, § 13:11

CHALLENGES

Statutory fee calculation, § 4:3

CHARTS

Antitrust cases, common fund fee
awards, § 2:32
Awards under EAJA, § 26:15
Bankruptcy case fee awards,
§ 22:10
Civil Rights Attorney's Fees
Awards Act (CRAFAA)
generally, § 10:10
disability actions, § 12:11
employment discrimination,
§ 11:16
housing and condemnation,
§ 15:6
tax cases, § 21:11
Clean Air Act, environmental
protection, § 18:9
Copyright Act, § 17:8
Criminal justice actions, prisoner
rights, § 13:11
Defendant awards
employment discrimination,
§ 11:16
tax cases, § 21:11
Desegregation and education,
§ 16:6
Employee Retirement Income
Security Act (ERISA), § 27:5
Equal Access to Justice Act
(EAJA)
generally, § 18:9
disability actions, § 12:11
tax cases, § 21:11

CHARTS—Cont'd

- Equal Pay Act, employment discrimination, § 11:16
- Fair Housing Act, § 15:6
- Federal Water Pollution Control Act (FWPCA), environmental protection, § 18:9
- Fees awarded or denied, prevailing defendants, § 5:6
- Miscellaneous fee awards generally, § 18:9
 - employment discrimination, § 11:16
- Motor Vehicle Act, consumer credit, § 19:5
- Rehabilitation Act, employment discrimination, § 11:16
- Securities and derivative suits, common fund fee awards, § 2:32
- Social Security Act, disability actions, § 12:11
- Tax Equity and Fiscal Responsibility Act (TEFRA), tax cases, § 21:11
- Title VII, employment discrimination, § 11:16
- Trademark act, § 17:8
- Truth in Lending Act, consumer credit, § 19:5
- Voting Rights Act, § 14:3

CHECKLISTS

- Applications, procedures for statutory fees, § 6:6
- Petitions, common fund fee awards, § 2:22

CITIZEN SUITS

- Environmental protection, § 18:1

**CITY OF BURLINGTON V
DAGUE**

- Statutory fee calculation, § 4:32

**CIVIL ACTIONS AND
ADMINISTRATIVE
PROCEEDINGS**

- Awards under EAJA, § 26:2,
26:11

CIVIL CONTEMPT ORDER

- Award as sanction, § 7:40

**CIVIL RIGHTS ATTORNEY'S
FEES AWARDS ACT
(CRAFAA)**

- Generally, § 10:1
- Blum v Stenson, § 10:5
- Buckhannon Board and Care
Home v West Virginia
Department of Health and
Human Resources, § 10:5

Charts

- awards in civil rights cases,
§ 10:10
- disability actions, § 12:11
- employment discrimination,
§ 11:16
- Defendant fee awards, § 10:6
- Desegregation and education,
§ 16:3, 16:4
- Disability actions, § 12:6
- Employment discrimination,
§ 11:5, 11:7
- Ethics in Government Act, § 10:7-
10:9
- Hensley v Eckerhart, § 10:3
- Housing and condemnation,
§ 15:6
- Judicial construction, § 10:2
- Prisoner rights, § 13:7, 13:10
- Reasonableness, § 10:5
- Tax cases, § 21:1, 21:11
- Voting rights act, § 14:1

CIVIL RIGHTS CLAIMS

- Basic fee award considerations,
§ 1:4

INDEX

CIVIL RIGHTS FEES

No ceiling on damages recovered,
statutory fee calculation,
§ 4:40

CLASS ACTION SUITS

Basic fee award considerations,
§ 1:3, 1:4
Employment discrimination,
§ 11:15

CLASS REPRESENTATIVES AND MEMBERS

Contingent fee agreements, com-
mon fund fee awards, § 2:10

CLASS RESULTS ACHIEVED

Common fund fee awards, § 2:22

CLAYTON ACT

Antitrust statutes
section 4, § 9:2, 9:3
section 16, § 9:4

CLEAN AIR ACT

Environmental protection, § 18:2,
18:9

CLEAN WATER ACT

Environmental protection, § 18:5

CLERICAL WORK

Statutory fee calculation, § 4:9

CLIENTS

Information for prefiling inquiry,
award as sanction, § 7:28
Liability, award as sanction,
§ 7:24

CO-LEAD COUNSEL

Appointment, common fund fee
awards, § 2:13

COLLECTIONS

Common fund fee awards, § 2:31

COLLECTIVELY APPLIED PERCENTAGE

Multiple attorneys, common fund
fee awards, § 2:12

COMMERCIAL BENEFIT

Freedom of Information Act
(FOIA), § 20:6

COMMERCIAL V CIVIL RIGHTS CASES

Statutory fee calculation, § 4:14

COMMON BENEFIT EXCEPTION

Securities laws, § 8:3

COMMON FUND FEE AWARDS

Actual practice and comparable
fee awards, § 2:6

Appeals, § 2:29

Charts

antitrust cases, § 2:32

other awards, § 2:32

securities and derivative suits,
§ 2:32

Checklist for petitions, § 2:22

Collections, § 2:31

Common fund and statutory fee
award objectives, § 2:5

Common fund/fee settlement
negotiations, Prandini
problems, § 2:17

Computation guideline, reasonable
percentage of fund, § 2:2, 2:5

Contingent fee agreements with
class representatives and
members, § 2:10

Contingent fee award practice,
basic fee award
considerations, § 1:1, 1:3-
1:7, 1:9

Costs reimbursement, § 2:19

Discovery, § 2:23

Emerging fee formula

deviation from percentage norm
or range, § 2:9

COMMON FUND FEE AWARDS

—Cont'd

- Emerging fee formula—Cont'd
 - percentage range, § 2:8
 - specified guidelines under particular circumstances, § 2:7
 - Fee negotiation and appointment of lead counsel by nonjudicial representative, § 2:14
 - Fee opinions, § 2:28
 - Funds of prior settlement, § 2:20
 - Hearing requirements, § 2:24
 - Interest, § 2:30
 - Interim awards, § 2:18
 - Lindy and Johnson cases
 - experience, § 2:4
 - lodestar and 12-factor approaches, § 2:3
 - Methods for simplification
 - generally, § 2:15
 - overall fee allocation among multiple counsel, § 2:16
 - Multiple attorneys
 - generally, § 2:11
 - collective application of overall fee, § 2:12
 - control of unnecessary duplication and excessive litigation, § 2:13
 - Objections to requests
 - generally, § 2:26
 - who may object, § 2:27
 - Percentage v lodestar approach, § 2:5
 - Procedures for determinations, § 2:21
 - Rationale and origins, § 2:1
 - Statutory fee award entitlement, § 3:7
 - Who may share in award, § 2:25
- COMMUNICATION WITH CLASS MEMBERS**
- Statutory fee calculation, § 4:20

COMPENSATORY DAMAGES

- Award as sanction, § 7:2
- Statutory fee award entitlement, § 3:2

COMPETITIVE BIDDING

- Common fund fee awards, § 2:13

COMPLEX CIVIL RIGHTS SUITS

- Statutory fee calculation, § 4:13

COMPUTATION GUIDELINE

- Common fund fee awards, § 2:2

CONDITIONS OF CONFINEMENT

- Prisoner rights, § 13:7

CONDOMINIUM AND COOP CONVERSION PROTECTION AND ABUSE RELIEF ACT

- Consumer credit, § 19:1

CONFERENCES WITH CLIENTS

- Statutory fee calculation, § 4:20

CONFLICTS OF INTEREST

- Bankruptcy, § 22:7
- Common fund fee awards, § 2:17
- Indemnification statutes, § 24:4
- Procedures for statutory fees, § 6:2

CONSENT DECREES

- Prisoner rights, § 13:7

CONSTITUTIONAL VIOLATIONS

- Prisoner rights, § 13:2, 13:8

CONSULTING ATTORNEYS

- Statutory fee award entitlement, § 3:8

CONSUMER CREDIT

- Generally, § 19:1

INDEX

CONSUMER CREDIT—Cont'd

Charts

Motor Vehicle Act, § 19:5

Truth in Lending Act, § 19:5

Fair Credit Reporting Act, § 19:3

Fair Debt Collection Practices
Act, § 19:1, 19:4

Truth in Lending Act, § 19:2

CONSUMER LEASING ACT

Consumer credit, § 19:1

CONSUMER PRODUCTS

Magnuson-Moss Act, § 23:1, 23:2

CONTEMPT

Award as sanction, § 7:48

Awards under EAJA, § 26:2

CONTESTED FEES

Common fund fee awards, § 2:23

CONTINGENCY

Multiplier, statutory fee calculation, § 4:29, 4:32

CONTINGENT FEE AWARD PRACTICE

Agreements with class representatives and members, § 2:10

Common fund fee awards, § 2:5,
2:7

Disability actions, § 12:8

Economics, basic fee award
considerations, § 1:7-1:10

CONTINGENT FEE CONTRACTS

Statutory fee calculation, § 4:36

CONTINUATION OF LAWSUITS

Prevailing defendants, § 5:1

COPYRIGHT ACT

Patents, trademarks, and
copyrights, § 17:7, 17:8

COST-OF-LIVING

ENHANCEMENT

Awards under EAJA, § 26:9

COSTS

Opposing parties, award as sanction, § 7:33

Reimbursement
common fund fee awards,
§ 2:19

statutory fee calculation,
§ 4:41-4:43

COUNSEL FOR CLASS REPRESENTATIVES

Common fund fee awards, § 2:25

COUNSEL WHO WITHDRAWS

Common fund fee awards, § 2:25

COUNTERCLAIMS

Antitrust statutes, § 9:2

COURT-APPOINTED EXPERTS AND INVESTIGATORS

Prisoner rights, § 13:11

CRAWFORD RESTRICTIONS

Common fund fee awards, § 2:19

CRIMINAL JUSTICE ACT

Prisoner rights, § 13:11

CRIMINAL PROCEEDINGS

Interpleader and indemnity
statutes, § 24:6

DAMAGES RECOVERED

Civil rights fees, statutory fee
calculation, § 4:40

DEBTOR'S ATTORNEY

Bankruptcy, § 22:3

DEBTOR'S FEE AGREEMENT

Bankruptcy, § 22:3

DEFENDANTS

Employee Retirement Income
Security Act (ERISA), § 27:4

DEFENDANTS—Cont'd

- Employment discrimination,
§ 11:13, 11:16
- Fee awards
 - Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:6
 - tax cases, § 21:11
- Objections, common fund fee
awards, § 2:27
- Statutory fee award entitlement,
§ 3:8

DEGREE OF SUCCESS

- Environmental protection, § 18:3
- Statutory fee award entitlement,
§ 3:2

DELAWARE VALLEY

- Statutory fee calculation, § 4:31,
4:32

**DELAYED COMPENSATION
RATES**

- Statutory fee calculation, § 4:8

DELAY IN PAYMENT

- Statutory fee calculation, § 4:29,
4:33

DEPOSITION PROCEEDINGS

- Awards under EAJA, § 26:2

DERIVATIVE SUITS

- Common fund fee awards, § 2:18,
2:25
- Securities laws, § 8:3

**DESEGREGATION AND
EDUCATION**

- Generally, § 16:1
- Chart, education suit awards,
§ 16:6
- Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 16:4
- Equal Access to Justice Act
(EAJA), § 16:5

**DESEGREGATION AND
EDUCATION—Cont'd**

- Student-related actions, § 16:2
- Teacher-related actions, § 16:3

DEVIATION

- Exceptional cases, common fund
fee awards, § 2:9

DIFFERENCES IN OBJECTIVES

- Common fund and statutory fee
awards, § 2:5

DISABILITY ACTIONS

- Generally, § 12:1
- Americans with Disabilities Act
(ADA), § 12:3
- Charts
 - Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 12:11
- Equal Access to Justice Act
(EAJA), § 12:11
- Social Security Act, § 12:11
- Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 12:6
- Discovery, award as sanction,
§ 7:45-7:51
- Education of the Handicapped Act
(EHA), and Handicapped
Children's Protection Act
(HCPA), § 12:4
- Equal Access to Justice Act
(EAJA), § 12:10
- Health Care Quality Improvement
Act, § 12:2
- Percentage range and norm, com-
mon fund fee awards, § 2:8,
2:9
- Rehabilitation Act, § 12:5
- Revenue sharing act, § 12:11
- Social security cases
 - generally, § 12:7
 - interim benefits, § 12:9
 - Social Security Act, § 12:8,
12:11

INDEX

DISABLED CHILDREN

Desegregation and education,
§ 16:2

DISCLOSURE REQUIREMENTS

Bankruptcy, § 22:1, 22:3

DISCOVERY

Common fund fee awards, § 2:23
Procedures for statutory fees,
§ 6:7

DISMISSALS

Prevailing defendants, § 5:1
Prisoner rights, § 13:7

DISMISSED DEFENDANTS

Procedures for statutory fees,
§ 6:15

DISSIDENT COUNSEL

Common fund fee awards, § 2:25

DIVERSITY CASES

Award as sanction, § 7:3

DOMICILE

Award as sanction, § 7:20

DUAL STANDARD

Basic fee award considerations,
§ 1:5
Statutory fee award entitlement,
§ 3:1

DUE PROCESS

Appellate rule 38 and 28 USC
Section 1912, § 7:56

DUPLICATION OR EXCESSIVENESS

Litigation efforts, common fund
fee awards, § 2:13
Statutory fee calculation, § 2:25

DUPLICATIVE FEES

Bankruptcy, § 22:8

DUTY OF CANDOR

Authority award as sanction,
§ 7:38

DUTY TO AMEND OR WITHDRAW DOCUMENTS

Award as sanction, § 7:34

EARLY COURT DIRECTIVE

Fee guidelines, common fund fee
awards, § 2:13

ECONOMIC FEE INCENTIVE

Basic fee award considerations,
§ 1:4, 1:6

ECONOMICS

Basic fee award considerations,
§ 1:2
Litigation practice, common fund
fee awards, § 2:7

ECONOMY

Statutory fee calculation, § 4:31

EDUCATION FOR THE HANDICAPPED ACT (EHA)

Desegregation and education,
§ 16:2
Disability actions, § 12:4
Employment discrimination,
§ 11:11

EFFICIENCY

Statutory fee calculation, § 4:31

ELECTRIC FUND TRANSFER ACT

Consumer credit, § 19:1

ELEVENTH AMENDMENT

Statutory fee award entitlement,
§ 3:11
Statutory fee calculation, § 4:8

ELIGIBILITY

Fee awards, awards under EAJA,
§ 26:7
Requirement, Freedom of Infor-
mation Act (FOIA), § 20:3

ELIGIBLE PROCEEDINGS

Awards under EAJA, § 26:2

EMERGING FEE FORMULA

Common fund fee awards, § 2:7

EMINENT DOMAIN

Housing and condemnation,
§ 15:5

**EMPLOYEE RETIREMENT
INCOME SECURITY ACT
(ERISA)**

Generally, § 27:1

Chart, fees awarded 1993 to date,
§ 27:5

Defendant fee awards, § 27:4

29 USC Sec 1132(g)(1), § 27:2

29 USC Sec 1132(g)(2), § 27:3

EMPLOYMENT

DISCRIMINATION

Generally, § 11:1

Age Discrimination in Employ-
ment Act (ADEA), § 11:8,
11:9

Charts

Age Discrimination in Employ-
ment Act (ADEA), § 11:16

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 11:16

defendant awards, § 11:16

Equal Access to Justice Act
(EAJA), § 11:16

Equal Pay Act, § 11:16
miscellaneous fee awards,
§ 11:16

Rehabilitation Act, § 11:16

Title VII, § 11:16

Civil Rights Attorney's Fees
Awards Act (CRAFAA)
generally, § 11:5

state proceedings, § 11:7

Class actions, § 11:15

Equal Pay Act, § 11:8

EMPLOYMENT

DISCRIMINATION—Cont'd

Fair Labor Standards Act (FLSA),
§ 11:8, 11:10

Intervenors, § 11:12

Lodestar approach, § 11:14

Prevailing party status, § 11:2

Rehabilitation Act, § 11:11

Rule 68 offers, § 11:6, 11:7

Title VII actions

generally, § 11:3

administrative proceedings,
§ 11:4

EMPLOYMENT LAW

Awards under EAJA, § 26:2

ENDANGERED SPECIES ACT

Environmental protection, § 18:8

ENFORCEMENT ACTIONS

Environmental protection, § 18:7

ENHANCEMENT

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:5

Cost-of-living, awards under
EAJA, § 26:9

Special factors, awards under
EAJA, § 26:10

ENTITLEMENT

Basic fee award considerations,
§ 1:1-1:5

Magnuson-Moss act, § 23:2

**ENTITLEMENT/AMOUNT
ISSUES**

Bifurcation, procedures for statu-
tory fees, § 6:5

**ENVIRONMENTAL
PROTECTION**

Generally, § 18:1

Charts

Clean Air Act, § 18:9

INDEX

ENVIRONMENTAL

PROTECTION—Cont'd

Charts—Cont'd

Equal Access to Justice Act
(EAJA), § 18:9

Federal Water Pollution Control
Act (FWPCA), § 18:9

miscellaneous awards, § 18:9

Clean Air Act, § 18:2

Clean Water Act, § 18:5

Endangered Species Act, § 18:8

Environmental Response,
Compensation, and Liability
Act (CERCLA), § 18:7

Private plaintiffs, § 18:6

Ruckelshaus limitation, § 18:3

Toxic Substances Control Act
(TSCA), § 18:4

ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

Environmental protection, § 18:7

EQUAL ACCESS TO JUSTICE ACT (EAJA)

Bankruptcy, § 22:1

Charts

disability actions, § 12:11
employment discrimination,
§ 11:16

Desegregation and education,
§ 16:5

Disability actions, § 12:7, 12:10

Environmental protection, § 18:6,
18:9

Federal agency participation,
§ 25:1

Housing and condemnation,
§ 15:5

Prisoner rights, § 13:8, 13:10

Tax cases, § 21:5, 21:9, 21:11

EQUAL CREDIT OPPORTUNITY ACT

Consumer credit, § 19:1

EQUAL PAY ACT

Desegregation and education,
§ 16:3

Employment discrimination,
§ 11:8, 11:16

EQUITABLE FUND EXCEPTION

Common fund fee awards, § 2:1

ETHICS IN GOVERNMENT ACT

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:7-10:9

EVIDENCE

Availability for prefiling inquiry,
award as sanction, § 7:30

Lack to support filing, award as
sanction, § 7:36

Rates, statutory fee calculation,
§ 4:15

Securities laws, § 8:2

EXCEPTIONAL CASES

Patents, trademarks, and
copyrights, § 17:1

EXCEPTIONAL RESULTS

Statutory fee calculation, § 4:30

EXCEPTIONS

Bad faith, award as sanction,
§ 7:2, 7:3, 7:13

Common benefit, securities laws,
§ 8:3

Equitable funds, common fund fee
awards, § 2:1

No-fee rule, basic fee award
considerations, § 1:2-1:4

EXCESSIVE HOURS

Statutory fee calculation, § 4:25

EXCESSIVE LITIGATION

Multiple attorneys, common fund
fee awards, § 2:13

EXEMPTIONS

Freedom of Information Act
(FOIA), § 20:2, 20:7

EXHAUSTION OF REMEDIES

Employment discrimination,
§ 11:4
Statutory fee calculation, § 4:19
Tax cases, § 21:7
Voting Rights Act, § 14:2

EXPENSES

Common fund fee awards, § 2:7,
2:19
Reimbursement, award as sanc-
tion, § 7:49

EXPERIENCE

Lindy and Johnson cases, common
fund fee awards, § 2:4
Litigants and prefilng inquiry,
award as sanction, § 7:32
Statutory fee calculation, § 4:14

EXPERT FEES

Common fund fee awards, § 2:19
Disability actions, § 12:3
Statutory fee calculation, § 4:43

EXPERT RATES

Statutory fee calculation, § 4:10

EXPRESS WARRANTIES

Magnuson-Moss act, § 23:1

**EXTRAORDINARILY LARGE
FUND RECOVERY**

Common fund fee awards, § 2:9

**FAIR CREDIT REPORTING
ACT**

Consumer credit, § 19:1, 19:3

**FAIR DEBT COLLECTION
PRACTICES ACT**

Consumer credit, § 19:1, 19:4

FAIR HOUSING ACT

Housing and condemnation,
§ 15:2, 15:3, 15:6

**FAIR LABOR STANDARDS ACT
(FLSA)**

Employment discrimination,
§ 11:8, 11:10

FARRAR V HOBBY

Statutory fee award entitlement,
§ 3:3

**FEDERAL AGENCY
PARTICIPATION**

Generally, § 25:1
Third-party participation, § 25:2

FEDERAL EMPLOYEES

Employment discrimination,
§ 11:9
Indemnification statutes, § 24:3,
24:4

**FEDERAL EMPLOYEES
COMPENSATION ACT**

Benefit determination, awards
under EAJA, § 26:2

**FEDERAL WAGE AND HOUR
LAWS**

Employment discrimination,
§ 11:10

**FEDERAL WATER
POLLUTION CONTROL
ACT (FWPCA)**

Environmental protection, § 18:5,
18:9

FEE APPLICATION TIME

Statutory fee calculation, § 4:9

FEE CONTRACTS

Absence, common fund fee
awards, § 2:1

FEE FORMULA

Common fund fee awards, § 2:7-
2:9

INDEX

FEE-SHARING AGREEMENTS

Bankruptcy, § 22:1, 22:3

FEE SHIFTING

Common fund fee awards, § 2:7

Desegregation and education,
§ 16:5

Environmental protection, § 18:3

FILED PAPERS

Award as sanction, § 7:16-7:19

FINAL FEE ADJUSTMENTS

Statutory fee calculation, § 4:34,
4:35

FINAL JUDGMENT

Awards under EAJA, § 26:8,
26:12

FINANCIAL CONDITION OF PLAINTIFF

Housing and condemnation,
§ 15:2, 15:3

Prevailing defendants, § 5:4

FINANCIAL HARDSHIP

Federal agency participation,
§ 25:2

FINANCIAL IMPACT

Freedom of Information Act
(FOIA), § 20:8

FINANCIAL INTEREST

Environmental protection, § 18:6

FIVE-FACTOR STANDARD

Employee Retirement Income
Security Act (ERISA), § 27:4

FOREIGN COUNSEL

Interpleader and indemnity
statutes, § 24:6

FORUM RATES

Statutory fee calculation, § 4:13

FREEDOM OF INFORMATION ACT (FOIA)

Generally, § 20:1, 20:2

Amount of fees, § 20:9

Eligibility requirement, § 20:3

Guidelines

generally, § 20:4

basis for withholding informa-
tion, § 20:7

commercial benefit, § 20:6

other factors, § 20:8

public benefit, § 20:5

Pro se litigation, § 20:10

FRIVOLOUS, UNREASONABLE, OR GROUNDLESS CLAIMS

Prevailing defendants, § 5:1

FUND RAISING

Litigation expenses in civil rights
suits, statutory fee calcula-
tion, § 4:20

FUNDS OF PRIOR SETTLEMENT

Common fund fee awards, § 2:20

GENERAL LITIGATION EXPERIENCE

Statutory fee calculation, § 4:14

GEOGRAPHICAL COMMUNITY

Statutory fee calculation, § 4:13

GOOD FAITH

Freedom of Information Act
(FOIA), § 20:3

GOVERNMENT

Defendants, procedures for statu-
tory fees, § 6:17

Parties, award as sanction, § 7:8

GOVERNMENT IN THE SUNSHINE ACT

Freedom of Information Act
(FOIA), § 20:1

GOVERNMENT’S POSITION

Tax cases, § 21:9

GRANTING OF AWARDS

Basic fee award considerations,
§ 1:11

GUIDELINES

Appeals, statutory fee calculation,
§ 4:19

Computations, common fund fee
awards, § 2:2

Early court directive, common
fund fee awards, § 2:13

Fees for prevailing defendants,
§ 5:1

Ours expended, procedures for
statutory fees, § 6:10

Reasonable fees
basic fee award considerations,
§ 1:2, 1:6, 1:9

common fund fee awards, § 2:2,
2:5-2:7, 2:22

Social security cases, disability
actions, § 12:8

Statutory fee calculation, § 4:1

**HABEAS CORPUS
PROCEEDINGS**

Prisoner rights, § 13:10

**HANDICAPPED CHILDREN’S
PROTECTION ACT (HCPA)**

Disability actions, § 12:4

**HEALTH CARE QUALITY
IMPROVEMENT ACT**

Disability actions, § 12:2

HEARINGS

Dates, common fund fee awards,
§ 2:21

Requirements
common fund fee awards,
§ 2:24

procedures for statutory fees,
§ 6:12

HENSLEY V ECKERHART

Civil Rights Attorney’s Fees
Awards Act (CRAFAA),
§ 10:3

Employment discrimination,
§ 11:2

Statutory fee calculation, § 4:17,
4:39

HOURLY RATE

Procedures for statutory fees,
§ 6:9

Test

See STATUTORY FEE
CALCULATION

HOURS EXPENDED

Proof, procedures for statutory
fees, § 6:6-6:8, 6:10

**HOUSEHOLD GOODS
TRANSPORTATION ACT**

Consumer credit, § 19:1

**HOUSING AND COMMUNITY
DEVELOPMENT ACT**

Consumer credit, § 19:1

**HOUSING AND
CONDEMNATION**

Generally, § 15:1

Charts

Civil Rights Attorney’s Fees
Awards Act (CRAFAA),
§ 15:6

Fair Housing Act, § 15:6

Fair Housing Act

generally, § 15:2

inability to finance litigation,
§ 15:3

Land condemnation, § 15:5

Public accommodations, § 15:4

HYDE AMENDMENT

EAJA awards, § 26:14

INDEX

IMMUNITY DOCTRINES

- Judicial immunity
 - prisoner rights, § 13:7
 - waiver, awards under EAJA, § 26:1
- Sovereign immunity
 - prisoner rights, § 13:7
 - statutory fee award entitlement, § 3:11
 - tax cases, § 21:2
- Statutory fee award entitlement, § 3:11

IMPLIED WARRANTIES

- Magnuson-Moss act, § 23:1

IMPROPER PURPOSES

- Award as sanction, § 7:39

INABILITY TO FINANCE LITIGATION

- Housing and condemnation, § 15:2, 15:3

IN-COURT/OUT-OF-COURT TIME

- Statutory fee calculation, § 4:9

INCREASE IN LITIGATION

- Freedom of Information Act (FOIA), § 20:8

INDIGENT DEFENDANTS

- Interpleader and indemnity statutes, § 24:3, 24:6
- Prisoner rights, § 13:1, 13:11

INFLATION LOSS

- Statutory fee calculation, § 4:33

INFRINGEMENT

- Trademarks, patents, trademarks, and copyrights, § 17:6

INJUNCTIVE RELIEF

- Antitrust statutes, § 9:1, 9:4

INTELLECTUAL PROPERTY

- See PATENTS, TRADEMARKS, AND COPYRIGHTS

INTEREST

- Borrowed business funds, statutory fee calculation, § 4:33
- Common fund fee awards, § 2:30
- Fee awards, procedures for statutory fees, § 6:14
- Statutory fee award entitlement, § 3:6

INTERIM AWARDS

- Common fund fee awards, § 2:18, 2:26

INTERIM BENEFITS

- Disability actions, § 12:9

INTERIM COMMON FUND FEES

- Common fund fee awards, § 2:21

INTERIM COMPENSATION

- Bankruptcy, § 22:6

INTERIM FEES

- Freedom of Information Act (FOIA), § 20:9
- Statutory fee award entitlement, § 3:5
- Timing of application, procedures for statutory fees, § 6:5

INTERPLEADER AND INDEMNITY STATUTES

- Chart of fees awarded, § 24:7
- Federal employees indemnification statutes, § 24:4
- Indemnification
 - fee statutes, § 24:3
 - provisions for criminal proceedings, § 24:6
 - statutes and Native American land, § 24:5
- Insurance companies as disinterested parties, § 24:2

**INTERPLEADER AND
INDEMNITY STATUTES**

—Cont'd

Interpleader actions, § 24:1

INTERVENORS

Common fund fee awards, § 2:25,
2:27

Employment discrimination,
§ 11:12

Statutory fee award entitlement,
§ 3:8

INVESTIGATIONS

Prefiling inquiry, award as sanc-
tion, § 7:27

INVESTMENT LOSS

Statutory fee calculation, § 4:33

JOHNSON CASE

Common fund fee awards, § 2:3,
2:4, 2:7

Final fee adjustments, statutory
fee calculation, § 4:34, 4:35

**JOINING OF FEE AND
NON-FEE CLAIMS**

Statutory fee award entitlement,
§ 3:4

**JOINT AND SEVERAL
LIABILITY**

Award as sanction, § 7:41

JOINT FEE APPLICATION

Common fund fee awards, § 2:12

JOINT LIABILITY

Procedures for statutory fees,
§ 6:15

JUDICIAL APPROVAL

Retention, bankruptcy, § 22:4

JUDICIAL CONFERENCE

Prisoner rights, § 13:11

JUDICIAL CONSTRUCTION

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:2

JUDICIAL IMMUNITY

Prisoner rights, § 13:7
Statutory fee award entitlement,
§ 3:11
Waiver, awards under EAJA,
§ 26:1

JUDICIAL PROCEEDINGS

Statutory fee calculation, § 4:19
Tax cases, § 21:4

JUST DAMAGES

Award as sanction, § 7:52

KERR-JOHNSON FACTORS

Common fund fee awards, § 2:4

LAND CONDEMNATION

Awards under EAJA, § 26:1
Housing and condemnation,
§ 15:5

LANHAM ACT

Patents, trademarks, and
copyrights, § 17:6

LAW CLERKS

Rates, statutory fee calculation,
§ 4:7
Statutory fee award entitlement,
§ 3:8

LAW FIRMS

Liability, award as sanction,
§ 7:22

LEAD COUNSEL

Appointment, common fund fee
awards, § 2:14

**LEAST SEVERE SANCTION
ADEQUATE**

Award as sanction, § 7:42

INDEX

LEGAL SERVICES

ATTORNEYS

Statutory fee award entitlement,
§ 3:8

LIABILITY

Liability under rule 11
See AWARD AS SANCTION
Magnuson-Moss act, § 23:2
Success, statutory fee award
entitlement, § 3:4, 3:5

LIMITED RESULTS

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:3
Procedures for statutory fees,
§ 6:6
Statutory fee calculation, § 4:38-
4:40

LINDY CASE

Common fund fee awards, § 2:3,
2:4

LITIGANT'S EXPERIENCE

Prefiling inquiry, award as sanc-
tion, § 7:32

LITIGATION BAD FAITH

Award as sanction, § 7:11

LITIGATION CONDUCT

Patents, trademarks, and
copyrights, § 17:4

LITIGATION STRATEGY

Award as sanction, § 7:20

LOBBYING

Statutory fee calculation, § 4:20
Voting Rights Act, § 14:2

LOCAL COUNSEL

Common fund fee awards, § 2:25
Liability, award as sanction,
§ 7:21

LODESTAR METHOD

Adjustments, statutory fee calcula-
tion, § 4:27, 4:28
Common fund fee awards, § 2:3-
2:7, 2:14, 2:15
Employment discrimination,
§ 11:14
Initial calculation, statutory fee
calculation, § 4:16-4:23
Procedures for statutory fees,
§ 6:6

MAGNUSON-MOSS ACT

Generally, § 23:1
Consumer credit, § 19:1
Entitlement and liability, § 23:2

MANDATORY

ADMINISTRATIVE PROCEEDINGS

Statutory fee calculation, § 4:19

MAREK V CHESNEY

Procedures for statutory fees,
§ 6:3
Statutory fee award entitlement,
§ 3:12

MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT (MPRSA)

Environmental protection, § 18:5

MARKETPLACE MODEL

Basic fee award considerations,
§ 1:9

MASTERS AND MAGISTRATES

Multiple fee applications, common
fund fee awards, § 2:15

MERITS

Appeal time, statutory fee calcula-
tion, § 4:23
Reasonable judgment, award as
sanction, § 7:38
Securities laws, § 8:2

MERITS/FEE SETTLEMENT

Negotiations, procedures for statutory fees, § 6:2

MINISTERIAL WORK

Statutory fee calculation, § 4:9

MISCELLANEOUS AWARDS

Employment discrimination, § 11:16

Environmental protection, § 18:9

MISCONDUCT

Patents, trademarks, and copyrights, § 17:3, 17:4

MISREPRESENTATIONS

Award as sanction, § 7:41

MITIGATION REQUIREMENT

Award as sanction, § 7:42

MOTIONS

Award as sanction, § 7:16-7:19

MOTOR VEHICLE ACT

Consumer credit, § 19:1, 19:5

MULTIPLE COUNSEL

Common fund fee awards, § 2:8, 2:10-2:13, 2:16, 2:21, 2:25

Excessive hours, statutory fee calculation, § 4:25

MULTIPLE DEFENDANTS

Procedures for statutory fees, § 6:10, 6:16

MULTIPLE LITIGATION

Interpleader and indemnity statutes, § 24:1

MULTIPLIERS

Awards under EAJA, § 26:10

Quality, contingency, and delay in payment, statutory fee calculation, § 4:29-4:33

Recommended use, statutory fee calculation, § 4:37

NATIONAL RATES

Statutory fee calculation, § 4:9, 4:13

NATIVE AMERICAN LAND

Indemnification statutes, § 24:5

NEGOTIATION OF FEES

Common fund fee awards, § 2:14, 2:16, 2:17

Disability actions, § 12:8

Tax cases, § 21:8

NET WORTH REQUIREMENT

Tax cases, § 21:6, 21:7

NEWMAN STANDARD

Basic fee award considerations, § 1:5

NO-FEE RULE

Civil Rights Attorney's Fees Awards Act (CRAFAA), § 10:1

Exceptions, basic fee award considerations, § 1:2-1:4

NOMINAL OR DECLARATORY RELIEF

Employment discrimination, § 11:3

Statutory fee award entitlement, § 3:3

NONCOMPENSABLE TIME EXPENDITURES

Statutory fee calculation, § 4:16

NONCOMPLIANCE WITH COURT ORDERS

Basic fee award considerations, § 1:4

NONCONTESTABLE MINIMUM FEE AWARD

Statutory fee award entitlement, § 3:6

INDEX

NONCONTINGENT SERVICES

Billing rates, statutory fee calculation, § 4:6

NONDISCRETIONARY ACTS OR DUTIES

Environmental protection, § 18:2

NONJUDICIAL REPRESENTATIVE

Fee negotiation and appointment of lead counsel, common fund fee awards, § 2:14

NONMONETARY BENEFITS

Basic fee award considerations, § 1:3

NONPROFIT LEGAL SERVICES COUNSEL

Statutory fee calculation, § 4:7

NONSETTLING DEFENDANTS

Common fund fee awards, § 2:20

NONSIGNING ATTORNEYS

Liability, award as sanction, § 7:22

NORMAL BILLING RATES

Statutory fee calculation, § 4:6

NOTICE

Award as sanction, § 7:3

NUNC PRO TUNC ORDERS

Bankruptcy, § 22:4

OBJECTIONS

Requests, common fund fee awards, § 2:26, 2:27

OBJECTIVE INDICIA

Awards under EAJA, § 26:1, 26:6

OBJECTIVES

Basic fee award considerations, § 1:2, 1:4

OBJECTIVES—Cont'd

Statutes

basic fee award considerations, § 1:4

fee adjustment, statutory fee calculation, § 4:35

OBJECTIVE STANDARD

Appellate rule 38, award as sanction, § 7:53

OBTAINING AWARDS

Basic fee award considerations, § 1:11

OFFER OF JUDGMENT

Employment discrimination, Rule 68 offers, § 11:6, 11:7

Statutory fee award entitlement, § 3:12

OPINIONS

Common fund fee awards, § 2:28

OPPORTUNITY COST FACTORS

Statutory fee calculation, § 4:33

OPTIONAL RELATED PROCEEDINGS

Statutory fee calculation, § 4:19

OPTIONS

Fee awards, procedures for statutory fees, § 6:13

OTHER AWARDS

Chart, common fund fee awards, § 2:32

OTHER FACTORS

Freedom of Information Act (FOIA), § 20:8

OTHER METHODS

Common fund fee awards, § 2:14

OUT-OF-STATE RATES

Statutory fee calculation, § 4:13

OVERALL FEE ALLOCATION

Multiple counsel, common fund
fee awards, § 2:16

OWNER OF FEE CLAIM

Statutory fee award entitlement,
§ 3:8

PARALEGALS

Rates, statutory fee calculation,
§ 4:7

Statutory fee award entitlement,
§ 3:8

PARTIAL CASE

SETTLEMENTS

Common fund fee awards, § 2:18

PARTIAL FEE ENTITLEMENT

Statutory fee award entitlement,
§ 3:6

**PARTIALLY PREVAILING
DEFENDANT**

Prevailing defendants, § 5:3

**PARTIALLY SUCCESSFUL
PLAINTIFFS**

Statutory fee award entitlement,
§ 3:2

PARTIAL SUCCESS

Procedures for statutory fees,
§ 6:6

Statutory fee calculation, § 4:17,
4:23

**PARTIAL SUMMARY
JUDGMENT**

Common fund fee awards, § 2:18
Statutory fee award entitlement,
§ 3:5

PAST DUE BENEFITS

Disability actions, § 12:8, 12:9

**PATENTS, TRADEMARKS, AND
COPYRIGHTS**

Generally, § 17:1

Amount of fees awarded, § 17:5

**PATENTS, TRADEMARKS, AND
COPYRIGHTS—Cont'd**

Charts

Copyright Act awards 1983 to
date, § 17:8

patent infringement awards
1983 to date, § 17:8

Trademark Act awards 1983 to
date, § 17:8

Copyright Act, § 17:7

Lanham Act, § 17:6

Patent Act

generally, § 17:2

conduct during litigation, § 17:4

prelitigation conduct, § 17:3

**PENDENT STATE LAW
CLAIMS**

Prisoner rights, § 13:7

PERCENTAGE RESTRICTIONS

Statutory fee calculation, § 4:11

**PERSONAL CAPACITY
ACTION**

Statutory fee award entitlement,
§ 3:11

PERSONS ENTITLED

Statutory fee award entitlement,
§ 3:8

**PERSONS LIABLE UNDER
APPELLATE RULE 38**

Award as sanction, § 7:54, 7:55

PETITION FILING

Common fund fee awards, § 2:21

Time spent, award as sanction,
§ 7:14

**PLAINTIFFS AS CLASS
REPRESENTATIVES**

Common fund fee awards, § 2:25

PLAINTIFF'S INTEREST

Freedom of Information Act
(FOIA), § 20:6

INDEX

PLEADINGS

Award as sanction, § 7:16-7:19,
7:40

POSITION OF THE UNITED STATES

Awards under EAJA, § 26:3
Tax cases, § 21:4

POSTJUDGMENT HOURS

Employee Retirement Income
Security Act (ERISA), § 27:2
Prisoner rights, § 13:7
Statutory fee calculation, § 4:22

PRANDINI PROBLEMS

Common fund fee awards, § 2:17

PRECLEARANCE REVIEW PROCESS

Voting rights act, § 14:2

PRECLUSION OF EMPLOYMENT

Statutory fee calculation, § 4:34

PRELIMINARY INJUNCTION MOTIONS

Statutory fee award entitlement,
§ 3:5

PRELITIGATION CONDUCT

Award as sanction, § 7:10
Patents, trademarks, and
copyrights, § 17:3
Voting rights act, § 14:2

PRESS COMMUNICATIONS

Statutory fee calculation, § 4:20

PRETRIAL CONFERENCES

Rule 16(f), award as sanction,
§ 7:44

PREVAILING DEFENDANTS

Amount of fees, § 5:4
Antitrust statutes, § 9:2
Calculation of fees, § 5:5

PREVAILING DEFENDANTS

—Cont'd

Chart of fees awarded or denied,
§ 5:6
Guidelines, § 5:1
Partially prevailing defendant,
§ 5:3
Pro se plaintiffs, § 5:2

PREVAILING MARKET RATE

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:5
Procedures for statutory fees,
§ 6:7, 6:9
Statutory fee calculation, § 4:5

PREVAILING PARTY STATUS

Basic fee award considerations,
§ 1:5
Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:2
Consumer credit, § 19:2
Defendants, Civil Rights
Attorney's Fees Awards Act
(CRAFAA), § 10:6
Employee Retirement Income
Security Act (ERISA), § 27:2
Employment discrimination,
§ 11:2
Environmental protection, § 18:3,
18:6
Housing and condemnation,
§ 15:1
Prevailing defendants
See PREVAILING
DEFENDANTS
Prisoner rights, § 13:7
Results obtained, procedures for
statutory fees, § 6:6
Statutory fee award entitlement,
§ 3:2-3:6, 3:8
Tax cases, § 21:3, 21:8, 21:9

**PREVAILING V
NONPREVAILING
PARTIES**

Award as sanction, § 7:6

PRIOR SETTLEMENT FUNDS

Common fund fee awards, § 2:20

PRISONER RIGHTS

Generally, § 13:1

Chart, criminal justice actions,
§ 13:11

Civil Rights Attorney's Fee
Awards Act (CRAFAA),
§ 13:7

Constitutional challenges under
PLRA, § 13:2

Criminal Justice Act, § 13:11

Equal Access to Justice Act
(EAJA), § 13:8

Fees awarded under PLRA, § 13:6

Fees for fees under PLRA, § 13:4

Habeas corpus proceedings,
§ 13:10

Nominal damages under PLRA,
§ 13:3

Sanctions under PLRA, § 13:5

PRIVACY ACT

Freedom of Information Act
(FOIA), § 20:1

**PRIVATE ATTORNEYS
GENERAL**

Basic fee award considerations,
§ 1:4

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:1, 10:2

Desegregation and education,
§ 16:2

Employment discrimination,
§ 11:3

Voting rights act, § 14:2

**PRIVATE ENFORCEMENT OF
STATUTES**

Basic fee award considerations,
§ 1:6

PRIVATE PLAINTIFFS

Environmental protection, § 18:6,
18:7

**PRIVATE SECURITIES
LITIGATION REFORM
ACT**

Securities laws, § 8:5

PRO BONO ATTORNEY

Statutory fee award entitlement,
§ 3:8

PROCEDURAL ISSUES

Litigation bad faith, award as
sanction, § 7:11

**PROCEDURAL V MERITS
SUCCESS**

Statutory fee award entitlement,
§ 3:5

PROCEDURES

Appellate rule 38 and 28 USC Sec
1912, § 7:56

Determinations, common fund fee
awards, § 2:21

Obtaining and granting awards,
basic fee award
considerations, § 1:11

Statutory fee calculation, § 4:2

**PROCEDURES FOR
STATUTORY FEES**

Appeals, § 6:16

Arguments for adjustments, § 6:11

Calculation, § 4:2

Checklist for applications, § 6:6

Discovery, § 6:7

Fee award options, § 6:13

Government defendants, § 6:17

Hearing requirements, § 6:12

Interest on fee awards, § 6:14

Multiple defendants, § 6:16

Proof

hours expended, § 6:10

market rates, § 6:9

INDEX

PROCEDURES FOR STATUTORY FEES—Cont'd

- Rule 68 offer, § 6:3
- Settlements favored, § 6:1
- Simultaneous negotiations, § 6:2
- Standing, § 6:4
- Supporting affidavit, § 6:8
- Timing of application, § 6:5

PROOF FOR ADJUSTMENTS

- Statutory fee calculation, § 4:25

PROPORTIONALITY

- Statutory fee calculation, § 4:40

PRO SE LITIGANTS

- Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:2
- Freedom of Information Act
(FOIA), § 20:10
- Liability under appellate rule 38,
award as sanction, § 7:55
- Liability under rule 11, award as
sanction, § 7:23, 7:32
- Parties, award as sanction, § 7:5
- Prevailing defendants, § 5:2
- Prisoner rights, § 13:7
- Statutory fee award entitlement,
§ 3:8, 3:10

PRO SE LITIGATION

- Tax cases, § 21:8

PROXY FRAUD

- Securities laws, § 8:1

PUBLIC ACCOMMODATIONS DISCRIMINATION

- Housing and condemnation,
§ 15:4

PUBLIC BENEFIT

- Freedom of Information Act
(FOIA), § 20:5

PUBLIC INTEREST GROUPS

- Environmental protection, § 18:6

PUNITIVE DAMAGES

- Housing and condemnation,
§ 15:4

QUALITY

- Multiplier, statutory fee calculation,
§ 4:29, 4:30

QUANTUM MERUIT

- Common fund fee awards, § 2:1

RACIAL SEGREGATION

- Desegregation and education,
§ 16:2

RANGE MEDIAN AS NORM

- Common fund fee awards, § 2:8,
2:9

RATE RESTRICTIONS

- Statutory fee calculation, § 4:11

READ AND REVIEW TIME

- Statutory fee calculation, § 4:9

REAL ESTATE SETTLEMENT PROCEDURES ACT

- Consumer credit, § 19:1

REASONABLE FEE GUIDELINE

- Basic fee award considerations,
§ 1:2, 1:6, 1:9
- Common fund fee awards, § 2:2,
2:5-2:7, 2:22

REASONABLENESS TEST

- Awards under EAJA, § 26:5

REASONABLE TIME EXPENDED

- Statutory fee calculation, § 4:24-
4:26

REASONABLY NECESSARY REQUIREMENT

- Freedom of Information Act
(FOIA), § 20:3

**RECONSTRUCTED TIME
RECORDS**

Statutory fee calculation, § 4:26

REDUNDANT HOURS

Statutory fee calculation, § 4:25

REHABILITATION ACT

Disability actions, § 12:5
Employment discrimination,
§ 11:11, 11:16

**REIMBURSABLE COSTS AND
EXPENSES**

Common fund fee awards, § 2:19
Statutory fee calculation, § 4:10,
4:42

**RELATED LEGAL
PROCEEDINGS**

Statutory fee calculation, § 4:19

**RELATED NONLEGAL
ACTIVITIES**

Statutory fee calculation, § 4:20

RELEVANT COMMUNITY

Statutory fee calculation, § 4:12-
4:14

REMAND DECISIONS

Awards under EAJA, § 26:8

RESEARCH

Statutory fee calculation, § 4:20

RES JUDICATA

Bankruptcy, § 22:9

RESTRICTIONS

Crawford restrictions, § 2:19
Rate and percentage, statutory fee
calculation, § 4:11
Statutory fee award entitlement
See STATUTORY FEE
AWARD ENTITLEMENT

RESULTS OBTAINED

Basic fee award considerations,
§ 1:2

RESULTS OBTAINED—Cont'd

Prevailing party status, procedures
for statutory fees, § 6:6
Statutory fee calculation, § 4:17

RETENTION

Judicial approval, bankruptcy,
§ 22:4

REVENUE SHARING ACT

Disability actions, § 12:11

REVIEWABLE FINDINGS

Common fund fee awards, § 2:7

REVIEWS

Appeals, procedures for statutory
fees, § 6:16
Fee opinions, common fund fee
awards, § 2:28, 2:29
Standards, awards under EAJA,
§ 26:13

RICO STATUTES

Actions under, § 9:5

RIGHTS PROTECTION

Statutory fee calculation, § 4:19

RISK MULTIPLIER

Statutory fee calculation, § 4:32

RIVERSIDE V RIVERA

Statutory fee calculation, § 4:40

RUCKELSHAUS LIMITATION

Environmental protection, § 18:3

RULE 11

Amount of fees awarded, award as
sanction, § 7:42
Appeal, award as sanction, § 7:43
Liability under rule 11
See AWARD AS SANCTION
Motions, award as sanction,
§ 7:40
Rule 11 sanctions
See AWARD AS SANCTION

INDEX

RULE 16(F)

Pretrial conferences, award as sanction, § 7:44

RULE 26(G)

Discovery, award as sanction, § 7:45

RULE 68 OFFERS

Employment discrimination, § 11:6, 11:7

Procedures for statutory fees, § 6:3

Statutory fee award entitlement, § 3:12

RULEMAKING

Federal agency participation, § 25:2

SALARIED ATTORNEYS

Rates, statutory fee calculation, § 4:7

SANCTIONABLE BEHAVIOR

Basic fee award considerations, § 1:1, 1:3-1:6

SCOPE OF POWER

Bad faith exception, award as sanction, § 7:3

SECURITIES ACT OF 1933

Securities laws, § 8:2

SECURITIES AND

DERIVATIVE SUITS

Chart, common fund fee awards, § 2:10, 2:33

SECURITIES LAWS

Generally, § 8:1

Common benefit theory, § 8:4

Derivative suits, § 8:3

Private Securities Litigation

Reform Act of 1995, § 8:5

Securities Act of 1933, § 8:2

SELECTION OF EMPLOYEES

Awards under EAJA, § 26:2

SEPARATE-FROM-THE-MERITS

EAJA APPEALS

Awards under EAJA, § 26:13

SETTLEMENTS

Common fund/fee settlement negotiations, § 2:17

Discussions, common fund fee awards, § 2:13

Favored, procedures for statutory fees, § 6:1

Funds of prior settlement, § 2:20

Monitoring time, statutory fee calculation, § 4:9

Partial case settlements, § 2:18

Procedures for statutory fees, § 6:2

Real Estate Settlement Procedures Act, consumer credit, § 19:1

Structured, common fund fee awards, § 2:31

Waiver as condition of defendant's settlement offer, § 3:13

SHORT-SWING SALES

Securities laws, § 8:1

SIMULTANEOUS

NEGOTIATIONS

Common fund fee awards, § 2:17

Procedures for statutory fees, § 6:2

SOCIAL SECURITY ACTIONS

Awards under EAJA, § 26:1, 26:6, 26:8

Disability actions

See DISABILITY ACTIONS

SOLVENCY

Bankruptcy, § 22:6

SOVEREIGN IMMUNITY

Prisoner rights, § 13:7

Statutory fee award entitlement, § 3:11

Tax cases, § 21:2

SPECIAL CIRCUMSTANCES

Basic fee award considerations,
§ 1:5

Civil Rights Attorney's Fees
Awards Act (CRAFAA),
§ 10:2

Consumer credit, § 19:2
Statutory fee award entitlement,
§ 3:10

Tax cases, § 21:2-21:4

SPECIAL FACTORS

Awards under EAJA, § 26:1,
26:10

SPECIALIST RATES

Statutory fee calculation, § 4:10

SPECIAL PLAINTIFFS

Statutory fee award entitlement,
§ 3:8

SPECIFIC FEE REQUEST

Procedures for statutory fees,
§ 6:6

**SPECIFIC REASONABLE FEE
AWARD**

Common fund fee awards, § 2:22

STAKEHOLDERS

Interpleader and indemnity
statutes, § 24:1

STANDARD OF REVIEW

Awards under EAJA, § 26:12,
26:13

STANDING

Environmental protection, § 18:5

STARE DECISIS

Common fund fee awards, § 2:1

**STATE ADMINISTRATIVE
PROCEEDINGS**

Employment discrimination,
§ 11:7
Statutory fee calculation, § 4:19

STATE ATTORNEYS GENERAL

Clayton Act, § 9:3

Clayton Act Sec 4, antitrust
statutes, § 9:3

STATE CLAIM SUCCESS ONLY

Statutory fee award entitlement,
§ 3:4

STATE COURT PLAINTIFFS

Statutory fee award entitlement,
§ 3:8

STATE LAW

Awards under EAJA, § 26:2

STATE OF MIND

Award as sanction, § 7:39

STATUTE OBJECTIVES

Basic fee award considerations,
§ 1:4

Fee adjustment, statutory fee
calculation, § 4:35

**STATUTORY FEE AWARD
ENTITLEMENT**

Authorization, basic fee award
considerations, § 1:1-1:3,
1:7, 1:10

Benefits without judgment, § 3:7

Common fund fee awards, § 2:5

Dual standard, § 3:1

Entitlement, basic fee award
considerations, § 1:5

Persons entitled, § 3:8

Prevailing party status

generally, § 3:2

fee and non-fee claims joined,
§ 3:4

interim fee entitlement, § 3:5

nominal or declaratory relief,
§ 3:3

partial fee entitlement, § 3:6

Procedures for statutory fees

See PROCEDURES FOR
STATUTORY FEES

INDEX

STATUTORY FEE AWARD ENTITLEMENT—Cont'd

Restrictions

- generally, § 3:9
- immunity doctrines, § 3:11
- offer of judgment, § 3:12
- special circumstances, § 3:10
- waiver as condition of
defendant's settlement
offer, § 3:13

STATUTORY FEE CALCULATION

Basic guidelines, § 4:1

Burden of proof

- generally, § 4:3
- adjustments, § 4:28

Compensable and

noncompensable time

- appeal time, § 4:23
- application time, § 4:21
- initial lodestar calculation,
§ 4:16
- postjudgment hours, § 4:22
- related legal proceedings,
§ 4:19
- related nonlegal activities,
§ 4:20
- unsuccessful motions, § 4:18
- unsuccessful v successful
claims, § 4:17

Contingent fee contract, § 4:36

Costs reimbursement

- generally, § 4:41
- expert fees and costs, § 4:43
- reimbursable costs, § 4:42

Evidence of rates, § 4:15

Hourly rate test

- delayed compensation rates,
§ 4:8
- expert and specialist rates,
§ 4:10
- noncontingent services, § 4:6
- prevailing market rate, § 4:4,
4:5

STATUTORY FEE CALCULATION—Cont'd

Hourly rate test—Cont'd

- rate and percentage restrictions,
§ 4:11
- relevant community, prevailing
market rate, § 4:4
- salaried attorneys, law clerks,
and paralegals, § 4:7
- uniform or variable rates, § 4:9

Limited results obtained

- damages recovered, § 4:40
- overall reasonableness, § 4:38
- partial success, § 4:39

Lodestar adjustments, § 4:27

Multipliers

- generally, § 4:29
- contingency, § 4:32
- efficiency or economy, § 4:31
- quality, § 4:30

Other Johnson factors

- generally, § 4:34
- fee statute objectives, § 4:35

Process, § 4:2

Reasonable time expended

- compensable categories of
activity, § 4:24
- excessive hours, § 4:25
- reconstructed time records,
§ 4:26

Recommended use of multipliers, § 4:37

Relevant community

- generally, § 4:12
- geographical community,
§ 4:13
- legal specialty community,
§ 4:14

STRUCTURED SETTLEMENTS

Common fund fee awards, § 2:31

STUDENT-RELATED ACTIONS

Desegregation and education, § 16:2

SUA SPONTE AWARDS

Award as sanction, § 7:56

SUBSTANTIAL BENEFIT

DOCTRINE

Basic fee award considerations,

§ 1:1, 1:4, 1:5

Common fund fee awards, § 2:1

Securities laws, § 8:4

SUBSTANTIAL

JUSTIFICATION

Awards under EAJA, § 26:1,

26:4-26:6, 26:13

Tax cases, § 21:2, 21:4, 21:9

SUBSTANTIALLY

PREVAILING PLAINTIFFS

Freedom of Information Act

(FOIA), § 20:1-20:6

SUBSTANTIVE ISSUES

Litigation bad faith, award as

sanction, § 7:11

SUCCESS ON MERITS

Statutory fee award entitlement,

§ 3:5, 3:6

SUMMARY DISPOSITION

Awards under EAJA, § 26:6

SUMMARY JUDGMENT

Award as sanction, § 7:38

SUNSET PROVISION

Tax cases, § 21:5

SUPERIOR SERVICES

Statutory fee calculation, § 4:30

SUPERVISORY TIME

Statutory fee calculation, § 4:9

SUPPORT FOR FEE REQUESTS

Common fund fee awards, § 2:22

SUPPORTING AFFIDAVIT

Procedures for statutory fees,

§ 6:8

SUPPORTING INFORMATION

Procedures for statutory fees,

§ 6:6

TAX CASES

Generally, § 21:1

Amount of fees, § 21:10

Charts

Civil Rights Attorney's Fees

Awards Act, § 21:11

Equal Access to Justice Act

(EAJA), § 21:11

Equal Access to Justice Act

(EAJA)

generally, § 21:2

prevailing party status, § 21:3

substantial justification test,

§ 21:4

Net worth requirement

generally, § 21:6

exhaustion of remedies, § 21:7

Prevailing party status

generally, § 21:8

substantial justification, § 21:9

Tax Equity and Fiscal

Responsibility Act (TEFRA),

§ 21:5

**TAX EQUITY AND FISCAL
RESPONSIBILITY ACT**

(TEFRA)

Tax cases, § 21:5, 21:8-21:11

TAX LIENS

Interpleader and indemnity

statutes, § 24:1

TENURE

Awards under EAJA, § 26:2

**THIRD-PARTY
PARTICIPATION**

Federal agency participation,

§ 25:1, 25:2

Interpleader and indemnity

statutes, § 24:3

INDEX

THRESHOLDS

- Eligibility, tax cases, § 21:6, 21:7
- Entitlement, basic fee award considerations, § 1:3, 1:5
- Prevailing party test, statutory fee award entitlement, § 3:2

TIME-BASED FORMULA

- Common fund fee awards, § 2:7, 2:15
- Compensable and noncompensable time for lodestar calculation, § 4:16-4:23
- Modest funds, common fund fee awards, § 2:9

TIME CONSIDERATIONS

- Dismissed defendants, procedures for statutory fees, § 6:15
- Fee petitions, award as sanction, § 7:14
- Investigation, award as sanction, § 7:27

TIMEKEEPING AND REPORTING REQUIREMENTS

- Common fund fee awards, § 2:13
- Patents, trademarks, and copyrights, § 17:2
- Procedures for statutory fees, § 6:10
- Reconstructed records, § 4:26

TIME LIMITATIONS

- Statutory fee calculation, § 4:34

TIME/RATE ELEMENTS

- Arguments for adjustments, procedures for statutory fees, § 6:11
- Basic guidelines, statutory fee calculation, § 4:1
- Burden of proof, statutory fee calculation, § 4:3
- Statutory fee calculation, § 4:16-4:23

TIMING CONSIDERATIONS

- Fee application, procedures for statutory fees, § 6:5
- Petitions, common fund fee awards, § 2:21

TITLE II

- Disability actions, § 12:8

TITLE VII

- Chart, employment discrimination, § 11:16
- Disability actions, § 12:3
- Employment discrimination, § 11:3, 11:4

TORT CLAIMANTS' COMMITTEE

- Bankruptcy, § 22:9

TOTALITY OF CIRCUMSTANCES

- Housing and condemnation, § 15:5

TOXIC SUBSTANCES CONTROL ACT (TSCA)

- Environmental protection, § 18:4

TRADEMARKS

- Patents, trademarks, and copyrights
- See PATENTS, TRADEMARKS, AND COPYRIGHTS

TRAVEL TIME

- Statutory fee calculation, § 4:9, 4:20

TREBLE DAMAGES

- Antitrust statutes, § 9:2

TRIAL COURT DISCRETION

- Common fund fee awards, § 2:7

TRUSTEES

- Attorneys, bankruptcy, § 22:8
- Common fund fee awards, § 2:1

TRUTH IN LENDING ACT

Consumer credit, § 19:1, 19:2,
19:5

12-FACTOR APPROACH

Common fund fee awards, § 2:3
Statutory fee calculation, § 4:2

25 PER CENT MAXIMUM FEE

Disability actions, § 12:8

28 USC SEC 1912

Award as sanction, § 7:52

28 USC SEC 1927

Award as sanction, § 7:58

28 USC SEC 2412(b)

Awards under EAJA, § 26:11

29 USC SEC 1132(g)(1)

Employee Retirement Income
Security Act (ERISA), § 27:2

29 USC SEC 1132(g)(2)

Employee Retirement Income
Security Act (ERISA), § 27:3

UNANTICIPATED

DEVELOPMENTS

Bankruptcy, § 22:1

UNDESIRABILITY OF CASE

Statutory fee calculation, § 4:34

UNFAIR COMPETITION

Patents, trademarks, and
copyrights, § 17:6

UNIFORMITY

Common fund fee awards, § 2:7

UNIFORM RATES

Statutory fee calculation, § 4:9

**UNIFORM RELOCATION
ASSISTANCE AND REAL
PROPERTY ACQUISITION
POLICIES ACT**

Housing and condemnation,
§ 15:5

UNITED STATES

Awards under EAJA, § 26:3, 26:4
Desegregation and education,
§ 16:5

Disability actions, § 12:10

Liability, award as sanction,
§ 7:25

UNJUST ENRICHMENT

Common fund fee awards, § 2:1,
2:5

UNNECESSARY DUPLICATION

Multiple attorneys, common fund
fee awards, § 2:13

UNNECESSARY HOURS

Statutory fee calculation, § 4:25

UNPAID BENEFIT

CONTRIBUTIONS

Employee Retirement Income
Security Act (ERISA), § 27:3

UNREASONABLE CONDUCT

Award as sanction, § 7:58

UNREGISTERED TRADEMARK

Patents, trademarks, and
copyrights, § 17:6

UNSUCCESSFUL MOTIONS

Statutory fee calculation, § 4:18

UNSUCCESSFUL V

SUCCESSFUL CLAIMS

Environmental protection, § 18:3,
18:4

Statutory fee calculation, § 4:17,
4:20

VARIABLE RATES

Statutory fee calculation, § 4:9

VEXATIOUS CONDUCT

Award as sanction, § 7:58

VOLUNTARY ACTION

Mooting of case, statutory fee
award entitlement, § 3:7

INDEX

VOLUNTARY DISMISSAL

- Award as sanction, § 7:40
- Securities laws, § 8:2

VOTING RIGHTS ACT

- Generally, § 14:1
- Chart of awards, § 14:3
- Preclearance review process,
§ 14:2

WAIVER

- Condition of defendant's settlement offer, statutory fee award entitlement, § 3:13
- Consumer credit, § 19:2
- Judicial immunity, awards under EAJA, § 26:1
- Settlement conditions, procedures for statutory fees, § 6:2
- Sovereign immunity, tax cases, § 21:2

WHENEVER APPROPRIATE - LANGUAGE

- Environmental protection, § 18:2,
18:3

WHO MAY SHARE IN AWARD

- Common fund fee awards, § 2:2

WHO PAYS

- Entitlement and who pays. See
BASIC FEE AWARD
CONSIDERATIONS

WINDFALLS

- Disability actions, § 12:8
- Statutory fee calculation, § 4:36

WITHHOLDING INFORMATION

- Freedom of Information Act
(FOIA), § 20:7, 20:8

ZONE OF REASONABLENESS STANDARD

- Procedures for statutory fees,
§ 6:16