

ATTORNEY FEES

Assume that you are giving an introductory lecture on attorney fees. § 11-1 et seq.

- A) What is the American rule? What are the policy reasons underlying the rule?
- B) What are statutory and common law exceptions to the rule? See pages 974-1010. See the Arkansas supplement.
 - 1) § 2-4-107
 - 2) § 4-56-101
 - 3) § 4-71-214
 - 4) § 4-75-607
 - 5) § 9-12-309
 - 6) § 11-9-715
 - 7) § 16-22-308
 - 8) § 16-22-309
 - 9) § 23-79-208
 - 10) § 26-35-902
 - 11) § 27-53-402
 - 12) § 28-48-108
 - 13) § 28-73-1004
 - 14) Contempt

- 15) Private Attorney General; #2-4, page 983
 - 16) Common fund; #5, page 984
 - 17) Substantial benefit; #6, page 985
- C) What are the procedural guidelines for attorney fees? See Rule 54 (e).
- D) How are fees calculated?
- a) lodestar method; #1, page 1003
 - b) prevailing market rate; #3, page 1005
 - c) upwards or downwards adjustments; See Perdue (998) and #1, page 1003
 - d) ethical issues; Rule 1.5 (b); see page 1007
- E) What other factors may be considered?
- a) the costs of litigation; #2, page 1004
 - b) support staff; #3, page 1005
 - c) discount fees for attorneys; #3, page 1005
 - d) the risk of non-recovery?
 - e) pre-existing contracts; #3, page 1010
 - f) inherent judicial control of fees
 - g) prevailing defendant; #5, page 996
- F) What unique issues are present in public litigation in Arkansas?
- a) Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002).
 - b) Jack Butt v. Evans Law Firm, 351 Ark. 566 (2003).
 - c) State of Arkansas v. Johnson & Johnson (2012).