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 930-972. 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; #2-3, page 939

16) Common fund; #4, page 940

17) Substantial benefit; #5, page 940

C) What are the procedural guidelines for attorney fees? See Rule 54 (e).

D) How are fees calculated?

a) lodestar method; #1, page 963

b) prevailing market rate; #9, page 966

c) upwards or downwards adjustments; #6, page 965

d) ethical issues; Rule 1.5 (b); see page 962 and 969

E) What other factors may be considered?

a) the costs of litigation; #8, page 965

b) support staff; #9, page 966

c) discount fees for attorneys; #9, page 968

d) the risk of non-recovery?

e) pre-existing contracts; #3, page 966

f) common fund cases; #4, page 940

g) inherent judicial control of fees

h) prevailing defendant; #4, page 945

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).