

I Didn't Want to be in Litigation; Will I Get My Attorneys' Fees Awarded to Me?

AUTHOR: ALLISON SCHREIBER LEE

It seems reasonable and logical: if you did not start litigation or want to be in litigation with your ex, you should get paid back all of the attorneys' fees you had to spend, right? Not so fast. Courts in Missouri abide by the "American rule" which provides that each party to litigation should be responsible for their attorneys' fees and costs.

This also applies to family law matters, except that there is some discretion with the courts to award fees if one party brought litigation in bad faith, or if one party was the cause of the litigation costs and fees to be unnecessarily high. Because family law matters are heard by a judge in Missouri, there is a tremendous amount of discretion for what the judge can order in fees- but it is often less than someone expects to receive, and rarely compensates them for all of the fees and costs they had to spend. Conversely, for someone ordered to pay fees because of their behavior during the litigation, they may have to pay more than they anticipated, even if they think they did what they had to, in order to protect their children.

Filing a family law matter is something that should be carefully considered, both in terms of fees that it may cost the moving party for their attorney, and for fees that they may have to pay to the other side. Before moving forward with any family law case, it's a good idea to consult with an attorney.

For questions about family law matters, please contact one of the family law attorneys at Sandberg Phoenix.