

LEGAL Q&A

Q Can my company recover its legal fees if we win a lawsuit that we file or if we successfully defend a lawsuit in which we are sued?

A New Jersey adheres to the American Rule regarding litigation fees and costs, where “the prevailing litigant is ordinarily not entitled to collect a reasonable attorney’s fee from the loser.”

However, the Legislature and the courts have recognized several exceptions to the general rule including costs in a family action, in a probate action, in an action for the foreclosure of a mortgage, in an action to foreclose a tax certificate or certificates, in an action upon a liability or indemnity policy of insurance, or as expressly provided by the New Jersey Court Rules with respect to certain specified actions. In addition to these allowances recovery of fees is allowed where expressly authorized by statute such as the Consumer Fraud Act, the Law Against Discrimination, the Environmental Rights Act, the Construction Lien Law, Prevailing Wage Act, Uniform Commercial Code and certain federal laws such as civil rights actions. Also, in 1988, the New Jersey Legislature enacted the New Jersey frivolous claims statute in which a prevailing party in a civil action may be awarded all reasonable litigation costs and attorney’s fees if the judge finds that a pleading was frivolous. Finally, parties to a contract may agree that in any dispute the prevailing party will be awarded reasonable attorney fees.



MORE

[Click for additional information from Giordano, Halleran & Ciesla, P.C.](#)



Michael J. Canning is a shareholder and Matthew N. Fiorovanti is an associate at Giordano, Halleran & Ciesla, P.C. in the firm’s Litigation Practice Area. They can be reached at 732-741-3900 or at mcanning@ghclaw.com or mfiorovanti@ghclaw.com.