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Practice Areas

Construction Law
Business Litigation
Alternative Dispute Resolution
Zoning, Planning and Land Use
Corporate Law and Governance
Real Estate and Finance
Bankruptcy and Insolvency

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Ask The Expert - Mass High Tech

If I win my claim in court, can I recover my attorneys' fees?

Tuesday, January 31, 2006

It is a common misconception that a prevailing party can recover attorneys' fees as an element of its damages. In fact, absent a contractual term that specifically spells out that the losing party pays attorneys' fees, or a statute that provides for recovery of attorneys' fees, each side is generally responsible for its own legal fees – regardless of the outcome. So, what can you do to prevent paying these additional fees? Consider adding a term to your standard contract that stipulates the payment of attorneys' fees in the event of a dispute. Remember that this is a double-edged sword, though. If you are the losing party, you'll pay two sets of attorneys' fees, which can make a bad situation much worse.