

FLSA LAWSUIT AGAINST THE COUNTY

FAQs About Attorney Fees and Litigation Costs

Well over 2,000 County employees have now signed up for the FLSA lawsuit against the County, including members of CAPE. In the process of answering member questions about the lawsuit, we've fielded several questions about how the attorney fees and litigation costs are being handled. Here are the most common questions:

Who are the attorneys handling the lawsuit, and what's their background? The attorneys on the case are from the Public Safety Labor Group and Rains, Lucia, Stern, St. Phalle & Silver. Both firms have decades of experience representing unions and handling FLSA lawsuits. Will Aitchison, the lead attorney from the Public Safety Labor Group, has recovered in excess of \$100 million in FLSA lawsuit for public safety employees, and has written books such as *The FLSA – A User's Manual*. Jacob Kalinski, the lead attorney from the Rains Lucia law firm, is a Santa Monica-based litigation attorney with extensive trial experience in federal and state court. Both firms bring teams of lawyers to the lawsuit, and have already worked hundreds of hours bringing the litigation to this point.

How are the attorneys being paid? The attorneys are working on a contingent fee basis, meaning they only are paid if they make a recovery on your behalf. The contingent fee is 25% of whatever gross recovery is made on your behalf.

Are the attorneys taking a percentage of the money the County has announced it will be paying employees? No. The attorney fees will only be charged on the additional amounts the attorneys are able to recover. This is built into the Attorney-Client agreement the attorneys and members sign.

How does a 25% contingent fee compare with other fee arrangements? In other FLSA, both firms (and many other law firms) use a graduated fee system, where the fee is 25% before litigation is filed, 33% where a case is settled prior to trial, 40% if the case is tried, and 50% if the case is appealed.

Why are the attorneys taking the case for lower than their normal fees? There are two reasons why the attorneys have agreed with CAPE to reduce their normal fees. First, the members of the Coalition of County Unions have agreed to advance the costs of litigation, something attorneys often do on their own. Second, since the gross recovery may be high, a 25% fee will still produce a fair result for both members and the attorneys.

How will the litigation costs be handled when the case is over? If a recovery is made, the unions that advanced the litigation costs will be repaid from the settlement proceeds. As we don't yet know how many employees will join the lawsuit or know with precision what the litigation costs will be, it is difficult to predict what the per-person repayment will be. Our best estimate is that each participant in the lawsuit will have their recovery reduced by \$5-10.