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## *Let's Win This!*

A Monthly Newsletter - What You Need to Know  
About Personal Injury Law

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The kids are back in school. With any luck, we've seen the last of days over the century mark.

We are, however, right in the middle of peak hurricane season, as Dorian illustrated. (If you want to learn why now is the worst time for hurricanes in the Atlantic, you can take a look at the NOAA page discussing that [HERE](#).)

In the section below the main article this month, you can find a suggestion for how you can help those adversely affected by the storm.

Of course, here at Stephens Anderson & Cummings, our mission is to deal with disasters on a more personal level. If you or a loved one are injured due to another person's negligence, one of the things that you'll want to know is what kinds of recovery you are permitted by law to pursue.

We've discussed the elements of damages common to almost all personal injury claims (if you'd like a refresher, you can find it [HERE](#).)

Many of our clients ask about attorney's fees and court costs - whether they can recover them, in addition to their other damages. That's what this month's issue is all about.

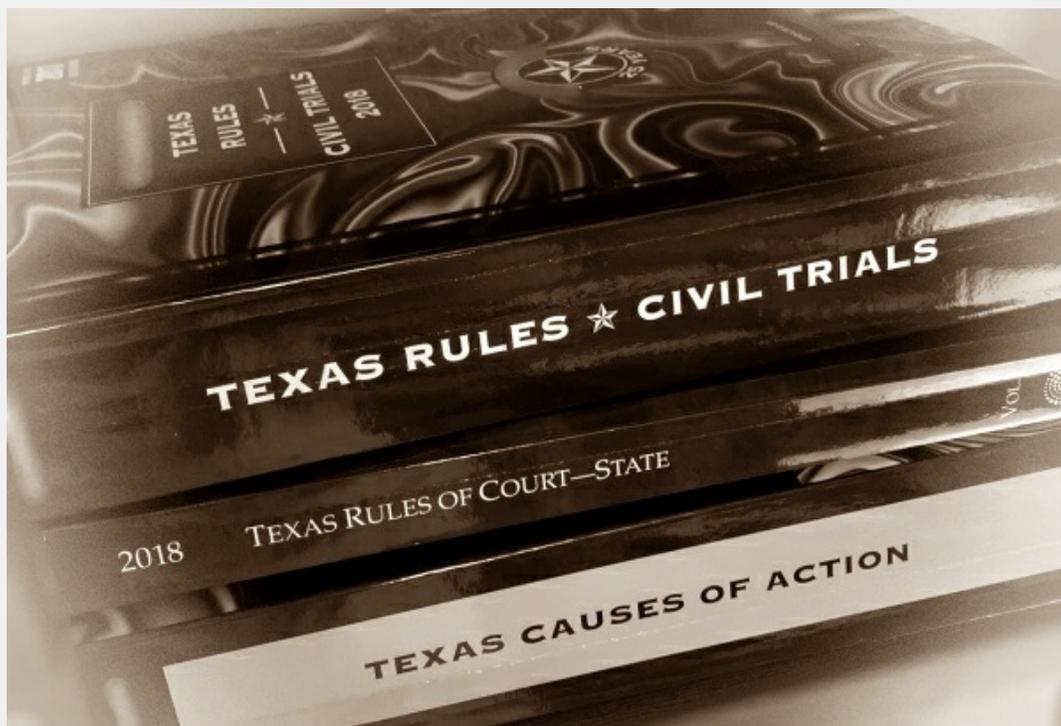
As always, if you have any questions about anything you see in this issue, or anything else related to the world of personal injury law, call, email, or chat through the website.

Helping good folks through bad times is our calling. If you need help, let us work for you. And, together, Let's Win This!



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## **Attorney's Fees and Court Costs**

You've heard the phrase "attorney's fees and court costs," usually in the context of someone threatening to sue for them. As in, "pay me what you owe me, or I'll sue you for it, plus attorney's fees and court costs."

Many people who come to SAC ask whether they can recover attorney's fees

and court costs in their personal injury case. The short answer is, "No, and yes."

No, you cannot recover your attorney's fees in a personal injury case.

Yes, you can recover court costs. But "court costs" probably doesn't cover everything you probably think it should.

### **First, the Easy Stuff: Attorney's Fees**

Let's talk first about attorney's fees.

The general rule in Texas (and the rest of the country, for that matter; thus its name: the "American Rule") is that litigants (people involved in lawsuits) must pay their own attorneys.

There are exceptions, but only in circumstances where the legislature has passed a statute that specifically says "in this kind of case, a successful party may recover their attorney's fees, in addition to the damages they sued for."

Those kinds of cases do not include personal injury claims.

(Remember our discussion of the essential elements of personal injury damages – what you can sue for? You can find that [HERE](#).)

Now, lawyers typically don't come cheap. Without getting into all the whys and wherefores, suffice it to say that it takes a considerable investment of time, money, and effort to become a lawyer, and the fees charged usually reflect that investment.

The simple truth is, very few people can afford to pay a lawyer's standard hourly fees, no matter how badly they need a lawyer's services.

If you've been injured due to someone else's negligence and have to pay a lawyer by the hour to represent you and can't afford it, the courts essentially are closed to you; obtaining justice is only a dream.

### **Enter the Contingent Fee**

So, the profession came up with a way that ordinary folks who need a lawyer's services can hire one without mortgaging hearth and home: the contingency fee.

The idea is simple. The lawyer gets paid a percentage of the recovery – but only if they're successful in *obtaining compensation* for the client. The theory is that the arrangement not only allows people in need to secure the services of an attorney, but it also provides extra incentive to maximize the recovery. The lawyer's interests are aligned with the client's.

That's how we work here at SAC. It allows us to fight for you and bring all of our resources to the battle. No matter how limited your means, with us on your side you can stand up to the biggest, most uncooperative insurance companies.

But the fact remains, you can't add the attorney's fees to the amount you're seeking in damages.

Court costs, however, are a different story. You *can* recover what are called "taxable court costs" in addition to the damages. The trick is that only a small part of your case expenses are considered "taxable court costs."

### Court Costs: What They Are & What You Can Recover

Let's start with the idea that you *can* recover costs. Rule of Civil Procedure 131 says that the "successful party to a suit shall recover ... all costs incurred" from the other party.

Of course, there are exceptions to the rule, like when you sue for slander or libel and the jury awards you less than twenty dollars. In that event, you don't recoup any costs (Rule 137). Or if the judge "for good cause" decides that you shouldn't get your costs back (Rule 141). But as a general proposition, if you win, you recover your "costs."

But what, exactly, are "taxable costs"?

The term probably does not include everything you think should be classified as "costs." It certainly does not mean "expenses" in the general sense.

When a "cost" is eligible to be charged to your opponent in the judgment, we say that it is "taxable."

For instance, in personal injury cases expert fees often are the most substantial chunk of case expenses. Even though "witness fees" are a taxable cost – to the tune of a whopping \$10 per day – the money that experts charge for their time (which is significantly more than \$10 or even \$100 per *hour*) is not a "taxable cost" and can't be charged to your opponent.



Here are some things classified as taxable court costs and, as such, can be awarded to you in the judgment to be paid by your opponent:

- Clerk's fees for filing.
- Fees for serving citations and subpoenas.
- Witness fees (again, limited by statute to \$10 per day).
- Court reporter fees for *original transcripts* of court proceedings and depositions (charges for copies are not taxable costs).
- Guardian *Ad Litem* fees (we'll talk a lot more about guardians *ad litem* in future issues of *Let's Win This!*).
- Mediator's fees.

There is a big catch-all: Various rules and statutes give the trial judge considerable discretion to order litigation expenses as costs. That means pretty much anything the judge decides *should* be taxed as costs *may* be, as long as

she can articulate a reason.

Unfortunately, the cases consistently hold that experts' fees still don't qualify.

### **Who Keeps Track?**

When you're successful in your case, the judgment will award you a specific amount of money - the amount of damages found by the jury, plus interest (see our discussion about the questions the jury will be asked [HERE](#) and [HERE](#)).

The judgment will not, however, specify the amount of taxable costs. It simply will say that "costs are taxed against" the losing party.

While the court clerk generally will provide a "Bill of Costs" showing the amounts paid to the court system, if a party wants to recover costs, that party is responsible for keeping track of the taxable costs spent on a case. (Civil Practice & Remedies Code § 31.007)

You may wonder how you go about enforcing a judgment - whether for damages or taxable costs or both. That's a complicated enough question to be the subject of an issue of *Let's Win This!* all to itself.

Now, however, the next time you hear the phrase "attorney's fees and court costs," you'll know what it means and whether it applies to your situation.

In the meantime, rest assured that, even though we can't make attorney's fees part of the damages recoverable in your personal injury case, Stephens Anderson & Cummings is dedicated to obtaining for you everything the law allows.

Keep coming back for more information about the world of personal injury law.

***Let's Win This!***

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***Stephens Anderson & Cummings***  
***How You Can Help***

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## A Monster Named Dorian

When disaster strikes, whether on a personal or global scale, the desire to help is almost universal. At Stephens Anderson & Cummings, we've dedicated our careers to being there when bad things happen to good folks on an individual or family level, so we understand and share the desire to do something about the devastation Hurricane Dorian has caused.

At this writing, at least 43 are dead and dozens more unaccounted for in the Bahamas with massive, unimaginable property loss. Islands in North Carolina's Outer Banks have been inundated and cut off from the safety and supply lines of the mainland. Four deaths thus far in the United States have been blamed on the storm. Destruction has spread even into Canada because of torrential rainfall.

It's easy to feel helpless at times like these, but there are ways you can help. Many disaster relief organizations like the [American Red Cross](#) are working to bring aid to those affected. But there is a group you might not have heard about that deserves consideration.

**All Hands and Hearts – Smart Response** is a volunteer-based relief organization formed in 2017 by the merger of All Hand Volunteers and Happy Hearts Fund. You can find the story about how this volunteer-fueled response engine came into being [HERE](#). Please take the time to read it; it's truly inspirational.

Tragedy can make people feel isolated, alone and hopeless. [All Hands and Hearts – Smart Response](#) is one way you can help, whether by volunteering your time and talents or sharing your resources. They know how to turn good wishes into concrete assistance, responding first when catastrophe hits and staying long to support rebuilding.

*Let's Win This!*

Explore the Stephens Anderson & Cummings Website

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## WHY Stephens Anderson & Cummings?

*Aggressive. Experienced. Trusted.*

Righting wrongs for seriously injured people isn't just a job for us - it's our calling.

Fighting for seriously injured folks is what we do. And it's all we do.

If you want to make a will or form a corporation or conduct a business transaction, we can give you the names of some other lawyers to call.

But if you or a loved one have been seriously injured - or suffered a wrongful death in the family - we're your team. We're AV rated (that's the highest) and we have the drive, experience, and tenacity to stand toe-to-toe with anyone on behalf of our clients.

We're not "TV advertisers." We're real trial lawyers with a long track record of success.

We're not a "mill." We don't take every case that comes along. We understand that your circumstances are as individual as you are.

At Stephens Anderson & Cummings, every single client is unique; every single client is important. We pay personal attention to every single one.

*Don't get lost in the shuffle.*

Let Us Fight For You

[Compare Our Credentials](#)

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## *Fellow Lawyers: We Value Your Referrals*

At Stephens Anderson & Cummings, we appreciate that different lawyers have different areas of expertise. If your clients find themselves in a situation that falls within ours, we would be honored to work with you, helping them obtain justice - fighting for the best possible result.

We work hard, spare no expense, and pay referral fees promptly.

We know that your clients are important to you. We know that you represent them zealously in your area of practice. If we can't help them, we'll send them back to you.

Righting wrongs for those injured or killed due to the negligence or wrongful conduct of others is what we do. Trust us with your client's case and

*Let's Win This!*

[Click here to learn more about referrals!](#)

## Get Help Now,

817.920.9000

Toll Free - 877.920.9009

Principal Office - Fort Worth - 4200 W Vickery Blvd. - Fort Worth, TX 76107

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Dallas Office\* - 3131 McKinney Avenue - Suite 600 Dallas, TX 75204

Oklahoma City Office\* - 3030 Northwest Expressway , Suite 200, #130  
Oklahoma City, OK 73112

\*By appointment only

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