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LSAT Prep Company Ordered to Pay \$927K in Legal Fees

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A test prep company has been ordered to pay more than \$900,000 in legal fees and costs to plaintiffs who accused the company of violating District of Columbia consumer protection laws.

Three prospective law students who signed up for LSAT prep courses through Test Masters Educational Services Inc. (TES) sued the company in 2004, claiming they were deceived into thinking they were enrolling in TestMasters, a competitor.

A federal district judge in Washington ruled in favor of TES, dismissing the plaintiffs' claims for fraud, negligent misrepresentation and violations of the D.C. Consumer Protection Procedures Act. The U.S. Court of Appeals for the D.C. Circuit reinstated the consumer protection claims, which involved allegations that TES failed to correct the plaintiffs' alleged misunderstanding about which company they were contacting.

U.S. District Senior Judge Royce Lamberth in December 2013 found that TES was liable and awarded each of the plaintiffs \$1,500 in damages. As the winning party, the plaintiffs filed a petition asking for \$963,415 in attorney fees and costs. They argued that TES' "scorched-earth litigation tactics" over the past decade drove up their fees.

Lawyers for TES urged the court not to award any fees, calling the request "grossly abusive," unreasonable and unjustified. They argued that the lawsuit was financed and directed by TestMasters founder Robin Singh and that Singh, as a nonconsumer competitor, wasn't entitled to the benefits of the consumer protection law.

There's a long history of bad blood between Singh and TES. Singh unsuccessfully took TES to court over its use of the name "Test Masters." In the 2011 opinion reviving the consumer protection claims in the D.C. case, the D.C. Circuit noted that Singh was funding and directing the litigation.

In his ruling on Monday awarding fees, Lamberth rejected TES' claims that the plaintiffs failed to provide necessary documents to support the fee petition and found that TES didn't make specific enough objections to certain billing entries. The company's "broad objections, lacking even specific invoice numbers or dates to help identify the problematic billing entries, are not sufficient to rebut the presumption that plaintiffs' hours request is reasonable," the judge wrote.

The judge found that the hourly rates charged by the plaintiffs' lawyers—between \$250 and \$400—were reasonable. Lamberth acknowledged that there was a large difference between the amount of damages awarded to the plaintiffs and the amount of money their lawyers sought, but said the court didn't require fee awards to be "proportionate to a merits award." Singh's role in financing the litigation didn't undermine the fee request, he added.

The judge did reduce the fee request to account for work on an unsuccessful motion for sanctions filed by the plaintiffs. He awarded \$854,623 in fees and \$73,083 in costs, for a total of \$927,707.

Hassan Zavareei of Tycko & Zavareei in Washington, a lead attorney for the plaintiffs, said on Tuesday that they were pleased with the ruling. TES, he said, "took an all or nothing approach—they refused to engage in any analysis of the actual bills."

A lawyer for TES, Kevin Jewell of Chamberlain, Hrdlicka, White, Williams & Aughtry in Houston, could not immediately be reached.

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