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## ATTORNEYS' FEE AWARD CANNOT BE BASED ON FINANCIALLY UNREASONABLE CONTINGENCY AGREEMENT

September 25, 2012 | Law Alerts

*Geller v. Lesk*

Ct. Appeals, Division One, September 25, 2012

Authored by the [JSH Appellate Team](#)

Generally, a court will enforce a contractual provision providing that a party will recover attorney's fees. The court, however, retains discretion to limit the award to a reasonable amount. Once the requesting party makes a prima facie showing that its fees are reasonable, the burden shifts to the other party to demonstrate the amount is clearly excessive. If excessive, the court has the discretion to reduce the attorney's fees to a reasonable level.

Here, the contracting parties agreed to pay attorney's fees expended in collecting on a note, but they did not agree to a specific amount. The lender requested its contingency fee of 25% of the promissory note, which would have resulted in an award of \$175,098.73 for approximately 100 hours of work, or about \$1,750 per hour. Such an award is not reasonable and was not supported by billing logs or other evidence. The fee award was vacated and remanded to the trial court for a determination of a reasonable amount.