ATTORNEY FEE SHIFTING: A BIBLIOGRAPHY

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In the United States the client traditionally pays his or her own attorney; this practice is known as the American rule. “Attorney fee shifting” refers to situations in which the loser pays all or part of the winner’s fee. In the United States fee shifting occurs under the application of a federal or state statute, a contract, or one of the several equitable exceptions to the American rule. The following bibliography gives citations for articles and books that discuss the theory of the American Rule versus the English, Continental, or European Rule, as it is variously called, by which the losing litigant pays, and the development and application of the equitable and statutory exceptions to the American rule. This is not a comprehensive bibliography on the subject of fee shifting, and the selections are for the most part more theory than practice oriented. The criteria for the bibliography arose from research done by Duke Professor Thomas D. Rowe, Jr.¹ and from the coverage of the conference that took place at Duke University on November 11-13, 1982.

Each issue of the ATTORNEY FEE AWARDS REPORTER, published bimonthly by Law & Business, Inc., has a current list of federal statutes authorizing attorney fees.

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¹ See Rowe, The Legal Theory of Attorney Fee Shifting: A Critical Overview, 1982 DUKE L.J. 651; Rowe, Predicting the Effects of Attorney Fee Shifting, LAW & CONTEMP. PROBS., Winter 1984, at 139.


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