

## First Circuit Upholds Limits On Whistleblower Attorney Fees in Maritime Case

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The First Circuit Court of Appeals has upheld limits on contingency fees sought by an attorney who represented whistleblowers involved in the prosecution of Overseas Shipholding Group, Inc. for various unlawful oil discharges and false record books. The attorney successfully represented two of the twelve whistleblowers who sought whistleblower awards for their part in the successful prosecution of OSG, which resulted in a \$10.5 million fine against OSG. Under the terms of his contingency fee agreement, the attorney was entitled to 33% of the \$437,500 awards paid to each of the whistleblowers, or a total fee of \$145,833 per client. The district court found the fees to be unethically excessive, and limited them to \$25,000 per client. The district court went on to disallow the fees associated with one of the whistleblowers, based on concerns that the attorney may have violated the “spirit, if not the letter” of several ethical rules. In its decision, the Court of Appeals upheld the application of limits to the contingency fees, applying a multi-factor test and noting that almost all of the work in procuring the whistleblower awards was done by government attorneys. However, the court restored the fees for the second whistleblower, concluding that the attorney’s conduct in representing the sailor was permissible under the applicable ethical rules.

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