

**COURT OF APPEAL, FIRST CIRCUIT  
STATE OF LOUISIANA**

RE: Docket Numbers 2014-CA-0336 and 2014-CA-0337

Board of Ethics In The Matter of Scott Fontenot  
Division of Administrative Law  
Cases: 2011-9164, and 2012-10612  
Louisiana Board of Ethics

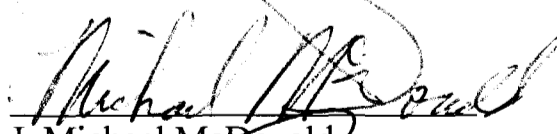
In this matter, the appellee, Scott Fontenot, prevailed on appeal and this court entered a judgment in his favor and against the appellant, the Board of Ethics (BOE), by affirming the decision of the Ethics Adjudicatory Board (EAB). Mr. Fontenot has now requested a rehearing on the issue of attorney fees and costs claiming he is entitled to \$38,500.00 on each appeal for a total of \$77,000.00.

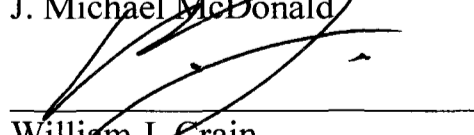
Louisiana Revised Statute 42:1142(2)(b) provides that if the BOE does not prevail in the final disposition of its appeal, the BOE shall be responsible for the payment of reasonable attorney fees and court costs of the other party inclusive of all stages of litigation and appeal. It also provides that the court of appeal shall determine the amount of attorney fees and they shall be set forth in the court's judgment. La. R.S. 42:1142(2)(c).

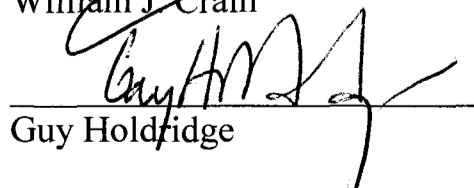
However, as we point out in the original opinion, we have no means of determining the factors found in Rule 1.5(a) of the Rules of Professional Conduct and the court of appeal does not accept evidence. While providing for the determination of the attorney fees and costs, La. R.S. 42:1142(2) has no provision for how this is to be done. While somewhat unwieldy, we believe the best practice is for the EAB to allow for the introduction of such evidence and allow the BOE to traverse it. While this invariably involves the taking of evidence in some cases where the BOE does not appeal, we know of no other method to provide a complete record when such an appeal is taken. In the present case there is no such record for us to review. It is incumbent on the party seeking attorney fees and costs to insure the record is complete. Perhaps the amount of attorney fees and costs sought might be a factor in the BOE's decision on whether to appeal or not. Of course, if the person or entity who is charged by the BOE does not prevail before the EAB, then there is no need for such a hearing since they are not entitled to attorney fees and costs if they are the ones who appeal.

For these reasons, the application for rehearing is denied.

**On Applications for Rehearing filed on 01/12/2015 by Scott Fontenot and Fontenot & Associates, LLC.  
Rehearing: DENIED.**

  
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J. Michael McDonald

  
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William J. Crain

  
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Guy Holdridge

COURT OF APPEAL FIRST CIRCUIT  
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MAR 26 2015

Christine L.   
Clerk