

## Attorneys seek more than \$2 million in fees for same-sex marriage suit

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Tennessee State Capitol  
NASHVILLE, TN (WSMV) -

The State of Tennessee could have to shell out more than \$2 million to pay attorneys who convinced the Supreme Court to lift the state's ban on same-sex marriage.

A motion has been filed in federal court and the state has a little more than a month to respond.

Civil rights attorneys almost always work pro-bono, which is how the fee shifting provision came into play several decades ago.

It basically said that prevailing attorneys have the right to get reimbursed by the losing party for their work. In this case, it's the state.

When the Supreme Court affirmed gay marriage at the end of June, most of the attention was focused on the battle itself.

This week a new battle is brewing over how much the state will have to pay to the plaintiffs in attorney's fees. That group has filed a motion in federal court seeking \$2.3 million.

"It will be up to the judge to decide, based on the particular arguments of the attorneys, whether the rates were reasonable and whether the amount of time was reasonable," said Nashville attorney Ben Raybin.

Raybin recently wrote an entire brief on the issue of fee shifting in civil rights case. While the law provides for this, it's not something seen every day.

"People file civil rights lawsuits all the time, but they don't always win," said Raybin. "It's only if someone wins in one of these cases that you could ever get a penny for the attorney who worked on the case."

Because the case is still tied up in court, the state declined to comment on the specifics, but did issue a statement.

“The dollar amount being requested is significantly greater than in the other Sixth Circuit states involved in the same-sex marriage case,” the statement read.

Michigan paid out \$1.9 million in attorney fees, Ohio paid \$1.3 million and attorneys in Kentucky have asked for \$1.2 million.

While the attorneys in Tennessee are seeking more than the three other states, it’s not at all clear what a judge might decide in the end.

“It’s purely discretionary for the trial judge to decide whether to give attorney’s fees and how much to allocate in attorney’s fees,” said Raybin.

The state attorney general has until Dec. 9 to respond to the motion.

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