

State Ordered to Pay Legal Fees for Withholding Data

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Six months after the Court of Appeals unanimously chastised New York state for improperly withholding public information, a judge has ordered the state to pay \$51,288 in attorney fees. But the judge, Supreme Court Justice Eugene P. Devine in Albany, dramatically cut down the hours and rate requested by Tully Rinckey, and said a partner cannot charge the state for his public relations efforts.

Matter of Schenectady County Society for the Prevention of Cruelty to Animals v. Mills

, 3708-08, dates back to 2008, when the SPCA asked the Department of Education for the names and addresses of all licensed veterinarians and veterinary technicians in Schenectady County. After several years and a lengthy court battle, the Court of Appeals held last fall for the SPCA. Tully Rinckey then requested \$181,462 in fees and costs. But Justice Devine awarded less than a third of the amount requested, finding that it should not have taken the firm 533 hours to pursue a Freedom of Information Law request. Justice Devine also rejected the \$450 per hour rate requested for partners, \$300 per hour rate for associates and \$120 per hour rate for clerks and paralegals. He cut the partner rate to \$225, the associate rate to \$175 and the paralegal/clerk rate to \$75 per hour.

The judge said the 10 hours partner Mathew Tully "expended on media relations and news interviews is not chargeable." Gregory Rinckey, who argued for the firm, said the "landmark victory...provides a warning to all governmental agencies that these type of requests are not to be ignored." He said the firm will donate the entire recovery to the SPCA. There was no immediate response from the state.

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