

# **Bond Case Briefs**

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## **ATTORNEYS' FEES - DELAWARE**

### **In re Delaware Public Schools Litigation**

**Supreme Court of Delaware - January 30, 2024 - A.3d - 2024 WL 332738**

Non-profit organizations brought actions for declaratory and injunctive relief against county officials responsible for property tax collection, seeking increased funding for state's public schools.

After trial on the merits, the Court of Chancery concluded that officials used methodologies in preparing property tax assessments that violated state's True Value Statute and state Constitution's Uniformity Clause, and at remedial phase, parties reached settlement, pursuant to which a general property tax reassessment would be conducted.

Organizations moved for award of attorneys' fees and expenses. The Court of Chancery determined that organizations were entitled to attorneys' fees under common benefit doctrine, as exception to American Rule that litigants bear their own cost of being represented by counsel, and later awarded organizations \$1,476,001.88 in attorneys' fees and \$73,470.02 in uncontested expenses. County officials appealed.

The Supreme Court held that:

- Benefit from county officials being compelled to perform properly was insufficient to warrant attorneys' fee award under common benefit doctrine;
- Speculative benefit from school districts choosing to increase taxes did not support fee award under common benefit doctrine;
- Benefit from updated property tax reassessments did not support fee award under common benefit doctrine;
- Benefit from achieving "vertical equity" in "regressive" tax system did not support fee award under common benefit doctrine;
- Precedent rejecting private attorney general doctrine, as exception to American Rule, would not be revisited;
- Organizations lacked taxpayer standing, for purposes of taxpayer-suit theory for common benefit doctrine; and
- Organizations failed to meet taxpayer-suit theory's requirement of quantifiable, non-speculative monetary benefit for all taxpayers.