

## Pre-Buckhannon (2001) housing cases re catalyst theory

Before 2001, courts almost always found that a party prevailed under § 1988 if there was a “link” between the filing of the civil rights action and the remedial action of the defendant. A plaintiff was considered a “prevailing party” if it succeeded on any significant issue and achieved some of the benefit sought.<sup>1</sup> The courts explained that a “link” meant that the plaintiff’s suit was a substantial factor or a significant catalyst in effecting the relief sought,<sup>2</sup> and settlement could suffice.<sup>3</sup>

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<sup>1</sup>See *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). For cases discussing the issues relating to “prevailing party,” as previously understood, see *Wooten v. Hous. Auth. of Dallas*, 723 F.2d 390, 392 (5th Cir. 1984) (fee must be awarded if plaintiffs made important contribution to improvements achieved); *Jaimes v. Toledo Metro. Hous. Auth.*, 715 F. Supp. 843, 845-46 (N.D. Ohio 1989) (awarding fees under § 1988 where plaintiffs succeeded on a significant issue in intentional discrimination and segregation case); *Brown v. Arlington Hous. Auth.*, No. 83-1512-MA, 1984 WL 987036 (D. Mass. June 21, 1984), 18 CLEARINGHOUSE REV. 543 (No. 36,805 Oct. 1984) (granting attorney’s fees to tenant after determining that lawsuit was necessary to achieve relief obtained and absence of fee provision within housing statute did not limit § 1988 fees) (Companion Website).

<sup>2</sup>See *Williams v. Hanover Hous. Auth.*, 113 F.3d 1294, 1299-1300 (1st Cir. 1997) (plaintiffs entitled to fees under § 1988 because decision in suit challenging restriction on portability was catalyst for defendant’s policy change); *Wooten*, 723 F.2d at 392 (remanding case to district court to determine whether plaintiff’s case was a substantial factor or significant catalyst in defendant housing authority’s decision to stop requiring tenants to submit deposits to obtain pre- eviction hearing); *Staten v. Hous. Auth. of Pittsburgh*, 638 F.2d 599, 605 (3d Cir. 1980) (plaintiff entitled to fees if case was catalyst for the vindication of constitutional rights); *Collins v. Martinez*, 751 F. Supp. 16 (D.P.R. 1990) (plaintiffs entitled to fees for only partial success on due process claim); *O’Brien v. Town of Westerly Hous. Auth.*, 626 F. Supp. 1065 (D.R.I. 1986) (awarding fees in Section 8 certificate termination case where notice ordered by court before termination was materially significant and beneficial to plaintiffs); *Murphy v. Phila. Hous. Auth.*, 605 F. Supp. 46 (E.D. Pa. 1985) (sequence of events suggested that plaintiff’s suit was material factor in vindication of rights); *Sharrock v. Harris*, 489 F. Supp. 913, 915 (S.D.N.Y. 1980) (awarding fees in case that conferred benefits on class including changes in the model lease, rent increase procedures, and grievance procedures); *McClellan v. Hous. Auth. of Champaign*, No. 78-0186-D (C.D. Ill. Sept. 24, 1979), 14 CLEARINGHOUSE REV. 172 (No. 28,457 June 1980) (plaintiffs prevailed in due process challenge to conversion to individualized utility metering system which would result in bills higher than HUD-approved rate schedules); *Wright v. Buffalo Mun. Hous. Auth.*, No. 77-88 (W.D.N.Y. Oct. 25, 1978), 12 CLEARINGHOUSE REV. 557 (No. 22,539 Jan. 1979) (tenants prevailed in action to enjoin PHA from evicting without prior due process hearings where evictions arose from nonpayment of assessed utility charges) (Companion Website); *Brooker v. Mount Vernon Hous. Auth.*, No. 76 Civ. 2358, 1978 U.S. Dist. LEXIS 18520 (S.D.N.Y. Apr. 7, 1978), 12 CLEARINGHOUSE REV. 412 (No. 19,475 Nov. 1978) (plaintiffs prevailed in action to challenge PHA’s rent increase practices) (Companion Website).

<sup>3</sup>See, e.g., *Maher v. Gagne*, 448 U.S. 122, 129 (1980) (plaintiff who vindicated his rights through settlement considered “prevailing party”); *Fair Housing Ctr. of Sw. Mich. v. Hunt*, 2013 WL 5719152 (W.D. Mich. Oct. 21, 2013) (settlement sufficient for prevailing party status under *Buckhannon*); *Jones v. Orange Hous. Auth.*, 559 F. Supp. 1379, 1383-84 (D.N.J. 1983) (rejecting defendant’s argument that fee award is unjust where defendant claimed prompt settlement to avoid substantial legal fees). See also *Lee v. Hous. Auth. of Kansas City*, No. 83-0152-CV-W-6 (W.D. Mo. Mar. 26, 1984), 17 Clearinghouse Rev. 174 (No. 34,210 June 1984) (attorney’s fees awarded despite plaintiffs’ voluntary dismissal).