

Vermont – High-Stakes Common Fund Appeal

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Laura D. Devine

Victoria E. Taravella

April 21, 2025

Attorneys Laura Devine and Victoria Taravella recently represented an attorney and law-firm client before the Vermont Supreme Court in a significant case addressing the scope of the common fund doctrine in Vermont and unjust enrichment claims between opposing law firms.

The case arose from a personal injury matter in which the law-firm client secured a confidential settlement for its own personal injury client. Counsel for the uninsured employer in the underlying personal injury matter, later sued the law-firm client, and claimed that it was entitled to a portion of the law-firm client's contingency fee. In support, counsel for the uninsured employer argued that its own litigation efforts led to the settlement and that they were entitled to compensation under the doctrine of unjust enrichment. The trial court awarded counsel for the uninsured employer a limited quantum meruit judgment of \$72,509—far less than the amount originally claimed. The trial court also denied the uninsured employer's counsel's motion for extensive attorney's fees in prosecuting the unjust enrichment action. affirming the American Rule.

Attorney Devine appealed the decision to the Vermont Supreme Court, and argued that:

- Counsel for the uninsured employer conferred no direct benefit on the law-firm client to support unjust enrichment;
- There was no common fund in this instance;
- The common fund doctrine was misapplied and overextended;
- And affirming the decision would create radical precedent for fee-sharing between opposing counsel.

Oral argument was presented in April 2025, and the case is now pending decision.

The oral argument is available on [YouTube](#).

Result to Date (Trial Court):

- ☐ Judgment limited to \$72,509—less than one-third of the amount sought
- ☐ Attorney's fees motion *denied* in full
- ☐ Co-defendant and individual attorney dismissed from case

Status:

The Vermont Supreme Court granted our requested relief and ordered the trial court to reverse the entry of judgment in favor of the Plaintiff and enter judgment in favor of the Defendant. [Court Order Reversed and remanded for trial court to enter MSJ in favor of D-7.18.25-4926-8568-0726.1 \(PDF\)](#)

