

TOWNSHIP OF UPPER DEERFIELD

RESOLUTION 10-241

**RESOLUTION SUPPORTING S-2404
CAPPING ATTORNEY FEES IN LITIGATION AGAINST PUBLIC ENTITIES**

WHEREAS: Public Officials and Employment practices claims against municipalities have increased dramatically during the past several years; and

WHEREAS: According to a ten year closed claim study recently completed by the Municipal Excess Liability Joint Insurance Fund, the cost of employment practices liability claims per employee was \$26 in the year 2000 and increased to \$125 per employee for most of the decade; and

WHEREAS: According to the same study, the cost per employee increased 175% to \$354 per employee in just the past two years; and

WHEREAS: 65% of these claims are for police and the 2011 projected cost of these claims is \$740 per officer; and

WHEREAS: Legal fees historically represent over 70% of the cost of these claims; and

WHEREAS: Provisions in various laws such as LAD and CEPA providing for fee shifting have encouraged attorneys to make unreasonable demands in otherwise minor cases; and

WHEREAS: John Farmer, Dean of the Rutgers Law School and former NJ Attorney General stated: "Even cases with marginal relevance are now being presented by plaintiffs' counsel as having substantial settlement value"; and

WHEREAS: in a recent case, a NJ court awarded the plaintiff's attorney a fee of \$450,000 even though the jury awarded his client only \$20,000; and

WHEREAS: The explosion of employment practices cases will continue until reasonable caps are placed on legal fee applications.

NOW THEREFORE BE IT RESOLVED By the Governing Body of the Township of Upper Deerfield that: the legislature is urged to adopt S-2404 placing a cap on attorney fee awards in fee shifting cases against public entities as follows:

- For awards (compensatory and punitive damages combined) of \$50,000 or less, the maximum fee award should be \$50,000, though a lower fee should be awarded if warranted based on considerations of reasonableness
- For awards over \$50,000, the fee award should not exceed the verdict, though a lower fee should be awarded if warranted based on considerations of reasonableness; and

BE IT FURTHER RESOLVED THAT a copy of this resolution shall be sent to the legislative delegation of the third district, the Governor, the Senate President, Majority Leader and Minority Leader, as well as the Assembly Speaker, Majority Leader and Minority Leader.

Moved By: Bruce Peterson

Seconded By: Scott Smith

VOTING

James P. Crilley
John L. Daddario
John T. O'Neill
Bruce T. Peterson
Scott Smith.

<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
X			
X			
X			
X			
X			

CERTIFICATION

I hereby certify that the foregoing is a true copy of Resolution adopted by the Township Committee of the Township of Upper Deerfield, in the County of Cumberland, at a meeting thereof held December 16, 2010.

Roy J. Spoltore, Township Clerk