



# The Huntsville Times

## Court denies fees for Axion owner

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Alex Latifi won't get \$363,956 to cover attorney expenses

A federal appeals court panel said Wednesday that a Huntsville businessman is not entitled to recover attorney's fees related to his successful defense of federal criminal and civil cases, as had been ordered.

A three-judge panel from the 11th Circuit Court of Appeals said that Alex Latifi, owner of defense contractor Axion in Huntsville, should not be awarded \$363,956 to cover attorney's fees as directed by a federal district court in Birmingham.

The appeals court said the award was outside the scope of the law that Congress designed to provide relief in civil government asset seizure cases. It said the law did not allow for fee-shifting from the costs of the criminal defense to the civil forfeiture defense.

The panel's decision was 2-1.

Jim Barger, one of Latifi's attorneys, said they will review the decision, but he expects they will ask the full 11th Circuit Court to hear argument.

"This is a case of first impression," Barger said. "No other court in the country has considered this. It will affect every parallel criminal and civil action from here on out."

Latifi has been in the midst of prolonged government court action for more than three years.

An investigation into his business, fueled by a disgruntled employee later convicted on embezzlement charges, led government agents to seize Axion bank accounts and company property in Huntsville in June 2006. Latifi was indicted on export violation charges in March 2007, related to the design of a tungsten vibration damper for Blackhawk helicopters.

His trial was held in October 2007. After a government witness acknowledged the related plans that Latifi had faxed to a China-affiliated company were not stamped "classified" and the judge noted the plans could even be found on the Internet, Latifi was acquitted on all charges.

Following the acquittal, Latifi's lawyers petitioned the court for legal fees, arguing that a federal law that allows legal fees to be awarded in cases defending against a government civil action should also cover the costs of his criminal defense.

The argument centered on the idea that Latifi could not win the civil case - that is, recovery of his assets - unless he was successful in his criminal defense.

District Court Judge Inge Johnson agreed and awarded some \$336,000 to Latifi for legal costs. The bulk of the costs were incurred during the criminal case.

The government appealed that ruling to the federal appeals court panel, and it reversed Johnson's order. The judges found that the law passed by Congress regarding civil recovery did not apply in criminal cases and ordered Johnson to reconsider the award.

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