United States Court of Appeals
For the First Circuit

Nos. 24-1786
25-1067

KEILA GARCÍA COLÓN,

Plaintiff, Appellant,

v.

STATE INSURANCE FUND CORPORATION,

Defendant, Appellee,

INSURANCE COMPANY A, B AND C,

Defendant.

APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

[Hon. Raúl M. Arias-Marxuach, U.S. District Judge]

Before

Gelpí, Hamilton,* and Aframe,
Circuit Judges.

Juan R. González Muñoz, with whom Gonzalez Muñoz Law Offices, P.S.C., Natalia E. del Nido Rodríguez, and Casillas, Santiago & Torres LLC were on brief, for appellant.

Peter W. Miller, with whom Javier A. Vega Villalba, and Weinstein-Bacal, Miller & Vega, P.S.C. were on brief, for appellee.

* Of the Seventh Circuit, sitting by designation.

February 27, 2026

HAMILTON, Circuit Judge. Plaintiff Keila García Colón ("García") works as a nurse for Puerto Rico's State Insurance Fund Corporation ("SIFC"). In 2021, after making a complaint against another employee, she brought this suit alleging unlawful retaliation in violation of Title VII of the Civil Rights Act of 1964 and Puerto Rico Law 115. García won a jury verdict and was ultimately awarded $300,000 in damages.

These appeals are not about that verdict but about what came after. They present three distinct sets of issues. First, the district court denied García's motion for a permanent injunction. García challenges that denial. Second, the district court later awarded García approximately $301,000 in attorney fees and costs under the Title VII fee-shifting provision, 42 U.S.C. § 2000e-5(k). García challenges the fee award as insufficient. Third, the SIFC did not appeal the final judgment or the fee award. Citing Puerto Rico Act No. 66-2014, as amended by Act No. 68-2023, P.R. Laws Ann. tit. 3, §§ 9141-42, the district court nevertheless stayed execution of the judgment and fee award until the Secretary of Justice approves a payment plan stretching out payments over at least three years. García also challenges that stay of execution.

We affirm the denial of the permanent injunction and the award of attorney fees and costs. We already lifted the stay of execution shortly after oral argument in October 2025. We explain our reasons in this opinion.

Part I of this opinion lays out the relevant facts and procedural history. Part II affirms the denial of a permanent injunction. Part III affirms the attorney fee award. Part IV explains why § 9141 cannot be applied to delay indefinitely the execution of this federal judgment.

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

We state the facts in the light most favorable to the jury's verdict, without necessarily vouching for the objective accuracy of each fact. Diaz v. Jiten Hotel Management, Inc., 671 F.3d 78, 80 (1st Cir. 2012).

A. GARCÍA'S EMPLOYMENT AND SEXUAL HARASSMENT COMPLAINT

García has worked as a nurse since 2004 for the State Insurance Fund Corporation, also known as SIFC or El Fondo, which administers the worker's compensation system in Puerto Rico. In 2014, she asked to work out of SIFC's Arecibo Regional Office, and she worked there until 2023. Among her duties, she administers medication, supports doctors, and evaluates patients. By all accounts, she is an excellent nurse.

In 2020, per her complaint, García believed another employee of the SIFC was sexually harassing her. In February 2020, she complained about the sexual harassment to her employer. A few months later, in October 2020, she filed an administrative charge of sex discrimination and retaliation with the Equal Employment Opportunity Commission. García eventually dropped her claims of

actual sexual harassment in this case, so we need not discuss the specifics of the alleged harassment. Our focus is on García's claim of retaliation, which produced the jury verdict in her favor.

While the administrative complaints were pending, the events at the crux of this case occurred. To start, García's co-worker Migdalia Baerga, who was assigned to patient intake, began intimidating and threatening García, according to the trial evidence. Baerga frequently waited by the punch clock to "place herself there close to" García as she arrived for her shift. Baerga also made it a habit to sit in her car and to watch García as she left for lunch. That scene was so commonplace that García's friends began accompanying her to the parking lot. According to multiple accounts, Baerga made menacing comments to and about García. In particular, García alleged that Baerga once said that García was "so pretty to stab."

B. THE JULY 2020 INCIDENTS

July 2020 was a pivotal month for García. SIFC's facilities had just reopened after being shut down for several months during the COVID-19 pandemic. Not long after, three people filed grievances and complaints against García, each of which, as will be described, turned out to have little or no merit. The first: on July 3, 2020, García and other nurses were offering services at screening tables. An administrator, Albert Vargas, instructed García to cover a table other than the one she was

working at the time. She refused, and for seemingly good reason. Vargas was not her direct supervisor and did not have any authority in the chain of command to instruct nursing personnel like García. García's own supervisor, Nora Rosario Medina ("Rosario"), had told her and the other nurses to "remain the way we were."

Vargas complained about García's noncompliance to Magalis Soto Pagán ("Soto"), who was then SIFC's Regional Executive Director for Arecibo. Soto asked Rosario to reprimand García. Instead, Rosario counseled all the staff on proper protocol. Rosario described the dispute in a report as simply a misunderstanding between Vargas and García. In response, Soto criticized Rosario for not following her instructions; she insisted that the "guidance was only for" García, no one else.

The next two incidents both happened on July 14, 2020. First, a maintenance supervisor, Jorge Ramos Cuevas ("Ramos"), asked García to provide him with a hospital gown. She denied the request, explaining that Ramos needed to make the request to a nursing supervisor. At that point in the COVID-19 pandemic, the supply of such personal protective equipment was limited. Instead of speaking to García's supervisor about her behavior, Ramos filed a grievance with the Office of the Executive Director. But a follow-up letter from a labor relations officer indicated that García was correct in declining Ramos's request, and in any event, Rosario had spoken with her about the incident. The letter

concluded: "This situation should never have been referred to our office, it was handled internally and absolutely cannot be used to establish a pattern of behavior on the part of [García]."

On that same day, García was said to have called Radiology Service Supervisor Roberto Rosado-González ("Rosado") homophobic slurs. Rosado filed a complaint alleging as much with the Office of Labor Relations, which investigated. The incident started when García had confronted Rosado for wearing his facemask improperly. Baerga, who was a witness to the confrontation, said that after Rosado left, García screamed slurs about his sexual orientation -- allegedly calling him, for example, a "dirty faggot."

Summarizing the follow-up investigation, Rosario testified at trial that Rosado "entered into the immediate care unit with his mask down to his chin, leaving uncovered his nose and his mouth." When García pointed out the problem, two nurses said that Rosado raised his voice at García, and not vice versa. To be sure, as a letter following the investigation stated, García's tone was inappropriate, but no witness other than Baerga said García had used the offensive language.

C. THE FEDERAL LAWSUIT AND PRELIMINARY INJUNCTION

García filed this suit in May 2021 against SIFC in the District of Puerto Rico largely under both Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000e et seq., and Puerto Rico Law 115

("Law 115"), P.R. Laws Ann. tit. 29, §§ 194 et seq. Her central claim is that she faced retaliation for months after she complained about sexual harassment in the workplace and said that her employer was legally responsible for it. In June 2021, the district court issued a preliminary injunction requiring SIFC to separate García from Baerga. García continued working in the Arecibo Regional Office. Baerga was assigned to continue working remotely.

D. THE PARKING DISPUTE AND TRANSFER TO MANATÍ DISPENSARY

As the lawsuit proceeded, García found herself in another dispute. In October 2022, she parked in a parking lot that was closed off for construction. Rosario and the Arecibo then-interim Regional Executive Director Humberto Deliz Vélez ("Deliz") reprimanded her. Rosario warned García that if she continued her behavior, she would be referred to the Office of Labor Relations. Around the same time, Deliz made the referral to the Office. In February 2023, the Office declined to take further action, noting that no referral was necessary. Rosario had "the situation . . . handled."

Five months later, and after the preliminary injunction had been in place for nearly two years, SIFC reassigned García in March 2023 from the Arecibo Regional Office to the Manatí Dispensary. By that point, García had been working in the Arecibo Regional Office for almost ten years. The situation had changed, however. For reasons having nothing to do with García or this

lawsuit, Baerga was now being required to return to in-person work. SIFC notified García of her transfer to Manatí in a letter giving three reasons. First, the letter said, there was a shortage of nurses at the Manatí Dispensary. Second, Baerga herself could not be transferred to the Manatí Dispensary because of a medical condition that required accommodation under the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq. Third, the preliminary injunction of June 4, 2021, required SIFC to ensure that Baerga and García were not working at the same location. SIFC had no real choice. If it did not transfer García to another office, it would either violate a court order or fail to accommodate Baerga's medical condition in violation of the Americans with Disabilities Act. García was unhappy with the change and believed it was further unlawful retaliation against her. The involuntary transfer became part of García's retaliation case for trial.

E. THE TRIAL AND POST-TRIAL PROCEEDINGS

Meanwhile, in the district court, this case was moving toward trial. By then, García had already agreed to dismiss her sexual harassment claim, leaving only the retaliation claim for trial. At trial, García advanced a theory of retaliation based on a hostile work environment. The jury returned a verdict for García, and the court ultimately entered a judgment in her favor

for $300,000 under federal and Puerto Rico law. See P.R. Laws Ann. tit. 29, § 123; 42 U.S.C. § 1981a(b)(3)(D).

After trial, García filed several motions. She first moved for permanent injunctive relief seeking, among other things, an order reassigning her to the Arecibo Regional Office and expunging documents related to the four July 2020 and October 2022 incidents described above in Parts I.B and I.D. The district court denied that motion. García later petitioned for attorney fees and costs, and the district court awarded her $300,936.10. Finally, García moved for execution of the final judgment and fees and costs. That motion was initially granted as to her motion for execution of judgment, but upon a motion for reconsideration, the district court changed its mind. Citing § 9141, the district court stayed execution pending the Secretary of Justice's approval of a payment plan that would allow SIFC, as a public corporation, at least three years to make payments to García and her lawyers.

García appealed the order denying permanent injunctive relief, the fee award, and the stay of the execution of judgment. We consolidated the appeals. Shortly after oral argument in October 2025, we lifted the stay of execution of the judgment and attorney fees and costs. These amounts have largely been paid.[1]

[1] The parties have reported that SIFC retained a percentage of both payments for Puerto Rico taxes, and the parties disagree whether those retentions were legal or justified. We express no views on those issues.

II. DENIAL OF A PERMANENT INJUNCTION

Title VII gives courts broad authority to order injunctive relief when "the court finds that the respondent has intentionally engaged in or is intentionally engaging in an unlawful employment practice charged in the complaint[.]" 42 U.S.C. § 2000e-5(g)(1); see Albemarle Paper Co. v. Moody, 422 U.S. 405, 421 (1975) ("Congress' purpose [was] . . . to make possible the fashioning of the most complete relief possible." (cleaned up)). The decision to grant or deny a permanent injunction requires a district court to engage with the facts of the specific case and to exercise its sound discretion. E.g., Howe v. City of Akron, 801 F.3d 718, 752–53 (6th Cir. 2015) (discussing Title VII injunction); Brown v. Alabama Dep't of Transportation, 597 F.3d 1160, 1185 (11th Cir. 2010) (same); E.E.O.C. v. Ilona of Hungary, Inc., 108 F.3d 1569, 1577–78 (7th Cir. 1997), modifying on rehearing 97 F.3d 204 (1996) (same); accord, Doe v. Rhode Island Interscholastic League, 137 F.4th 34, 39 (1st Cir. 2025) (same for Titles II and III of Americans with Disabilities Act); Shell Co. (Puerto Rico) Ltd. v. Los Frailes Service Station, Inc., 605 F.3d 10, 19 (1st Cir. 2010) (same under Petroleum Marketing Practices Act).

We review findings of fact for clear error and conclusions of law de novo. See Doe, 137 F.4th at 39–40; Howe, 801 F.3d at 753; Brown, 597 F.3d at 1185. We review for an abuse

of discretion the district court's balancing of factors governing equitable relief. See Financial Oversight & Management Board for Puerto Rico v. Estate of Serrano, 102 F.4th 527, 534 (1st Cir. 2024); E.E.O.C. v. Wal-Mart Stores East, L.P., 113 F.4th 777, 791 (7th Cir. 2024). That "discretion must be guided by legal principles," of course, including the objectives of Title VII and its major purpose of making persons whole for injuries suffered on account of unlawful employment discrimination or retaliation. Miles v. Indiana, 387 F.3d 591, 599 (7th Cir. 2004) (affirming denial of equitable relief), citing Albemarle Paper, 422 U.S. at 416, 418; accord, Franchina v. City of Providence, 881 F.3d 32, 56–57 (1st Cir. 2018) (affirming award of front pay); Lussier v. Runyon, 50 F.3d 1103, 1111 (1st Cir. 1995) (same), citing Albemarle Paper, 422 U.S. at 417.

We agree with the Seventh Circuit in Miles that we should approve a denial of equitable relief under Title VII "only if that denial does not frustrate Title VII's objective of making the plaintiff whole." 387 F.3d at 599; accord, Brown v. Trustees of Boston Univ., 891 F.2d 337, 360 (1st Cir. 1989) ("Once Title VII liability has been imposed, a court should deny 'make whole' relief 'only for reasons which, if applied generally, would not frustrate the central statutory purpose of eradicating discrimination throughout the economy and making persons whole for injuries suffered through past discrimination.'"), quoting Albemarle Paper,

422 U.S. at 421. As we explain here, we are satisfied that the district judge in this case carefully weighed the question of injunctive relief and reasonably decided to deny such relief.

In the district court, García made five requests for permanent injunctive relief under Title VII. The district judge denied them all. On appeal, García challenges the denial of two: first to enjoin her relocation to the Manatí Dispensary, and second to expunge certain disciplinary records from her employee file.

A. TRANSFER TO THE MANATÍ DISPENSARY

García contends the district court was required to permanently enjoin her transfer to the Manatí Dispensary. The district court declined to do so because it found that the transfer itself was not retaliatory. García argues, however, that the district court was forbidden from making its own finding. The jury found that SIFC retaliated against her by subjecting her to a hostile work environment. García infers that the jury necessarily found the transfer itself was retaliatory and that such an implied finding is binding on the district court. In the alternative, she argues that the district court clearly erred in making its factual findings. We reject both arguments.

1. THE JURY VERDICT

Before getting to the analysis, we start with a clarification. The district court asserted that it had no "jurisdiction" to order the relief because the transfer was not

pleaded in the complaint. The transfer occurred after the operative complaint was filed. We reject the suggestion that, at the end of a case, a plaintiff can be granted injunctive relief only when her complaint pleads exactly what she will seek to enjoin.

That limit would run afoul of the Federal Rules of Civil Procedure. Rule 54(c) instructs courts to "grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings." Fed. R. Civ. P. 54(c). To receive the benefit of Rule 54(c), the basis for relief must still have been squarely presented and litigated by the parties, but it need not have been demanded in the pleadings. See Rodriguez v. Doral Mortgage Corp., 57 F.3d 1168, 1173 (1st Cir. 1995) (vacating relief ordered by district court on legal theory not pleaded or litigated at trial as required under Rule 54(c)); see also In re Rivinius, Inc., 977 F.2d 1171, 1177 (7th Cir. 1992) (holding that the rule "does not allow [a party] to obtain relief based upon a . . . theory that was not properly raised at trial").

In a situation like this, where the plaintiff contends that retaliation continued during the lawsuit (and after the operative complaint), Rule 15(b) is also instructive. It provides: "When an issue not raised by the pleadings is tried by the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings." Fed. R. Civ. P. 15(b)(2).

Put differently, issues that are actually tried can call for a remedy under Rule 54(c) even if the pleadings do not mention them. See Evans Products Co. v. West American Insurance Co., 736 F.2d 920, 923–24 (3d Cir. 1984) (noting interplay between Rules 15(b) and 54(c)); Cioffe v. Morris, 676 F.2d 539, 541–42 (11th Cir. 1982) (same). The only hurdle at that point is consent, which a party can provide implicitly "by either treating a claim introduced outside the complaint as having been pleaded, either through [the party's] effective engagement of the claim or through his silent acquiescence; or by acquiescing during trial in the introduction of evidence which is relevant only to that issue." In re Fustolo, 896 F.3d 76, 84 (1st Cir. 2018), quoting Antilles Cement Corp. v. Fortuño, 670 F.3d 310, 319 (1st Cir. 2012) (cleaned up).

A district court of course does not need to grant a remedy for a cause of action not identified in the complaint or raised otherwise at any point in the case. See Town of Portsmouth v. Lewis, 813 F.3d 54, 61 (1st Cir. 2016) (discussing this and other limits of Rule 54(c)). But this is not one of those instances. García pleaded a retaliation claim in her complaint. That claim was the core of her case even if some specific acts of alleged retaliation had not occurred when the pleadings were closed and even if the specifics were not identified until later in the case. García tried the transfer issue as part of her retaliation claim, and both parties fully aired their evidence and arguments

during trial. García's transfer became part of the case. The district court had the power to issue injunctive relief related to García's transfer; it was not without jurisdiction to do so.[2]

Turning to the merits, García relies upon a well-settled principle: When a plaintiff seeks both legal and equitable relief with common issues of fact, the legal claims must be tried first before a jury. Dairy Queen, Inc. v. Wood, 369 U.S. 469, 479 (1962). After the trial, the jury's findings of fact can bind the district court when it later decides about equitable relief. Perdoni Brothers, Inc. v. Concrete Systems, Inc., 35 F.3d 1, 5 (1st Cir. 1994).

This principle, however, binds the judge to only what the jury actually decided; the judge "is not bound as to an issue not resolved by the jury[.]" 18 Wright & Miller, Federal Practice and Procedure § 4418 (3d ed.); see Brown, 597 F.3d at 1184–85 (no deference to findings that the jury did not necessarily make on a legal claim); Franzen v. Ellis Corp., 543 F.3d 420, 428 (7th Cir. 2008) ("[A] district court may not re-decide factual issues already necessarily determined by a jury."); cf. Goeken v. Kay, 751 F.2d 469, 472 (1st Cir. 1985) (affirming judgment notwithstanding jury

[2] For its conclusion that it had no jurisdiction, the district court relied only on a Ninth Circuit case, Pacific Radiation Oncology, LLC v. Queen's Medical Center, 810 F.3d 631, 633 (9th Cir. 2015). That case is not on-point. It and the precedent it cited spoke only to preliminary injunctions, which are governed by a different set of considerations. Id. at 636.

verdict where district court's decision accepted all of special verdict's explicit or implicit findings).

In this case, the jury made no findings of fact specific enough to bind the judge on specific requests for permanent injunctive relief. The verdict form asked in general terms whether García "was subjected to retaliation by [SIFC] because she engaged in protected conduct." If the jury answered "Yes," as it did, the verdict form asked only if SIFC "exercised reasonable care to prevent and promptly correct the retaliatory hostile work environment." There was no follow-up or explanation. The verdict thus does not tell us whether the jury found García's 2023 transfer was an act of unlawful retaliation.

There is room to argue that the judge is bound by the necessary implications of the jury's explicit findings. Other circuits have recognized "that district courts sitting in equity follow necessary factual implications in jury verdicts," while "any findings not necessarily implied by, but nonetheless consistent with, the verdict [are] left to the trial judge." Covidien LP v. Esch, 993 F.3d 45, 56 (1st Cir. 2021), citing Teutscher v. Woodson, 835 F.3d 936, 944 (9th Cir. 2016), Miles, 387 F.3d at 599–600, and Bartee v. Michelin North America, Inc., 374 F.3d 906, 912–13 (10th Cir. 2004); cf. Hoult v. Hoult, 157 F.3d 29, 31–32 (1st Cir. 1998) (describing similar rule where claim

was barred by collateral estoppel because of jury verdict in earlier action).

In a case seeking both damages and injunctive relief based on common facts, a judge should consider both the jury's explicit findings and facts it necessarily decided implicitly. Covidien LP, 993 F.3d at 56–57 (applying this standard); Kairys v. Southern Pines Trucking, Inc., 75 F.4th 153, 161 (3d Cir. 2023) (adopting and applying this standard). When a factual issue was not explicitly determined and not "necessarily implie[d]" by a jury's verdict, however, the judge can make that factual finding in the first instance. Kairys, 75 F.4th at 161, quoting Ag Services of America, Inc. v. Nielsen, 231 F.3d 726, 731 (10th Cir. 2000).[3]

Invoking these general principles, García contends the jury necessarily found that her transfer to the Manatí Dispensary was retaliatory. We disagree. The verdict simply was not that specific. García brought retaliation claims under Title VII and Puerto Rico Law 115. The two "are largely symmetrical in scope."

[3] García criticizes the district court for quoting the Seventh Circuit's opinion in Miles v. Indiana, 387 F.3d 591 (7th Cir. 2004). We find no error in the district court's use of Miles as persuasive authority, and its quotation of Miles was fair. The standard applied in Miles is consistent with our approach here and in Covidien LP, as well as with other circuits that have discussed the issue. E.g., Kairys, 75 F.4th at 161; Teutscher, 835 F.3d at 944, 955; Nielsen, 231 F.3d at 731.

Velez v. Janssen Ortho, LLC, 467 F.3d 802, 809 (1st Cir. 2006). To prevail under both statutes, a plaintiff must prove, among other things, that she suffered a "materially adverse action." Stratton v. Bentley Univ., 113 F.4th 25, 42 (1st Cir. 2024) (discussing Title VII claim). A materially adverse action might be the "creation of a hostile work environment or the intensification of a pre-existing hostile environment." Quiles-Quiles v. Henderson, 439 F.3d 1, 8 (1st Cir. 2006). In this case, García premised her retaliation claim on the creation of a hostile work environment. That was how the case was tried and how the jury was instructed.

The jury was not instructed that any particular incidents or actions had to be part of the hostile work environment for García to succeed. The jury was instructed in broad terms that García needed to show that "she was subjected to severe or pervasive harassment," not that she needed to show specifically that the transfer was retaliatory. Per the instructions: "Retaliation claims can be predicated on the cumulative effect of a defendant's retaliatory acts . . . or one that a reasonable employee would have found to be materially adverse." During closing argument, García's counsel said correctly that a materially adverse employment action could be a "collection -- a combination of situations," and her counsel described several that could contribute to a hostile work environment in this case.

It is possible the jury thought that García's transfer was part of the retaliatory and hostile work environment, created and cultivated by SIFC. But the trial record does not compel that conclusion. García could have prevailed even if the jury saw the transfer differently and based its verdict on a broader combination of excessive and meritless disciplinary actions against her.

Finally, García argues that the jury implicitly rejected the non-retaliatory reasons SIFC gave for her transfer because they were instructed on pretext: "If García proves by a preponderance of the evidence that El Fondo's [SIFC's] explanation for the adverse employment action is a pretext, then Plaintiff may prevail."

The pretext instruction does not solve García's problem. The instruction offered proof of pretext as only one way in which García "may" prevail, not as the only way she could prevail. The verdict for García did not mean that the jury necessarily found her transfer was retaliatory.

"[W]hen the basis of the jury's verdict is unclear, each of the potential theories supporting the verdict is open to contention 'unless this uncertainty [is] removed by extrinsic evidence showing the precise point involved and determined.'" Miles, 387 F.3d at 600, quoting Russell v. Place, 94 U.S. 606, 608 (1876). García has not shown that the district court denied her

request for injunctive relief based on any factual finding that was inconsistent with the jury's verdict.

2. CLEARLY ERRONEOUS?

With the ability and duty to make its own factual findings, the district court ultimately found that García's transfer did not amount to retaliation. García contends the court was wrong to do so. We disagree. It did not clearly err.

The district court found that SIFC's reasons for transferring García were legitimate and non-retaliatory. First, as noted, SIFC said that it needed to transfer García because there was a shortage of nurses at the Manatí Dispensary. That finding was not clearly erroneous. Trial testimony indicated that both the Manatí Dispensary and the Arecibo Regional Office were facing nurse shortages.

Second, the court found that Baerga's return to the workplace offered a legitimate and non-retaliatory reason to move García to the Manatí dispensary. Baerga was set to return to work in-person due to concerns about an impending audit. But there were several limits on where she could work. For one, she has an eye condition, protected under the American Disabilities Act, that prevented her from driving long distances and in the dark. That condition would rule out transferring her to the Manatí Dispensary, which would have required such driving. She also could not return to the Arecibo Regional Office while García worked there. The

district court's preliminary injunction barred SIFC from having Baerga and García work in the same facility. Faced with these limits, SIFC chose to transfer García to the Manatí Dispensary. The court's finding that SIFC transferred her because of those limits rather than to retaliate against her for complaining about sexual harassment was not clearly erroneous.

In making this finding, the district court credited the testimony of SIFC Director of Labor Relations Gladys Meléndez Díaz ("Meléndez"). García says the court was wrong to do so because Meléndez was evasive in her testimony. In relevant part, Meléndez testified that she did not know whether García was transferred pursuant to Article 25, Section 8 of the collective bargaining agreement. Per García, this testimony led the district court astray. Under Section 8, García argues, an employee cannot be transferred involuntarily to a temporary placement for more than five days. If the transfer had been made under Section 8, her argument goes, that fact would have tended to show that the transfer amounted to retaliation.

We see no reason to reject the district court's credibility determination on this matter. See United States v. Pérez-Díaz, 848 F.3d 33, 38 (1st Cir. 2017). A trial court has a better vantage point to assess and appraise witnesses than does an appellate court. Id.; United States v. Guzmán-Batista, 783 F.3d 930, 937 (1st Cir. 2015). The trial record does not undermine

this district court finding. García points to no facts in the record suggesting that the transfer was actually made pursuant to Article 25, Section 8. And contrary to García's belief, SIFC was not required to cite another basis for the transfer to show it was not done to retaliate. The ultimate burden of persuasion was on García, not SIFC. See Texas Dep't of Community Affairs v. Burdine, 450 U.S. 248, 253 (1981).

B. EXPUNGEMENT OF DOCUMENTS

Next, García asserts that the district court erred in denying her request to expunge from her employee records the documents connected to the four disciplinary incidents described above: (1) the July 2020 screening table controversy; (2) the July 2020 hospital gown incident; (3) the July 2020 face mask incident; and (4) the October 2022 parking dispute. See supra Parts I.B, I.D. The district court concluded that García had not shown that keeping record of these incidents in her employee file could cause her irreparable harm.

In Title VII cases, permanent injunctions are common. E.g., Brown, 597 F.3d at 1185–89 (largely affirming grant of permanent injunction under Title VII); Freitag v. Ayers, 468 F.3d 528, 547–48 (9th Cir. 2006) (affirming Title VII permanent injunction); Ilona of Hungary, 108 F.3d at 1578–79 (collecting cases affirming permanent injunctive relief under Title VII); accord, Trustees of Boston Univ., 891 F.2d at 359–62 (affirming

reinstatement of tenured professor under Title VII). See also 5 Lex K. Larson, Employment Discrimination § 90.04 (2026) ("When the alleged discrimination takes the form of retaliation, the courts have been generally inclined to grant claims for permanent injunctive relief.").

Nevertheless, injunctive relief is not automatic. A district court must exercise its equitable discretion in deciding the matter, keeping in mind the important role that injunctive relief may play in effective enforcement of civil rights laws. Ultimately, our review of the district court's decision to deny injunctive relief is for abuse of discretion, and here we find none. NACM-New England, Inc. v. National Ass'n of Credit Management, Inc., 927 F.3d 1, 5 (1st Cir. 2019).

A court may issue a permanent injunction when a plaintiff demonstrates:

> (1) that [she] has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.

eBay Inc. v. MercExchange, L.L.C., 547 U.S. 388, 391 (2006). The first two factors are critical here. Together they mean that the plaintiff must face "a substantial injury that is not accurately measurable or adequately compensable by money damages." Ross-

Simons of Warwick, Inc. v. Baccarat, Inc., 217 F.3d 8, 13 (1st Cir. 2000), quoting Ross-Simons of Warwick, Inc. v. Baccarat, Inc., 102 F.3d 12, 19 (1st Cir. 1996) (internal quotation marks omitted).

The injury might be one that has already been inflicted or will come about if no injunction issues. See Global NAPs, Inc. v. Verizon New England, Inc., 706 F.3d 8, 13 (1st Cir. 2013) (noting that injury may be one that plaintiff "will suffer" without an injunction in place). Before the district court, García argued that the existence of those documents in her employee record threatens her with future use of those records to impose future unjustified discipline. The district court disagreed. It found that any past harm could be remedied by the money damages award and that it was unlikely the documents would be the basis of future discipline against García. On appeal, García challenges the district court's finding that no future harm is likely to flow from the documents.

The district court had reasonable grounds for its finding. In each of the four incidents, the Office of Labor Relations saw no need to discipline García any further, if there might have been any need in the first place. For example, the Office concluded that the weight of evidence contradicted the complaint that García used homophobic slurs against a co-worker. The Office noted that two of the other incidents were handled sufficiently without its involvement. In particular, a labor

relations officer wrote that the hospital gown dispute "should never have been referred" and "absolutely cannot be used to establish a pattern of behavior on the part of Keila García Colón."

García argues on appeal that the court's finding was mistaken, citing testimony that the entirety of an employee's file, including past discipline, may still be used in connection with disciplinary measures for future infractions. Even so, the district judge could reasonably have concluded that, given the outcomes of the incidents, there is little or no risk that the documents might be used against García in the future. There was no clearly erroneous factual finding or abuse of discretion on this issue. Accordingly, we affirm the denial of permanent injunctive relief.

III. THE ATTORNEY FEE AWARD

García next challenges the district court's award of attorney fees as inadequate. According to García, the court erred first by excluding certain time entries from the lodestar calculation and second by making a broad downward adjustment of twenty percent for her limited success in these proceedings.

We review challenges to awards of attorney fees for abuse of discretion. Pérez-Sosa v. Garland, 22 F.4th 312, 320 (1st Cir. 2022). Under that standard, we "confine our review to whether the district court has made a mistake of law or incorrectly weighed (or failed to weigh) a factor in its decision." Richardson v.

Miller, 279 F.3d 1, 3 (1st Cir. 2002); see also Gay Officers Action League v. Puerto Rico, 247 F.3d 288, 292–93 (1st Cir. 2001) ("Apart from mistakes of law . . . we will set aside a fee award only if it clearly appears that the trial court ignored a factor deserving significant weight, relied upon an improper factor, or evaluated all the proper factors (and no improper ones), but made a serious mistake in weighing them.").[4]

A reasonable attorney fee for a prevailing party is typically calculated using the lodestar method. The court "multipl[ies] the number of hours productively spent by a reasonable hourly rate to calculate a base figure." Torres-Rivera v. O'Neill-Cancel, 524 F.3d 331, 336 (1st Cir. 2008). In calculating that lodestar amount, the district court may adjust the hours billed to exclude "those hours that are 'excessive, redundant, or otherwise unnecessary.'" Pérez-Sosa, 22 F.4th at 321, quoting Central Pension Fund of the International Union of

[4] The district court wrote that it was granting García attorney fees under 42 U.S.C. § 1988. García won on a Title VII claim, so the proper statute governing the fee award was section 706(k) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(k). The slip makes little practical difference. Like § 1988, Title VII also allows district courts to award reasonable attorney fees to prevailing parties, and "'case law construing what is a reasonable fee applies uniformly to all' federal fee-shifting statutes couched in similar language." Pérez-Sosa, 22 F.4th at 321, quoting City of Burlington v. Dague, 505 U.S. 557, 562 (1992) (internal quotation marks omitted).

Operating Engineers & Participating Employers v. Ray Haluch Gravel Co., 745 F.3d 1, 5 (1st Cir. 2014).

After calculating the lodestar amount, the district court may adjust the amount upward or downward if circumstances warrant, including for example to reflect "the results obtained and the time and labor actually required for the efficacious handling of the matter." Torres-Rivera, 524 F.3d at 336; see also Hensley v. Eckerhart, 461 U.S. 424, 429–30 & 430 n.3 (1997) (describing twelve factors set forth in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717–19 (5th Cir. 1974), abrogated on other grounds by Blanchard v. Bergeron, 489 U.S. 87 (1989), where adjustment of lodestar amount would be appropriate).

Using the lodestar method here, the district court found a lodestar amount of $371,660.20 and ultimately awarded García $300,936.10 in attorney fees and costs. In making the initial lodestar calculation, the district court set aside what it called "generic" time entries from the total hours. After coming to the lodestar, the district court made a further downward adjustment based on plaintiff's limited success. We affirm. Not every district judge might have made the same reductions on the same record, but such variations in discretionary decisions do not show an abuse of discretion.

A. GENERIC TIME ENTRIES

The district court identified thirty-three "generic" entries in the time sheets of two of García's lawyers, Juan Rafael González-Muñoz ("González") and José Luis Rivero-Vergne ("Rivero"). The court explained that "[t]he invoices submitted by . . . Mr. González and Mr. Rivero contained entries that are too generic for the Court to assess whether the time spent on a given task was appropriate." For example, the entries include descriptions of work that read only "Telephone conference with KGC" or "Draft letter to attorneys" without additional detail.

On Attorney González's time sheets, the district court flagged thirty-one entries as generic. Twenty-three were "block-billed," meaning a single time entry lumped together multiple tasks. The remaining eight each consisted of a single task description that the court deemed too vague. The district court discounted each block-billed entry by twenty percent, effectively removing 13.84 hours from his time. The district court discounted each of the eight other entries by thirty percent, effectively removing 0.60 hours from the fee-award calculus. On Attorney Rivero's time sheets, two entries were flagged for being overly vague. They both appeared as two separate time entries, and the district court discounted each entry by thirty percent, resulting in a reduction of 0.15 hours from his time. In total, the district court discounted 14.59 hours.

We find nothing remotely improper in these modest reductions, and certainly no abuse of discretion. Parties who intend to seek attorney fees if they prevail must maintain contemporaneous time records. E.g., Lipsett v. Blanco, 975 F.2d 934, 938 (1st Cir. 1992); Grendel's Den, Inc. v. Larkin, 749 F.2d 945, 952 (1st Cir. 1984). "Those records must be at least minimally illuminating: they need not contain granular details, but they must contain some insight into the work performed" -- for example, "'the date [the work] occurred, the kinds of work that were done and the percentage of time spent at each task.'" Pérez-Sosa, 22 F.4th at 329, quoting Calhoun v. Acme Cleveland Corp., 801 F.2d 558, 560 (1st Cir. 1986).

We have made clear that when time records are "too generic," a court "may either discount or disallow those hours." Torres-Rivera, 524 F.3d at 336. We have affirmed fee awards based on similar reductions for generic entries. E.g., Pérez-Sosa, 22 F.4th at 329–31; Torres-Rivera, 524 F.3d at 340.

García's primary response is that the district judge should have worked harder to figure out for himself from context and additional records what work the generic entries covered and why that work was reasonably billed to the case. After all, García says, the district judge acknowledged that the entries "represent[ed] time spent working on this case."

García's response misses the point. It is not necessarily enough for an entry to reveal a loose connection to the case. We assume that lawyers acting in good faith would of course bill only case-related tasks. Some level of detail, however, allows the losing party footing the bill to challenge "the accuracy of the records as well as the reasonableness of the time spent." Calhoun, 801 F.2d at 560. The detail also allows the district court to "answer questions about excessiveness, redundancy, and the like." Torres-Rivera, 524 F.3d at 336; see also Pérez-Sosa, 22 F.4th at 330 (noting that "'nebulous' entries amounting to 'gauzy generalities' threaten to frustrate a district court's effort to fashion a fair and reasonable fee award"), quoting Lipsett, 975 F.2d at 938.

There may be circumstances, as García insists, when surrounding entries or the court's knowledge of the case might supply enough details for the court to find that "generic" time was properly billed. Judges may be capable of piecing together for themselves the needed detail. But to be clear: judges are not required to do that extra work for the benefit of a prevailing party who did not maintain sufficient contemporaneous time records. The district court did not abuse its discretion by discounting the generic time entries rather than trying to do counsel's work for them.

B. LIMITED SUCCESS

After calculating the initial lodestar of $371,660.20, the district court applied a twenty percent downward adjustment for limited success, citing García's unsuccessful sexual harassment claim and denial of her request for permanent injunctive relief. It did not help, the court explained, that counsel used block-billing to record time entries that prevented the court from "determin[ing] whether the hours billed were reasonably expended as a 'satisfactory basis' for a fee award." Dkt. No. 414 at 25, quoting Hensley, 461 U.S. at 434.

A court may adjust the lodestar upward or downward if the circumstances call for it. Among relevant factors, the Supreme Court has identified the "degree of success obtained" as the "most critical factor." Hensley, 461 U.S. at 436; see also id. at 440 ("[W]here the plaintiff achieved only limited success, the district court should award only that amount of fees that is reasonable in relation to the results obtained.").

Analyzing the degree of success obtained is not an exact science. In assessing fees, a court's goal "is to do rough justice, not to achieve auditing perfection." Fox v. Vice, 563 U.S. 826, 838 (2011). Gauging a party's success might require referring to her success "claim by claim, or to the relief actually achieved, or to the societal importance of the right which has been vindicated, or to all of these measures in combination."

Coutin v. Young & Rubicam Puerto Rico, Inc., 124 F.3d 331, 338 (1st Cir. 1997).

It is relatively easy to cut out hours spent on a losing claim that shares no common facts or law with the winning claim. It is more difficult to decide how to handle hours spent on a successful claim and an unsuccessful one where the two claims share a great deal of overlapping facts and common legal issues. That description often applies in cases like this, where a substantive employment discrimination claim was paired with a retaliation claim and where one succeeded and the other did not.

Reviewing courts try to ensure that a district court has different tools to account for a party's mixed results. "The district court may attempt to identify specific hours that should be eliminated, or it may simply reduce the award to account for the limited success." Hensley, 461 U.S. at 436–37.

In this case, the twenty percent reduction was not an abuse of discretion. García voluntarily dismissed her sexual harassment claim, and she lost her request for permanent injunctive relief. The district court was free to discount work on a losing motion for relief, just as it was free to discount work on a losing claim. See Pérez-Sosa, 22 F.4th at 328–29 (affirming fee reduction when district court excluded time spent on unsuccessful motions); see also Coutin, 124 F.3d at 339 (explaining that a trial court

may "consider the skimpiness of [plaintiff's] relief," even when plaintiff "prevail[s] on all her claims").[5]

The district court was careful in making this reduction. It did not categorically exclude time spent on either claim. The court recognized that work done on the unsuccessful sexual harassment claim may well have also contributed to the work on the successful retaliation claim. Counsel's block-billing made it harder for the court to gauge how many hours to exclude. With respect to both considerations, the district court did not abuse its discretion. See Torres-Rivera, 524 F.3d at 340 (finding no abuse of discretion when district judge reduced fee request by fifteen percent in light of block billing); see also id. ("Where that party furnishes time records that are ill-suited for evaluative purposes, the court is hampered in ascertaining whether those hours were excessive, redundant, or spent on irrelevant issues.").

[5] Unusual circumstances may make it perfectly reasonable for lawyers to spend time on unsuccessful motions. See Arelene Ocasio v. Comisión Estatal De Elecciones, No. CV 20-1432 (PAD), 2023 WL 8889653, at *4 (D.P.R. Dec. 26, 2023 (rejecting request to exclude plaintiff's time entries on motions that were denied where plaintiff ultimately prevailed completely in case and time entries were "a direct result of defendants' failure to initially respond in a timely manner"), appeal docketed, No. 24-1822 (1st Cir. Sept. 10, 2024); see also Bohen v. City of East Chicago, 666 F. Supp. 154, 158 (N.D. Ind. 1987) (Easterbrook, J.) (awarding fees for time spent on several potential witnesses who were not called: "Blind alleys are an ordinary part of litigation, as are standby witnesses. . . . These hours are ordinary inputs into winning cases and are fully compensable.").

Judges are obliged to calculate fair and reasonable fees, but they "need not, and indeed should not, become green-eyeshade accountants" to do so. Fox, 563 U.S. at 838. The court acted well within its discretion in calculating and then reducing the lodestar amount here. We affirm the district court's award of attorney fees and costs.

IV. STAY OF THE JUDGMENT AND FEE AWARD

As noted, defendant SIFC did not appeal either the damages award or the fee award, so the sums awarded could not be reduced on appeal. The district court, however, stayed execution of the judgment and the award of attorney fees and costs, citing § 9141. On October 29, 2025, two days after oral argument, we saw "no sound basis for staying or otherwise delaying further execution of the undisputed sums due to plaintiff," and we vacated the stay. We ordered SIFC to pay García her compensatory damage award of $300,000 and the total award of $300,936.10 in attorney fees and costs. As of November 2025, the vast majority had been paid. We explain here why we vacated the stay and ordered immediate payment.

Before getting to this analysis, we begin again with a clarification. The district court declined to rule on García's motion to order payment of her money damages and attorney fees. The district court said it was divested of jurisdiction to do so since García filed these appeals. We appreciate the jurisdictional caution, but this was not correct. "[T]he filing of a notice of

appeal does not divest the district court of all authority." United States v. Carpenter, 941 F.3d 1, 6 (1st Cir. 2019). "The restriction on district court action encompasses only the matters that are comprehended within the appeal." 16A Wright & Miller, Federal Practice and Procedure § 3949.1 (5th ed.) Since García's appeals could not reduce the damages or the fee award, the amounts that SIFC owed without further dispute were matters not comprehended within the appeals. The district court retained jurisdiction to enforce the undisputed portions of its awards.

Federal Rule of Civil Procedure 69(a) governs the execution of a money judgment in federal court. The rule requires that execution of a judgment "accord with the procedure of the state where the court is located" unless "a federal statute governs to the extent it applies." Fed. R. Civ. P. 69(a)(1). In this case, Puerto Rico law supplies the default law for collection and execution of judgment. Whitfield v. Municipality of Fajardo, 564 F.3d 40, 43 n.2 (1st Cir. 2009) ("Puerto Rico is deemed the functional equivalent of a state for the purposes of Rule 69(a).").

SIFC argued that Puerto Rico law prohibits a prevailing party from executing a judgment against a public corporation like SIFC without prior approval of a payment plan by the Secretary of Justice. (The Secretary of Justice is the equivalent of a state attorney general. See, e.g., Guzman-Rivera v. Rivera-Cruz, 55 F.3d 26, 28 (1st Cir. 1995).) Under § 9141, a public corporation

is required to develop a payment plan before it pays the money. "The Secretary of Justice shall evaluate the applicable payment plan in accordance with the amount of the judgment, upon which he/she shall request . . . a certification of funds available." P.R. Laws Ann. tit. 3, § 9141. But, among other requirements, "[i]f there were no funds available to honor the payment plan during a specific fiscal year, [payment] shall be postponed . . . [and] thus said payment plan shall be automatically extended for the number of unpaid installments." Id., § 9141(g); see also id., § 9142 (stating that no public corporation "shall be compelled to make any payment . . . when there are no funds available"). Put all of this together, SIFC says, and the execution of judgment and fees was required to be stayed until a payment plan was approved.

As applied here, that position is untenable under the Supremacy Clause of the United States Constitution. U.S. Const. art. VI, cl. 2. The money damages and attorney fees were awarded by a federal court under a federal statute, Title VII of the Civil Rights Act. Congress has declared that "the 'ultimate authority' to secure compliance with Title VII resides in the federal courts." New York Gaslight Club, Inc. v. Carey, 447 U.S. 54, 64 (1980), quoting Alexander v. Gardner-Denver Co., 415 U.S. 36, 44–45 (1974). Congress empowered a Title VII plaintiff to serve as "a private attorney general." Id. at 63, quoting Christiansburg Garment Co. v. EEOC, 434 U.S. 412, 416 (1978). That is why money damages in

this context are critical. They give the private litigant an incentive to "redress[] [her] own injury" while also "vindicat[ing] the important congressional policy against discriminatory employment practices." Alexander, 415 U.S. at 45. A similar logic explains the grants of attorney fees to prevailing parties under Title VII. Pérez-Sosa, 22 F.4th at 321 (fee awards under Title VII were "designed 'to make it easier for a plaintiff of limited means to bring a meritorious suit'"), quoting New York Gaslight Club, 447 U.S. at 63 (internal quotation marks omitted).

Under the Supremacy Clause, federal law controls over a conflicting state law. In the context of federal preemption, the Supremacy Clause "prevents the states from impinging overmuch on federal law and policy." Securities Industry Ass'n v. Connolly, 883 F.2d 1114, 1117 (1st Cir. 1989), citing Louisiana Public Service Comm'n v. F.C.C., 476 U.S. 355, 368-69 (1986).

This case differs from typical cases under the Supremacy Clause. The merits decisions are in the rear-view mirror. All that is left is the enforcement of a judgment. The obstacle here is not a general state procedural rule. It is instead a substantive law that gives a host of favored defendants -- public corporations, including municipal governments -- a power to delay enforcement of federal judgments, perhaps indefinitely.

Notwithstanding the deference to state (or commonwealth) procedures embraced by Rule 69, other courts of appeals facing

similar state laws blocking effective enforcement of federal judgments have recognized the need for federal supremacy to override those state-law blocks. In Spain v. Mountanos, for example, the Ninth Circuit affirmed a district court order enforcing an attorney fee award under 42 U.S.C. § 1988 despite a California statute that required the state legislature to appropriate funds for the payment, which the legislature had refused to do. 690 F.2d 742, 744-46 (9th Cir. 1982). The Ninth Circuit explained that "a state cannot frustrate the intent of [42 U.S.C. §] 1988 by setting up state law barriers to block enforcement of an attorney's fees award." Id. at 746.

Similarly in Arnold v. BLaST Intermediate Unit 17, the Third Circuit reversed the denial of a writ of mandamus to pay a judgment under the federal Equal Pay Act based on a state law that prohibited "funds for non-budgeted expenditures." 843 F.2d 122, 123, 127-28 (3d Cir. 1988). As the Third Circuit explained: "State and local entities may not frustrate the supremacy of federal law through the adoption of immunizing procedures or vague statutory schemes." Id. at 128.

Other courts deciding similar cases have noted the inconsistency with the Supremacy Clause, even if they rested their decision on slightly different reasoning. E.g., Collins v. Thomas, 649 F.2d 1203, 1206 (5th Cir. 1981) (affirming execution of federal judgment when state law provided that writ of mandamus through

state court was exclusive method to order payment from county's treasury); Gates v. Collier, 616 F.2d 1268, 1272 (5th Cir. 1980) (affirming execution of federal judgment, mainly under Federal Rule of Civil Procedure 70, though state law required legislative appropriation of funds for judgment); Gary W. v. Louisiana, 441 F. Supp. 1121, 1125 (E.D. La. 1977) (similar), aff'd, 622 F.2d 804 (5th Cir. 1980).

We follow suit. Applying the § 9141 payment plan requirement here would insulate one of a select class of favored defendants (public corporations) by delaying substantially and perhaps indefinitely enforcement of a federal court judgment. The result would not be mere use of a state's or commonwealth's procedures under Rule 69. It would substantively frustrate Title VII's remedies and undermine a federal court's judgment on a federal cause of action. Cf. Felder v. Casey, 487 U.S. 131, 141 (1988) (holding that Wisconsin notice-of-claim requirement was inconsistent with federal civil rights law, in part, because it is not a "neutral and uniformly applicable rule of procedure" but a "substantive burden imposed only upon those who seek redress for injuries resulting from the use or misuse of governmental authority"). SIFC's position pits the remedial policies of Title VII against those of Puerto Rico law. See Gary W., 441 F. Supp. at 1125 ("The issue here is not one of judicial confrontation

with the state. It is one of implementation of a Congressional mandate."). In that conflict, Title VII prevails.

Remember that the protocol under § 9141 is a multi-step process. A payment plan must be approved and funds must be certified as available before a judgment will be honored. In essence, SIFC was telling García that even though she won a substantial judgment and fee award in federal court, she could not enforce them until the Commonwealth of Puerto Rico gave SIFC permission to pay, and even then, full payment could take three more years. That situation is not consistent with federal civil rights law or the Supremacy Clause. See Balark v. Curtin, 655 F.2d 798, 802-03 (7th Cir. 1981) (rejecting application of state law that would have caused a four-year delay in payment of a federal judgment and could have allowed municipality to later deny indemnification).

One final note. During oral argument, SIFC represented that in the eleven months since the stay was imposed it had made no efforts to obtain approval of a payment plan. Why? Because the district court had imposed a stay that SIFC itself had sought, ostensibly so it could seek such approval. If the case had not come up on appeal, it is hard to tell how long this game might have lasted. Execution of judgment and the fee award would have been stayed until there was a payment plan, and there could not have been a payment plan because SIFC claimed the stay prevented

it from seeking approval of one. This kind of gamesmanship should test the patience of a federal judge and would have invited invocation of Federal Rule of Civil Procedure 70. See, e.g., Spain, 690 F.2d at 744–45; Gary W. v. Louisiana, 622 F.2d 804, 806 (5th Cir. 1980); see also Aetna Casualty & Surety Co. v. Markarian, 114 F.3d 346, 349 & n.4 (1st Cir. 1997) (noting that an equitable remedy may be appropriate "where the judgment is against a state which refuses to appropriate funds through the normal process provided by state law"). We said in Gabovitch v. Lundy, 584 F.2d 559, 560 n.1 (1st Cir. 1978), that "equitable remedies, even those permitted by Rule 70, are seldom appropriate aids to execution of a money judgment," but this could well have been such an exceptional case.[6]

[6] In El-Tabech v. Clarke, 616 F.3d 834, 838–40 (8th Cir. 2010), the Eighth Circuit reversed a district court's order to state officials to pay immediately an attorney fee award under 42 U.S.C. § 1988. The court deferred instead to a state law requiring a legislative appropriation to pay the federal court judgment. The Eighth Circuit rejected in essence only a facial challenge to the state law, id. at 840 ("only issue presented in this case is whether the Nebraska Legislature violated the Supremacy Clause when it enacted" the laws), and it distinguished Gary W., Gates, and Spain on the ground that the Nebraska officials before it had not yet actually refused to pay the federal judgment. Id. & n.1. The indefinite delay here, as attempted by SIFC's obtaining a stay of execution and its failure to seek approval of payment, seems to us close enough to a refusal to pay that this case presents the problems that El-Tabech acknowledged but did not decide.

V. CONCLUSION

The district court's denial of a permanent injunction and its award of attorney fees and costs are AFFIRMED. Having previously vacated the district court's stay of the execution of judgment and fees, we REMAND this case for further proceedings consistent with this opinion.