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Recent Updates and Impacts on Association Law

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New California Case Law

C. Mark Hopkins of the Firm was recently successful in arguing to the Court of Appeal that a defendant association which incurred expert fees in prevailing against a homeowner at trial should be allowed to recover expert fees (for architects, traffic engineers, and CPAs), even though the fees were paid by the association's insurance company, and not out of pocket by the association itself. The case is Skistimas v. Old World Owner's Assn. 2005 D.A.R. 3475 filed March 25, 2005. As the association's trial attorney, Mr. Hopkins was successful in defeating the homeowner's claims for breach of fiduciary duty against the association and several of its past and present directors. Prior to judgment, the directors made an offer to settle under California Code of Civil Procedure section 998, which was not accepted by the homeowner. After prevailing at trial, Mr. Hopkins requested reimbursement of \$20,000 in expert fees from the trial court, which denied the request on the grounds that the defendants had not paid the experts out of their own pockets, but instead, through their insurance carrier. The Association appealed. The Court of Appeal held that payment of expert fees was appropriate regardless of who actually paid out of pocket for the experts.

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