Private Attorney General Doctrine Authorizes Attorney Fees in a Political Dispute

Posted on March 28, 2011 by David J. McMahon

In *Wilson v. San Luis Obispo County Democratic Central Committee*, 2011 DJDAR 2416 (2011), the California Court of Appeal for the Second District decided an interesting fee case arising from a political dispute.

The plaintiff in the Wilson case was an active member in the San Luis Obispo Democratic Committee. She was removed from her position after a negative vote of the other Committee members.

After being removed from office, she petitioned the Superior Court, seeking a writ of mandate ordering her reinstatement. The writ also sought to remove Committee members who allegedly were not properly elected to office. The trial court denied the petition, and the Committee moved for their attorney fees incurred pursuant to Code of Civil Procedure Section 1021.5. The fee request totaled $102,215. The trial court denied the fee petition in its entirety.

The Court of Appeal partially reversed the ruling of the lower court. The Court of Appeal cited to the provisions of Section 1021.5, noting that a litigant who acts as a "private attorney general" and who is successful in litigation, may recover the reasonable attorney fees incurred in enforcement of an important right affecting the public interest, or where the litigation has conferred a significant benefit on the general public. The court also noted that the award must be appropriate based on the necessity of private enforcement and other factors.

Here, the Court of Appeal concluded that the Committee vindicated an important constitutional right of political parties and the members of such parties to elect leaders. The court concluded that the Committee's efforts incurred here did confer a significant benefit on persons belonging to political parties. The court remanded the matter back to the trial court, to determine the reasonable attorney fees incurred by the Committee.