

[Attorney Fee Award is Reversed Where It is Rendered Without Proper Statutory Authorization](#)

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In [Ilshin Investment Co. Ltd. v. Buena Vista Home Entertainment Inc.](#), 2011 DJDAR 6917 (2011), the [California Second District Court of Appeal](#) reversed an award of attorney fees. The court ruled that the award was not proper where it lacked the requisite statutory support.

In 1993 an investment company (“Ilshin”) loaned money to a movie producer (“Patriot, Inc.”) to create a film. After completion of the project, Patriot was not able to repay the loan. Subsequently, Patriot entered into an exclusive agreement for the film’s home video distribution with [Buena Vista Home Entertainment, Inc.](#) (“Buena Vista”).

The agreement required Buena Vista to obtain Patriot’s consent before incurring distribution expenses over \$900,000. The film’s sales exceeded the parties’ expectations. Distribution income reached almost \$13.5 million. Buena Vista, however, failed to obtain Patriot’s consent to incur expenses over the \$900,000 threshold.

Subsequently, Ilshin filed suit against Buena Vista as a judgment creditor for breach of contract. Ilshin alleged that Buena Vista incurred unauthorized distribution costs. The case went to trial and the trial court awarded Ilshin \$1,439,203.08 in attorney fees pursuant to [Code of Civil Procedure Section 701.020\(c\)](#), as well as other damages which were proved at trial. Buena Vista appealed the judgment, including the fee award.

The Court of Appeal reversed the award of attorney fees. The court noted that attorney fees are not recoverable unless the award is expressly authorized by either statute or a valid contract. The court noted that Ilshin brought suit under Section 701.280(b), which does not provide a basis for an attorney fee award. For these reasons, the court held that the trial court’s attorney fee award was erroneous.