

Attorneys Are Not Liable for Attorneys' Fees in the anti-SLAPP context

BY ADRIANOS FACCHETTI

Until recently it was an open question whether an attorney could be held liable jointly and severally with his or her client for attorneys' fees pursuant to the [anti-SLAPP](#) statute. But the Second District Court of Appeal, located in Los Angeles, recently put this issue to bed.

In **Moore v. Kaufman**, Justice Rothschild expounded an excellent analysis and concluded that the anti-SLAPP statute does not provide for an award of attorneys' fees against a losing plaintiff's attorney. Justice Rothschild's analysis boiled down to the following:

- No previous case supports an award of attorneys' fees against a losing plaintiff's attorney
- Nothing in the statute suggests that a court has discretion to award such fees
- Fee awards against attorneys are usually in the form of a sanction and are generally not permitted in "routine fee-shifting provisions" like the anti-SLAPP statute

As I stated above, I believe the court got it right, however, I would have liked to see it analyze a recent federal decision in which the court determined that a law firm was on the hook for \$76,275 in attorneys' fees *Mory v. City of Chula Vista*, Case No. 07-CV-462 JLS (WVG) (Doc. No. 198, filed May 7, 2010). However, I suppose it is a moot point now.

Plaintiffs' attorneys can breathe a collective sigh of relief in regard to this issue. Now they need only worry about properly advising their clients of the potential of an anti-SLAPP motion in advance of filing a Complaint.