

[Unsatisfied Judgment Allows Prevailing Party to Recover Attorney Fees](#)

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In [Lucky United Properties Investment Inc. v. Lee](#), 2010 DJDAR 8085 (2010), the [First District Court of Appeal](#) decided a unique issue dealing with the recovery of attorney fees incurred in enforcing a judgment.

The procedural history of the case is convoluted. In 2006, the Plaintiff sued Lucky United Properties Investments Inc. (“Lucky”) for malicious prosecution. Lucky cross-complained for malicious prosecution against the Plaintiff and his attorney, Albert Lee (hereinafter “Lee”). The trial court granted [anti-SLAPP motions](#) in connection with **both** of the lawsuits.

Thereafter, the court awarded the attorney, Lee, \$26,407.50 in fees and costs as the prevailing party on his anti-SLAPP motion. Lucky failed to pay the attorney in a timely manner, and Lee filed a cost memorandum for \$424 in enforcement costs. Lucky then sent the attorney \$26,820, which the attorney claimed was insufficient. Lee then sought attorney fees and costs in relation to Lucky’s appeal from the order granting Lee’s anti-SLAPP motion. Lee claimed \$587 in costs from the appeal. The trial court awarded the attorney \$33,830 for attorney fees and costs. The attorney then requested attorney fees incurred to enforce the earlier order awarding attorney fees and costs. The trial court denied the request on the ground that Lucky had fully paid the amounts due **before** the motion was brought.

The Court of Appeal reversed and remanded the decision of the lower court, noting that a motion for attorney fees incurred in enforcing a judgment must be filed before a judgment is satisfied. Here, Lucky did not move to tax the \$424 in costs claimed by the attorney. Thus, those costs were incorporated into the judgment and the \$26,820 mailed to the attorney. The court noted that the amount did not satisfy the judgment. The court also noted that Lucky did not pay the original judgment in full despite the payment of \$33,830. Thus, when the attorney filed the motion for attorney fees, Lucky had not fully satisfied the judgment. On that basis, the court of appeal concluded that the trial court erred in denying the attorney’s request for attorney fees.