

Plaintiffs are "Prevailing Parties" Under California Code Of Civil Procedure § 1021.5 Where the Action Enforces an Important Public Right

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In [Choi v. Orange County Great Park Corp.](#), California Courts of Appeal 2009 DJDAR 9790, (June 30, 2009) the Fourth Appellate District reversed the decision of the trial court, denying a fee application submitted pursuant to [Code of Civil Procedure § 1021.5](#), California's "Private Attorney General" statute.

The defendant in the case was a public benefit nonprofit corporation called [Orange County Great Park Corp.](#) (OCGPC). The entity was created to develop a former U.S. Marine Air Station property in Orange County, California. Over \$400 million in public money was committed to the project. OCGPC had a nine-member board that consisted of the Irvine City Council (ICC) and four outside directors. Steven Choi and Christina Shea (collectively, Choi) were two of the outside directors. After the CEO of OCGPC resigned, a search committee consisting of four directors was formed to find a replacement.

The plaintiff, one of the outside directors, was not included on the search committee and her request to see the resumes of the applicants was refused. Choi petitioned for a writ of mandate to compel defendant to produce the requested documents. Prior to the hearing, the parties entered into a stipulation whereby OCGPC agreed to let Choi view the documents. Choi filed a motion to recover attorney fees as the "prevailing party" under Code of Civil Procedure § 1021.5. The petition was summarily denied by the trial court.

The trial court's decision was reversed by the Court of Appeal. The court noted that Section 1021.5 permits recovery of attorney fees for a "prevailing party...when its action has resulted in the enforcement of an important right affecting the public interest [and] a significant benefit has been conferred on the general public." It is not necessary for a party to have received a "final favorable judgment" but rather, the "critical fact is the impact of the action, not the manner of its resolution."

The court concluded that Choi was the prevailing party as she received the desired end result. Her lawsuit resulted in the enforcement of an important public right to review candidates who would ultimately control a significant amount of public money.