

## **Injunctive Relief Related Fee Awards are Subject to Automatic Stay Pending Appeal**

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In *Chapala Management Corp. v. Stanton*, 2010 DJDAR 11821 (2010) the [court of appeal](#) reviewed the trial court's grant of an injunction and an attorneys' fees award. Subsequent to granting the fee award, the court ordered that a bond was required from Appellants to stay the collection of the fee award, pending appeal of the decision. Appellants then filed a petition for a [writ of supersedeas](#). Appellants argued that a bond was not required to stay the fee award as it was tantamount to an award of costs relating to a claim for injunctive relief.

The dispute commenced when Appellants' replaced two windows in their condominium in violation of the Covenants, Conditions and Restrictions ("CCRs") of their Condominium Association ("Association"). Appellants used colored windows in their replacement project, despite the Association's denial of their application to use that type of an improvement. The Association filed suit against Appellants for violation of the CCRs.

After a hearing the trial court ordered the Appellants to modify or replace their windows and that they were required to obtain the Association's approval prior to doing so. The appeal followed and the Appellants refuse to post an undertaking as ordered by the trial court. The Appellants petitioned for writ of supersedeas, arguing an undertaking was not required to stay an award of costs made in connection with a judgment for injunctive relief.

The appellate court noted that under [Code of Civil Procedure Section 916](#), routine or incidental items of costs of injunctive relief are automatically stayed pending an appeal. The court of appeal noted that the trial court made the fee award pursuant to [Civil Code Section 1354](#). That Code Section provides that in an action to enforce "governing documents," the prevailing party shall be awarded reasonable attorney fees and costs.

The court of appeal concluded that because attorney fees were expressly provided for under Section 1354, such an award was a matter of right, and therefore routine. Thus, the attorney fee award did not require the posting of a bond.