

An Attorney Petitioner in a CEQA Suit Can Be Awarded Attorneys' Fees

In a case of first impression, a court of appeal has held that an attorney can be a named petitioner in a CEQA case, litigate the case on behalf of all of the petitioners, and then, if the litigation succeeds, obtain an award of attorneys' fees from the defendants for her work. [*Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg*](#), 206 Cal. App. 4th 988 (2012).

In *Healdsburg Citizens*, an organization and two individuals challenged the EIR for a resort project, winning some of their claims and losing others. One of the individuals, an attorney and a member of the organization, did much of the legal work in the case. The organization claimed attorneys' fees from the defendants under Code of Civil Procedure section 1021.5, California's "private attorney general" statute. After discounting the fee claim because some of the petitioners' CEQA arguments had failed, the trial court awarded fees to the attorney/petitioner.

The defendants appealed, arguing the court erred in awarding any fees to an attorney who was also a party to the case. The court of appeal disagreed.

In the court's view, three key factors distinguished the situation from others in which a fee award was denied because the attorney/plaintiff was found to be "self-dealing:"

- there were several petitioners in the case—one of them an organization with more than 100 members—so the attorney was not just representing herself and her own interests in the case, but also representing the other petitioners as one of their attorneys.
- the attorney worked to vindicate the important public interest of ensuring CEQA compliance.
- the attorney worked on a contingent fee basis, taking the risk that she would not be compensated for her time.

The decision is a noteworthy reminder of the courts' readiness to award attorneys' fees in CEQA cases under section 1021.5 and the very substantial discretion they enjoy in deciding fee requests.

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