

The California Supreme Court (and Court of Appeal) – January 30 - February 3, 2023

by Faisal Zubairi, Jill Gutierrez, and Jessica M. Leano

The California Supreme Court issued the following decision earlier this week:

Travis et al. v. Brand et al., Case No. S268480: Government Code section 91003(a) gives trial courts discretion to award attorney’s fees to “a plaintiff or defendant who prevails” on an action to enjoin violations of or compel compliance with the Political Reform Act of 1974 (the “Act”). In *Travis*, the Court resolved a conflict among the lower courts and interpreted section 91003(a) as imposing an asymmetrical standard that allows a prevailing defendant to recover its fees only if the plaintiff’s claims were “frivolous, unreasonable, or without foundation.”

City of Redondo Beach residents approved “Measure C,” which imposed zoning restrictions on a waterfront development project. Residents against Measure C sought injunctive relief under the Act, alleging that the measure’s supporters failed to disclose the identities of other supporters, including a political action committee, the mayor, and a councilmember. The trial court found no violation of the Act and awarded defendants nearly \$900,000 in costs and fees as prevailing parties under section 91003(a). The Court of Appeal affirmed the award, rejecting prior appellate decisions holding that a prevailing defendant must satisfy a “frivolous, unreasonable, or without foundation” standard to recover fees under section 91003(a). See *Comm. Cause v. Boatwright*, 195 Cal. App. 3d 562 (1987); *People v. Roger Hedgecock for Mayor Com.*, 183 Cal. App. 3d 810 (1986).

The Supreme Court granted review. It recognized that section 91003(a) does not specify different standards depending on which party prevails but agreed with the *Boatwright* and *Hedgecock* Courts that a “frivolous, unreasonable, or without foundation” standard applies to fee awards for prevailing defendants. This interpretation furthered the Act’s purpose of encouraging private litigation and conformed with the U.S. Supreme Court’s and the Court’s own construction of similarly-worded fee provisions in civil rights statutes. The Court reversed and remanded for the Court of Appeal to determine whether defendants were entitled to fees under this standard.

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