

Members Who Goes Postal Over Mailboxes Pay Attorneys Fees to The Association

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June, 1999 - Association members who sue their associations for seemingly silly matters must now pay the attorneys fees where the association acts reasonably! A California Court of Appeals decided that a member of an association who sued a neighbor and named the association as a party to the action must pay the association over \$11,000 in attorney's fees (Decision unpublished, Ct. App., Second App. Dist., B116675).

Edward Kellman, who lived in a planned community in Inglewood, filed suit to stop his mailbox from being relocated from one spot to another, a few feet away. Who owned the property upon which the mailboxes sat was a murky issue. Kellman's neighbors, the Carters, wanted the mailbox removed so they could reseed their lawn. Kellman refused.

Then emotions flared. The Carters began parking their car to block Kellman's driveway and access to the mailbox and so on. The association even tried to intervene and, through mediation, determined that the mailbox should be relocated. So, Kellman went postal and contacted an attorney. Of course, the association then declined to take a position and changed its mind about the relocation. Even so, Kellman eventually sued the Carters and the association Los Angeles Superior Court for "quiet enjoyment of the mailbox."

While the court ruled that the mailbox should stay in its place and that the Carters should stop parking their cars in a way that blocks access to the mailbox, they also held that the association acted reasonably and granted the association attorneys' fees in the amount of \$11,000!

California Civil Code Section 1354(a) states that the CC&Rs shall be enforceable, unless unreasonable. Further, Section 1354(f) states "in any action to enforce the governing documents, the prevailing party shall be awarded reasonable attorneys fees and costs." Pursuant to Civil Code Sections 1354(a) and (f) and the association's CC&Rs, this court ruled that the association acted reasonably.

While association members do have the right to sue their neighbors, including their associations as parties will cost. Kellman gets an \$11,000 mailbox for going postal.