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Law Firm Sanctioned for Forest Service Suit

Judge orders developer's lawyers to pay \$267,000 for a 'frivolous' action against federal workers.

by Henry Weinstein
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A Los Angeles federal judge on Monday ordered a large law firm and two of its attorneys to pay \$267,000 in sanctions for filing a "frivolous lawsuit" against a community activist and three Forest Service employees who opposed a luxury condominium development on Big Bear Lake.

U.S. District Judge Manuel Real issued the unusual order against Foley & Lardner and two lawyers in its San Diego office, who had filed suit on behalf of developer Irving Okovita against the employees and Sandy Steers, executive director of the Friends of Fawnskin. The group played a key role in fighting Okovita's proposed Marina Point development.

Real in March threw out the suit against the Forest Service, which substituted as a defendant for its employees, and Steers, saying she was exercising her 1st Amendment right to petition the government.

New York University law professor Stephen Gillers, an expert on legal ethics, said it is "quite unusual" for a federal judge to issue a "six-figure sanction against a law firm. For a court to award that kind of money, the court has to find an utter lack of basis" for the position that the lawyer took in the case, Gillers said.

Attorney David Greene, director of the Oakland-based 1st Amendment Project, who represented Steers, said "hopefully this award of sanctions will have a deterrent effect, not only on these lawyers, but lawyers elsewhere, preventing attacks like this one on people who legitimately petition their government."

The 1st Amendment group had asserted in a court brief that the developer had "sued Steers in order to harass and intimidate her, to chill her exercise of free speech and to intimidate others from similarly engaging in the lawful activity of petitioning government agencies."

Steers said she was pleased with Real's order. "I know that I did nothing wrong. All I've been trying to do is make this developer follow the law."

Foley & Lardner, a large law firm with 18 offices around the country, including six in California, issued a statement: "We are disappointed by the ruling. With all due deference to the court we disagree with the decision and anticipate filing an appeal." The two attorneys named in the sanction order are S. Wayne Rosenbaum and Suzanne Washington.

Okovita's suit had raised eyebrows in legal and law enforcement circles because it was believed to be the first time the Racketeer Influenced and Corrupt Organizations Act known as RICO had ever been used against Forest Service workers.

Okovita's proposed development would place 132 luxury condominiums, a 175-slip marina and tennis courts on 12.5 acres on Grout Bay on the north shore of Big Bear Lake near the tiny town of Fawnskin.

Developer Okovita filed his RICO suit last year after U.S. District Judge Robert Timlin, in response to a suit filed by his opponents, issued an order to halt the project. Timlin found it had "the potential to both harass and harm the bald eagle," which is protected under the federal Endangered Species Act. Further hearings on the opponents' suit are scheduled for next week.