

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
HALL OF JUSTICE  
TENTATIVE RULINGS - June 05, 2009**

EVENT DATE: 06/08/2009      EVENT TIME: 10:00:00 AM      DEPT.: C-71

JUDICIAL OFFICER: Ronald S. Prager

CASE NO.: JCCP4041

CASE TITLE: JCCP4041 COORDINATION PROCEEDING TOBACCO LITIGATION

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Misc Complaints - Other

EVENT TYPE: Motion Hearing (Civil)

CAUSAL DOCUMENT/DATE FILED:

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The Court rules on defendant R.J. Reynolds Tobacco Co.'s ("Defendant") motion to determine prevailing party on the State's amended motion to enforce the Consent Decree as follows:

Although Defendant provided some authority stating that consent decrees can be characterized as contracts (*Cal. State Auto. Inter-Ins. Bur. v. Super. Ct.* (1990) 50 Cal.3d 658, 663-664), the Court notes that it denied Defendant's request for a jury trial based upon its finding that this action was equitable in nature. Thus, the Court declines to apply Civil Code section 1717 ("section 1717") to this action.

Even if section 1717 were to be applied to this case, the Court would find that plaintiff People of the State of California ("Plaintiff") was the prevailing party in this matter. Plaintiff brought this action based on its contention that Defendant violated the Cartoon provision in the Consent Decree. The Court, in fact, found that Defendant did violate said provision to some degree. Therefore, Plaintiff shall be awarded attorney fees and costs pursuant to Section VI.D of the Consent Decree.

**IT IS SO ORDERED.**