

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
HALL OF JUSTICE
TENTATIVE RULINGS - September 11,2008**

EVENT DATE: 09/12/2008 EVENT TIME: 09:00:00 AM DEPT.: C-74

JUDICIAL OFFICER:Linda B. Quinn

CASE NO.: 692794

CASE TITLE: DE LA FUENTE BUSINESS PARK INC VS CITY OF SAN DIEGO

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Breach of Contract/Warranty

EVENT TYPE: Motion Hearing (Civil)

CAUSAL DOCUMENT

/DATE FILED:

Defendant City of San Diego's Motion for Attorneys' Fees is granted.

Under CC §1717, the prevailing party "the party who recovered a greater relief in the action on the contract." In this case, the court sustained the City's demurrer to Border's complaint without leave to amend. (City Ex. G.) In addition, the City prevailed on appeal as to the inverse condemnation cause of action. (City Ex. K.) Thus, the City succeeded on the two causes of action alleged and is the prevailing party under CC §1717(b)(1). Therefore, the court awards attorneys fees in the amount of \$4,365,869.93.

The court defers on the issue of whether the City is entitled to expert fees under CCP §998 until if and when a Motion to Tax Costs is filed and heard.