

Tentative Rulings for June 24, 2026 Department 6

**To request oral argument, you must notify Judicial Secretary
Molly Frabotta at (760) 904-5722
and inform all other counsel no later than 4:30 p.m.**

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at [Riverside Superior Court-Tentative Rulings](#). If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department 6 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

For information and instructions on remote appearances via **ZOOM**, visit the court's website at [Riverside Superior Court-Remote Appearances](#)

You may also make a Telephonic Appearance: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252,
1-669-216-1590, 1-551-285-1373 or 1-646-828-7666
- Meeting Number: **161 830 3643**

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.

1.

CASE #	CASE NAME	HEARING NAME
CVRI2404688	SCHEINKER VS JONES	MOTION FOR ATTORNEYS FEES

Tentative Ruling:

Moving party: Respondent Walter Jones III, MD

Responding party: Petitioner Michael Scheinker

The procedural history of this matter is interesting, to say the least.

This is a commercial lease dispute, originally initiated by the tenant-plaintiff Green America Inc. (“Green America”) against petitioner Michael Scheinker (“Scheinker”) in the related action, entitled *Green America, Inc. v. Scheinker*, Riverside Superior Court, Case No. RIC 2002554 (“First Action”). Green America filed the First Action on July 7, 2020, to enforce an option in the lease to purchase property owned by landlord-defendant Michael Scheinker (“Scheinker”), and on which Green America operated a marijuana dispensary. On February 25, 2021, the Court (Dept. 7 – Judge Vineyard) granted Scheinker’s motion to compel arbitration and stay the case pending arbitration.

On October 20, 2021, Green America filed its demand for arbitration with JAMS, and on March 18, 2022, Scheinker filed a counter-demand for arbitration against Green America as well as its principals, respondents Rami Tahhan (“Tahhan”), Kevin Wolf (“Wolf”) and guarantor of the lease, Walter Jones III, M.D. (“Jones”) (collectively “Respondents”). In the counter-demand, Scheinker alleged Respondents intentionally destroyed, disposed of and/or refused to return Scheinker’s personal property (e.g., forklifts, forklift trailer, shipping container and tools/equipment). Hon. Joseph R. Brisco (Ret.) was assigned as the arbitrator (“Arbitrator”).

Green America’s claims:

On February 3, 2023, the Arbitrator granted Scheinker’s motion for terminating sanctions against Green America, due to Green America’s failure to comply with its discovery obligations and failure to comply with the Arbitrator’s discovery orders. On May 26, 2023, the Arbitrator issued a Partial Final Arbitration Award, dismissing all of Green America’s claims against Scheinker, and awarding attorney fees and costs the amount of \$315,836.94 in favor of Scheinker as the prevailing party.

Scheinker’s counter-claims:

On March 28, 2023, the Arbitrator granted Scheinker’s motion for issue/evidentiary sanctions against Wolf and Tahhan, and determined certain facts deemed established as true in favor of Scheinker. The Arbitrator also granted monetary sanctions in favor of Scheinker and against Green America, Wolfe and Tahhan, in the amount of \$11,400. Scheinker thereafter filed a dispositive motion. On December 12, 2023, a telephonic hearing of Scheinker’s dispositive motion was conducted, in which all parties appeared through their respective counsel. The Arbitrator issued a tentative ruling to grant the motion and rule in favor of Scheinker as follows: 1) award of damages against Green America in the amount of \$531,565.41 for breach of lease agreement and unauthorized and unpermitted alterations of the premises; 2) as guarantor under

the lease, Jones is jointly and severally liable with Green America; 3) damages were awarded against Green America, Wolf and Tahhan in the amount of \$114,936.79 for conversion of personal property; and 4) award of punitive damages in the amount of \$344,810.37 against Green America, Wolf and Tahhan in connection with the conversion of personal property.

Final Award:

On December 18, 2023, the Arbitrator issued a Second Partial Final Arbitration Award (“Final Award”), adopting the tentative ruling as his final ruling on Scheinker’s counter-claims, incorporating the Partial Final Arbitrator Award on Green America’s claims, and awarding additional attorney fees and costs in the amount of \$135,672.90 in favor of Scheinker and against Green America and Jones related to the counter-claims. Thus, pursuant to the Final Award, Scheinker was awarded a total amount of \$1,440,107.76 against Green America, Jones, Wolf and Tahhan.

Scheinker filed a petition to confirm the Final Award in the First Action. On June 3, 2024, the Court (Judge Magno) granted the petition as to Green America only, but denied the petition as to Jones, Wolf and Tahhan, finding that the Court lacked personal jurisdiction over them because they were never named parties in the First Action, and Scheinker failed to show Wolf, Tahhan or Jones agreed to arbitrate his counter-claims.

Scheinker then initiated this separate action, by filing the instant petition to confirm the Final Award as against Jones, Wolf, and Tahhan.

On November 22, 2024, the Court stayed the instant matter pending the appeal from the decision in the First Action. On December 2, 2024, Scheinker dismissed his appeal in the First Action. (See 12/5/24 Notice of Dismissal.)

The court reset the hearing on the Petition to Confirm the Arbitration Award, which was heard on April 17, 2025. The court ruled as follows: “Court does not have jurisdiction to confirm arbitration award. Request to Confirm Arbitration Award is denied. Entire action dismissed with prejudice.” (4/17/25 Minute Order.) Additionally, the court found the Motion for Substitution of Successor in Interest for Deceased Petitioner Michael Scheinker was moot so the future hearing was vacated. (Ibid.)

On May 14, 2025, Scheinker (presumably Scheinker’s counsel since Scheinker is deceased and the motion to substitute a successor in interest was found to be moot) filed a Notice of Appeal of the April 17, 2025, order denying the petition to confirm the arbitration award. On July 31, 2025, the Court of Appeal substituted Jennifer O’Leary (Scheinker’s daughter) to take Scheinker’s place as appellant. (7/31/25 COA Order.)

Dr. Jones filed a motion for attorney’s fees, which was previously set for September 24, 2025. On that date, the court continued the hearing to November 5, because the “most pressing issue for the Court is the fact that there is no plaintiff.” (9/24/26 Tentative.) Since the attorney fee motion was on calendar, the law requires there be a plaintiff in order for the court to hear the attorney fee motion. Since the court did not hear the merits of the motion to substitute that was deemed moot by the April 17, 2025 ruling, the court put the motion to substitute back on calendar for November 5, 2025.

On October 8, 2025, Petitioner withdrew the motion for Substitution of Personal Representative for Deceased Petitioner. Petitioner noted the withdrawal was made *with* prejudice. (10/8/25 Notice of Withdrawal.)

On October 27, 2025, Defendant Walter Jones filed a motion to substitute Michael Scheinker's Successor in Interest. On February 3, 2026, the court denied the motion but set an Order to Show Cause re: Why a Personal Representative or Successor in Interest Cannot Be Appointed on Scheinker's Behalf. (See 2/3/26 Tentative Ruling.)

On March 24, 2026, the Court of Appeal instructed the trial court to enter an order confirming the arbitration award. The Opinion is not in the Court's system. Court staff were able to track it down from the Court of Appeal itself. The Opinion referenced is not the final opinion because it does not have the remittitur. The COA case number is D086906.

On June 9, 2026, the court substituted Jennifer O'Leary as co-trustee of the Michael and Darlene Scheinker Living trust 1994 after considering the Court of Appeal's order filed on July 31, 2025. (6/9/26 Minute Order.)

On May 13, 2026, the court signed a final judgment in favor of Jennifer O'Leary as the prevailing party against Respondent Rami Tahhan. On the same day, the court also signed a final judgment in favor of Jennifer O'Leary as the prevailing party against Respondent Walter Jones III, M.D. Finally, also on the same day, the court signed a final judgment in favor of Jennifer O'Leary as the prevailing party against Respondent Kevin Wolf.

Dr. Jones brings the instant motion for attorney fees. Jones requests \$15,861 in attorney fees, \$2,437.50 for fees related to filing the instant motion, and \$3,000 for arguing and defending the instant motion. Jones argues that since the court denied the petition to confirm the arbitration award, Jones was successful and, as a result, is entitled to attorney's fees under CCP §§129.32 and 1717.

Petitioner Michael Scheinker "by and through his counsel of record" opposes Jones' motion. The Opposition first argues it is premature for this Court to find Jones is the prevailing party because Scheinker's appeal of the decision is still pending. Second, Scheinker argues this Court cannot find Jones to be the prevailing party under Civil Code section 1717 because collateral estoppel precludes the adjudication of this issue. Finally, Petitioner argues no fee award can be granted because there is no active Petitioner in this case.

In Reply, Dr. Jones asks the court to continue the instant hearing and "reinstate Plaintiff's previously filed Motion for Substitution pursuant to Code of Civil Procedure ("CCP") §187." Dr. Jones further argues that he is entitled to attorney fees regardless of the pending appeal.

As explained above, the case has progressed in the last year. No updated briefing has been filed relating to this motion.

Analysis

The Opposition to the original motion made three arguments: (1) it is premature for this court to find Dr. Jones to be the prevailing party because Scheinker's appeal of the dismissal of the petition to confirm the arbitration award was pending; (2) res judicata precludes the court from awarding fees to Dr. Jones; and (3) the court cannot grant relief because there is no Petitioner.

The third issue has been resolved. The Court, in referencing the Court of Appeals' order filed on July 31, 2025, substituted Jennifer O'Leary as co-trustee of the Michael and Darlene Scheinker Living trust 1994. (6/9/26 Minute Order.) There is now a Plaintiff.

As noted above, since the filing of the instant motion, the Court of Appeal instructed the trial court to enter an order confirming the arbitration award. The Court then entered judgments in favor of O'Leary and against Tahhan, Jones, and Wolf. (See 6/10/26 Judgments.) In those judgments, the Court specifically named O'Leary as the prevailing party.

Jones' motion for attorney fees is based on the assumption that Jones was the prevailing party. (See Motion at p.5:20-26.) Given the Judgments in this matter, that is not the case. Deny the motion.