

Takeaways From *DisputeSuite V. Score*: Uncommon, Not Unique, *Law360*

On April 13th, 2017, *Law360*, NY published an Expert Analysis by [Louie Castoria](#) of the CA Supreme Court *DisputeSuite.com* case.

Litigation is, as Georges Clemenceau said of war, “a series of catastrophes that results in a victory.” On April 6, 2017, the California Supreme Court distinguished a final “victory” from a pretrial motion “catastrophe” in contract cases, for purposes of attorneys’ fee awards under section 1717 of the state’s Civil Code.

The decision in *DisputeSuite.com LLC v. Scoreinc.com*, Case No. S226652 (*DisputeSuite.com*), resolved a division of authority among California’s district courts of appeal regarding who the “prevailing party” is when a California contract case is dismissed on procedural grounds, yet may be refiled in another forum.

Legal and Procedural Background

California Civil Code section 1717 allows trial courts to award attorney’s fees when the contract between the parties allows such awards, with an important caveat: the statute makes the attorneys-fee clause mutual, even if it is written to award fees and costs to only one of the parties. The court must determine which party, if any, has prevailed on the contract, “whether or not the suit proceeds to final judgment,” in which case “the party who recovered a greater relief in the action on the contract” shall be deemed to have prevailed.

DisputeSuite.com LLC (*DisputeSuite*) and *Scoreinc.com* (*Score*) are businesses on opposite coasts, but with similar clientele: companies that correct the damage that occurs from negative credit reports. The former provides software to such companies, the latter provides administrative services. The two entered into a series of contracts, written and oral, to collaborate, with *DisputeSuite* agreeing to share proprietary information with *Score* for limited purposes. Some of the written contracts specified that any lawsuit between them must be filed in Florida, where *Score* is based.