

TENTATIVE RULINGS: CIVIL LAW & MOTION

Thursday, May 21, 2026 at 2:00 p.m.
Courtroom 3 – Hon. Kenneth G. English
**600 Administration Drive
Santa Rosa, California 95403**

The tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument, **YOU MUST NOTIFY** the Judge’s Judicial Assistant by telephone at **(707) 521-6724**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via Zoom**, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

If the tentative ruling is accepted, no appearance is necessary unless otherwise indicated.

TO JOIN ZOOM ONLINE:

Department 3:

Meeting ID: 161—509—1092
Password: 341726

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Unless notification of an appearance has been given as provided above, the tentative ruling shall become the ruling of the Court the day of the hearing at the beginning of the calendar.

1. **SCV-272585, Sterling Roofing Co, Inc. v. Arrowtown Construction, Inc.-** Motion for New Trial, Motion to Set Aside Judgment or Amend Judgment; Motion for Attorney’s Fees:

Motion for New Trial DENIED.

Motion to Set Aside Judgment or Amend Judgment DENIED.

Defendant moves the court for new trial pursuant to CCP section 657 on the grounds that 1) the award of damages was excessive; 2) the evidence was insufficient to justify the decision; 3) the decision was contrary to law; and 4) there were errors in law at trial, to which Defendant objected.

In a second motion, Defendant moves the court to set aside the judgment pursuant to Code of Civil Procedure (“CCP”) section 663 on the basis that there is an incorrect or erroneous legal basis for the decision, not consistent with, or supported by, the facts.

Plaintiff opposes both motions. It contends that the evidence and law support the court’s decision. Defendant replies to the opposition, reiterating its position.

Motion for New Trial

Damages Were Excessive

Defendant first contends that the award of damages was excessive because it conflicts with the finding of insufficient evidence of the value of the services provided for the common counts. It claims that the court's award of \$51,541 for the Fixed Contract and \$4,567.50 for the Hips and Ridges Work on the cause of action for breach of contract conflicts with the court's finding that there was insufficient evidence to support the common counts claim. Defendant points out that both causes of action sought damages for the same work. Accordingly, it reasons, if "there was insufficient evidence to support the Common Count claim, then there was insufficient evidence for the breach of contract award." Defendant further points to gaps in the evidence supporting the actual costs of labor and materials. This argument is unpersuasive.

First, the court did not find that "there was insufficient evidence to support the Common Count claim." The court found that Plaintiff in fact *had met its burden* for prevailing on this cause of action but that there was simply insufficient evidence to support the *full* amount which Plaintiff sought for the common counts claim based on quantum meruit for the value of goods and services provided. SOD 22. The court noted that there were gaps and vagaries in some of the evidence. *Ibid.* The court therefore found that the evidence was sufficient only to support a finding that Plaintiff could recover \$81,527.42, or \$31,527.42 after deducting the \$50,000 already paid, on the claim for common counts. *Ibid.* The court expressly pointed out that Defendant's own evidence showed a value of \$62,879.42 for everything which Plaintiff provided aside from the insurance and it then added the value of the insurance based on the only evidence showing that value. *Ibid.* As a result, there was sufficient evidence to support Plaintiff recovering on the claim for common counts, but just not enough to support the full amount Plaintiff sought.

Second, as explained in the SOD, this court found that there was no dispute in the evidence that the claim for breach of contract was based in part on two agreements. This included the agreement based on the written Bids 1-3 containing terms by which Defendant agreed to pay Plaintiff a specific, fixed sum for the work. SOD 3-5, 8-13; Exs. 4, 7, 13. This agreement covered the bulk of Plaintiff's work on the project, excluding the Hips and Ridges Work, which the evidence showed was the subject of an additional, oral agreement. SOD 4-5; 14-15; CT 121-123, 284-286, 391. The court also found that Hips and Ridges Work was separate from the Fixed Contract, on a time-and-materials basis pursuant to the terms as the parties discussed. Plaintiff's evidence, the court found, showed that Plaintiff performed the Hips and Ridges Work and demonstrated that the cost was \$4,292.50 in labor and \$275 in materials in labor, for a total of \$4,567.50. SOD 15; CT 123, 284-286. The court found that the evidence of this cost was sufficient to establish the price for the Hips and Ridges Work.

The dispute in the primary agreement based on Bids 1-3 was only over the specific terms, particularly the amount which Defendant had agreed to pay, and which bid was operative. As noted, the court found, that the evidence showed that Plaintiff submitted all of the bids on a preprinted form with several paragraphs of boilerplate language as well as terms specifying the work and a single, specific price for that work. SOD 3-4; CT 392-393; Ex.4. The evidence showed that Defendant understood this to be a fixed contract, with Defendant's own testimony explaining that a fixed contract meant an agreement to pay a specific, fixed price, rather than to pay on a time-and-materials basis. SOD 3; CT 392-393; Ex.4. The court also found that the written bids formed

the fundamental written terms of the Fixed Contract, the Fixed Contract was an agreement by Defendant to pay Plaintiff a fixed sum for work performed regardless of the cost for time and materials, and that the parties entered into an oral agreement for the Hips and Ridges Work. SOD 3-5, 8-15. The evidence further showed that the Fixed Contract ultimately was based on the terms and agreed payment set forth in the written Bid 3, also reflected in Invoice #5574, while the payment for the Hips and Ridges Work was set forth in Invoice #5574. SOD 13-15. The court also noted that the evidence showed that Defendant understood the bids to set forth a fixed-price contract and knew what such a contract meant. SOD 3.

Accordingly, the cause of action for breach of contract was based on the existence of a valid, enforceable contract in contrast to the claim for common counts, which was based on a theory of quantum meruit. Moreover, the contracts ultimately included specified payment terms for specified amounts. Because the court found that the evidence showed the contracts, and showed that Plaintiff had performed all of the work except for the downspouts pursuant to the contracts, this meant that Defendant owed Plaintiff the sums it agreed to pay in those written instruments. The sums were specific amounts stated in writing. On the breach of contract claim, Plaintiff therefore did not need to adduce evidence establishing the full value or costs of the goods and services provided in order to recover the amounts set forth in the writings. Plaintiff merely needed to show that Defendant agreed to pay a certain sum for certain work and that Plaintiff performed that work in accordance with the contracts. The gaps in evidence of the actual value of goods and services which Plaintiff provided accordingly have no effect on the amount recoverable for breach of contract in this instance.

By contrast, the claim for common counts, as a claim for quantum meruit, required Plaintiff to establish the dollar amount of the goods and services provided and Plaintiff therefore could only recover the value which it was able to establish. Finally, as the court explained above and in the SOD, the causes of action for breach of contract and common counts were alternative theories based on the same facts and Plaintiff elected recovery, so Plaintiff obtained its award for breach of contract and, although it prevailed on the basic cause of action for common counts, was therefore awarded nothing on that cause of action to avoid a double recovery.

The court DENIES the motion on this point.

The Evidence Was Insufficient to Justify the Decision

Defendant's claim that the evidence was insufficient to justify the decision is intertwined with, and based on the same analysis which it presents for the claim, above, that the damages were excessive.

For the same reasons, the court finds this argument unpersuasive and DENIES the motion on this point.

Decision Contrary to Law

Defendant argues that the finding that Plaintiff prevailed on its cause of action for breach of contract is contrary to the law because there was insufficient evidence to support a finding that Plaintiff satisfied all elements of the cause of action. By this, Defendant means that Plaintiff failed to explain its billing and to cooperate in providing this information when Defendant and the owners asked for an explanation, following work performed long after Plaintiff had submitted Bid 3.

Defendant asserts that Plaintiff “prevented payment by not explaining its billing” and knew that the owners were responsible for payment but wanted an explanation. As the court explained in the SOD, no evidence supported Defendant’s claim that Plaintiff was entitled to payment only if the owner paid Defendant. The court found no evidence of such an agreement and noted that Defendant had failed to cite any legal authority for the proposition that this is a legal requirement of all construction contracts. As this court has explained, the evidence showed, without dispute, that Plaintiff and Defendant had entered into an agreement between themselves that Defendant agreed to pay Plaintiff a set amount for work performed. No evidence showed that any terms of the agreement involved the owners or payment from the owners, or required payment from the owners in order for Plaintiff to be paid. No evidence indicated that Plaintiff was obligated to explain its billing to the owners. Defendant claims that Plaintiff failed or refused to perform by not explaining its billing, but no evidence showed that Plaintiff had an obligation to do so in order to be paid.

Defendant relies on authority showing that a party may not prevail on an agreement where that party prevented performance or refused to cooperate when necessary for performance. It cites, among others, *Oakland Bulk & Oversized Terminal, LLC v. City of Oakland* (2025) 112 Cal.App.5th 519, at 546 , 556. Defendant’s description of the law is not in dispute but the application here is incorrect. No evidence here showed that Plaintiff had an obligation to explain its billing to Defendant or the owners, or that Plaintiff had an obligation to cooperate in helping Defendant explain the bills to the owners. Defendant cites no evidence supporting such a finding.

As explained above, the evidence unequivocally showed that Defendant simply agreed to pay a specific amount for work performed, so Plaintiff did not need to support or explain its billing when seeking payment from Defendant. Plaintiff submitted Bid 3 by which it agreed to perform work for the amount stated in the bid and Defendant agreed.

Finding of No Good Faith Basis to Withhold Payment is Erroneous and Lacks Support of Law or Evidence

Defendant next claims that the court erroneously, contrary to both evidence and the law, found that Defendant lacked a good faith basis for denying payment. It bases this argument on its contention that the owners and Defendant both failed to understand why the costs had increased and wanted an explanation. This in part relies again on the argument above that Plaintiff knew the owners wanted an explanation for the invoice and that Defendant needed the explanation in order to get paid.

As already explained, the evidence unequivocally showed that Defendant agreed to pay Plaintiff a fixed amount for the work; Plaintiff submitted a bid for the agreement; Defendant in the course of the events asked Plaintiff twice to submit new statements for the cost of the work; both times Plaintiff submitted a new bid with a set payment for the work; Defendant directed Plaintiff to perform the work each time and Plaintiff performed the work requested; by the terms of the bids, Defendant accordingly agreed to pay the amount set forth in the bids.

The evidence shows that Defendant’s dealings or issues with the owners, and desire for payment from the owners were irrelevant to Defendant’s agreement to pay Plaintiff the amount Plaintiff set forth in the bids. Likewise, under the evidence presented, Plaintiff had no legal or contractual obligation to explain the bid amounts. As the court explained, it found that the dispute over the

increased costs, and questions regarding the increase, to be between Defendant and the owners. SOD 20-21.

Defendant cites to Business and Professions Code section 7108.5 regarding payment of subcontractors and good faith disputes over the amounts due. However, Defendant ignores the import of that provision. The provision governs such relationships and projects in general, where the contractor is periodically making progress payments for work done up to that point, and does not impose mandatory terms which always apply. It also expressly states, in language which Defendant itself quotes, that the procedures set forth apply “unless otherwise agreed to in writing.” In this case, the evidence showed that Plaintiff and Defendant had a different arrangement, agreed to in writing, by which Defendant merely agreed to pay Plaintiff a final sum per Plaintiff’s request for the work promised. This provision is therefore inapplicable based on the facts and evidence. Again, there was no dispute about the billing because there could be none once Defendant simply agreed to pay the amount which Plaintiff requested in Bid 3.

Defendant also contends that the court on its own improperly raised the issue that the dispute over payment was between the owners and Defendant alone. It claims that Plaintiff never raised this issue.

Defendant’s argument on this last point ignores the evidence and the court’s role, since it was trier of fact in this trial, both to interpret the evidence and to determine its effect under the law. Faced with arguments and evidence over the dispute between Defendant and the owners, the court was obligated to interpret the factual and legal import of that dispute. It merely interpreted the evidence and reached a conclusion as to that effect under the law. This was based on the evidence, detailed above, showing that Plaintiff only entered into an agreement with Defendant by which Defendant agreed to pay Plaintiff the sums which Plaintiff presented, and showed that only Defendant had dealings with the owners, along with evidence showing that Defendant had agreed to pay Plaintiff’s increased price by Bid 3 but told Plaintiff that it would not discuss the increased costs with the owners until the end of the project.

Promissory Estoppel

Defendant asserts that the court’s rejection of its claims of promissory estoppel “is a non-sequitur, illogical, and ignores the issue at trial,” and is accordingly “error, an abuse of discretion, and made without evidence.” It claims that it relied on the original bid only and that no evidence supports the court’s finding that Bid 2 and Bid 3 were new bids when Defendant merely asked for “updates” to the pricing. Accordingly, it reasons, the evidence showed that Defendant relied on the original Bid 1 as the operative terms of the agreement.

On this motion, Defendant must demonstrate that the evidence compels a finding in its favor. The evidence, as the court set forth in the SOD, is more than sufficient to support the court’s rejection of Defendant’s claims of promissory estoppel and reliance on the original bid, as opposed to Bid 2 and Bid 3. As the court explained in the SOD, Bid 2 and Bid 3 were both on the same bid form as the original and both contained the same bid terms as the original. This language including the provision stating, “In the event Sterling Roofing Co., Inc., is requested to commence work hereunder even though this bid has not been accepted in writing, performance of such work shall be deemed by the parties to be pursuant to the terms hereof, and no other terms.” The court explained that the evidence showed that Defendant did not sign or return any of the bids, including the

original. The evidence showed that Defendant did not direct Plaintiff to perform any work until after Plaintiff had already submitted Bid 2 in response to Defendant's request for updated pricing. The evidence showed that prior to performing work, Plaintiff informed Defendant that the price had gone up and Defendant stated that it would pay the increased costs. The evidence showed that after both Bid 2 and Bid 3, Defendant requested Plaintiff to perform the work and Plaintiff in fact performed. The evidence also failed to support Defendant's claims that Plaintiff provided merely "updates" on the pricing and that such updates did not increase the price from the original bid. The circumstances as set forth in the recitation of the evidence in the SOD indicated that the new prices set forth in the bids would have served no purpose if they did not set forth new payment amounts. "Updates" on pricing would have been pointless if Defendant were not required to pay that "updated" amount. Accordingly, evidence supports a finding that Defendant did not rely on the original but instead knowingly agreed to increased prices, and specifically the prices set forth in Bid 2 and Bid 3.

Insufficient Evidence to Justify Judgment Based on Fixed Price Contract Terms Which the Parties Never Discussed

Next, Defendant argues that there is insufficient evidence to support a finding that the parties entered into a fixed price contract and no evidence showed that the parties understood it to be for a fixed price at the time of the project.

Defendant's argument ignores the evidence at trial. As this court explained in the SOD, Defendant's own testimony showed that Defendant understood the contract to be for a fixed price, as set forth at SOD page 3. Defendant testified that he knew that a fixed-price contract meant "It's not time and material. It's whatever the price is for the work is what you pay." As explained above, the court found that the evidence also showed that Defendant asked Plaintiff to provide a bid for certain work; Plaintiff provided a written bid in response to that request, stating that Plaintiff perform the work for the specified price set forth on the bid; the bid had language stating that performance would be deemed to be pursuant to the terms set forth in the bid; Defendant then asked Plaintiff to provide an updated cost for the work before directing Plaintiff to perform; Plaintiff provided Bid 2 with an increased price and explained that costs had gone up; like the original bid, Bid 2 set forth an agreement to perform the work for a specified price; Defendant stated that it would pay the increased costs; Defendant then directed Plaintiff to perform and Plaintiff performed as directed; Defendant later asked for an updated price for the work; Plaintiff in response provided Bid 3, stating that it would perform for the specified price set forth in the bid; Defendant directed Plaintiff to perform and Plaintiff did so. This evidence clearly supports a finding that the parties agreed that Defendant would pay a specified price for the work. This shows a meeting of the minds and no additional evidence that the parties expressly "discussed" whether the contract would be for a fixed price is necessary. That this was a fixed-price contract can be determined from the evidence set forth above.

Conclusion: Motion for New Trial

The court DENIES the motion for new trial in full.

Discussion: Motion to Set Aside Judgment or Amend Judgment

In its Motion to Set Aside Judgment or Amend Judgment, Defendant argues that the damages awarded lack evidentiary support, are inconsistent, and are speculative; the court erred in finding that Defendant lacked a good reason to withhold payment; evidence showed that Plaintiff prevented payment by not cooperating with requested for explanations of the increased price; there is no evidence supporting the award of interest because the contract was oral and the parties never discussed interest; the court needed to include an offset for sheetmetal work; and the meaning of the fixed-price contract is ambiguous.

Most of these arguments are ultimately repetitions of the argument presented in the motion for new trial, and addressed above. This is true of the arguments that the damages awarded lack evidentiary support and are inconsistent; the court erred in finding that Defendant lacked a good reason to withhold payment; evidence showed that Plaintiff prevented payment by not explaining the increased price. The court finds no need to repeat its analysis on those points, the analysis for the motion for new trial being the same. There are, however, some differences and it is these which the court will address below.

Defendant's assertion that the award of damages is "speculative" is fundamentally a variation of the argument, discussed on the motion for new trial, that the damage award lacks evidentiary support and is inconsistent, but the court finds it appropriate to address the specific claim that it is "speculative."

The court found that Plaintiff prevailed on its cause of action for breach of contract. The terms of that contract were set forth in the written bids, ultimately Bid 3. The bids all stated that Plaintiff agreed to perform the work for the specific amount set forth in the bids. Accordingly, the damages are the funds still owing on the amount set forth in the bids. There is nothing speculative about this since the bids set forth a clear, specific monetary amount. The evidence then showed that Defendant was entitled to an offset for the amount that it had paid, which was not in dispute, and for the costs of the downspout work, which Plaintiff did not perform. The evidence showed specific amounts for both of those, as well, as set forth above. This resulted in a clear, specific damage award based directly on the unequivocal and clear evidence.

Defendant here argues that evidence supports the award of interest because the contract was oral and the parties never discussed interest. However, as the court explained in the SOD, all of the written bids contained language providing for the 2% interest. This court has already explained above that it found the evidence sufficient to support a finding that the parties entered into an agreement, or agreements, based on the terms of the written bids. That being the case, Defendant agreed to terms which included the interest provision. Evidence accordingly supports the award of interest.

Defendant next contends that the court needed to include an offset for sheetmetal work but this argument is unclear. Defendant's entire argument on this point states:

The statutory entitlement for book account/account stated is omitted without explanation but is available and should be included. The cost of the additional Sheetmetal work was identified at trial by Sterling and can be calculated and should be included. The Court says it is unclear, but Sterling presented the cost. (2RT 279: 15-16) Any Judgment must include it.

Plaintiff itself states that it is not certain what Defendant is discussing here but infers that Defendant may be referring to flashing work. The court found there to be insufficient evidence establishing the cost of the flashing work. Defendant provides no citation to the record or the SOD, or explanation. In any case, Defendant appears to contend that on the claim for common counts, the court should deduct the alleged cost of the “sheetmetal” work. However, the court notes that for the common counts, it did find that Plaintiff would not be entitled to the full amount requested, as mentioned above. More importantly, any issues regarding the specific amount to award Plaintiff on the common counts are irrelevant given that the court also found Plaintiff to prevail on the cause of action for breach of contract and instead awarded Plaintiff the greater amount available to it on that cause of action based on the election of remedies.

Finally, Defendant argues that the meaning of the fixed-price contract is ambiguous. This is a slightly different variation of the argument, already addressed above in the motion for new trial, that the court erroneously found that the parties had entered into a fixed-price contract. Defendant now argues that it is not clear what such a contract would be or mean. As explained above, the evidence showed that, in brief, Defendant asked Plaintiff to provide a bid for requested work; Plaintiff provided written bids stating that it agreed to perform for the single price specified in each bid; the bids stated that performance would be deemed to be pursuant to those terms; Defendant asked Plaintiff to perform and Plaintiff did so. Defendant testified that he knew that a fixed-price contract meant “It’s not time and material. It’s whatever the price is for the work is what you pay.”

The evidence provided sufficient clarity as to what the fixed-price contract was and the parties understanding thereof.

Conclusion: Motion to Set Aside Judgment or Enter New Judgment

The court DENIES this motion as well.

Conclusion

The court DENIES both the Motion for New Trial and Motion to Set Aside Judgment or Amend Judgment.

Attorneys Fee Motion

Motion continued to June 26, 2026, at 8:30am in Department 3.

*****This is the end of the Tentative Rulings*****