

CALIFORNIA COURT OF APPEAL, FOURTH DISTRICT, DIVISION THREE

Simpson v. Williams

192 Cal. App. 3d 285, 238 Cal. Rptr. 566 (Cal. Ct. App. 1987) · No. G002598 · Decided May 29, 1987

SUMMARY

The California Court of Appeal considers whether Code of Civil Procedure section 1013 extends the 30-day deadline under Business and Professions Code section 6204 for filing an action challenging an attorney-fee arbitration award. The court holds that section 1013 does not extend the deadline because the period runs from mailing rather than service, but relief under Code of Civil Procedure section 473 may excuse an untimely filing. The judgment confirming the arbitration award is reversed and the matter remanded for a hearing on the defendant's motion for declaratory relief.

CASE DETAILS

COURT	California Court of Appeal, Fourth District, Division Three
WRITING FOR THE COURT	Sonenshine, J.; Trotter, P.J.; Wallin, J.
JURISDICTION	California
DECIDED	May 29, 1987
DOCKET	G002598
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Williams appealed from a judgment confirming an attorney-fee arbitration award after the trial court held that his action challenging the award was untimely because Code of Civil Procedure section 1013 did not extend Business and Professions Code section 6204's 30-day filing period.
PRECEDENTIAL VALUE	published and precedential California Court of Appeal opinion
PARTIES	Gerold G. Williams v. Marilyn K. Simpson

TOPICS

- arbitration
- statutory interpretation
- appellate procedure
- remedies
- civil procedure

PRACTICE AREAS

- civil procedure
- arbitration
- appellate procedure
- statutory interpretation
- remedies

QUESTIONS PRESENTED

1. Whether Code of Civil Procedure section 1013 extends the 30-day period in Business and Professions Code section 6204 for commencing an action challenging an attorney-fee arbitration award.
2. Whether Code of Civil Procedure section 473 may provide relief from an untimely filing under Business and Professions Code sections 6203 and 6204 when the delay resulted from mistake, inadvertence, surprise, or excusable neglect.

HOLDINGS

1. Section 1013 does not extend the 30-day period for commencing an action under Business and Professions Code section 6204 because section 6204 measures the period from mailing of the award, not service, and the specific provisions governing attorney-fee arbitration control over the general service-by-mail statute.
2. Section 473 relief is available in the context of attorney-fee arbitration proceedings even though Business and Professions Code sections 6203 and 6204 do not expressly mention section 473.
3. The judgment confirming Simpson's arbitration award must be reversed and the matter remanded for a hearing on Williams's motion for declaratory relief because his one-day delay resulted from his mistaken belief that section 1013 applied, and section 473 may provide relief.

KEY QUOTATIONS

"We conclude section 1013 does not extend the time for filing section 6204 actions, but Code of Civil Procedure section 473 may excuse untimely filings." (287)

"When specific and general statutes are inconsistent, 'the special statutory enactment 'will be considered as ... exception[s] to the general statute whether [they were] passed before or after such general enactment.'" (289)

"Sections 6203 and 6204 did not need to be changed to reflect the availability of section 473 relief because it was never prohibited." (291)

FACTUAL BACKGROUND

Simpson hired Williams to represent her in dissolution and civil proceedings and paid a \$5,000 retainer. A dispute arose over whether the retainer was refundable and whether Williams was required to bill against it, so Simpson submitted the dispute to Orange County Bar Association arbitration. After notice of an award favorable to Simpson was mailed, Williams filed a declaratory-relief action 31 days later, believing that the five-day mailing extension in Code of Civil Procedure section 1013 applied.

PROCEDURAL HISTORY

Simpson's fee dispute with Williams was submitted to arbitration, and the arbitrators mailed notice of an award in Simpson's favor on May 8, 1984. Williams filed a declaratory-relief action challenging the award on June 8, 1984, one day beyond the 30-day period in Business and Professions Code section 6204. The trial court

confirmed the award, and the Court of Appeal reversed and remanded for a hearing on Williams's declaratory-relief motion, recognizing that Code of Civil Procedure section 473 could potentially excuse the late filing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must conduct a hearing on Williams's motion for declaratory relief and determine whether relief from the untimely filing is warranted under Code of Civil Procedure section 473.

CASES CITED

- Cole v. Los Angeles Unified School Dist., 177 Cal. App. 3d 1, 5, 222 Cal. Rptr. 426 (1986)
- Mario Saikhon, Inc. v. Agricultural Labor Relations Bd., 140 Cal. App. 3d 581, 189 Cal. Rptr. 632 (1983)
- Shearer v. Superior Court, 70 Cal. App. 3d 424, 138 Cal. Rptr. 824 (1977)
- Tielsch v. City of Anaheim, 160 Cal. App. 3d 576, 580, 206 Cal. Rptr. 740 (1984)
- Fritts v. County of Kern, 135 Cal. App. 3d 303, 308, 185 Cal. Rptr. 212 (1982)
- Pesce v. Department of Alcoholic Beverage Control, 51 Cal. 2d 310, 312, 333 P.2d 15 (1958)
- Villa v. Workers' Comp. Appeals Bd., 156 Cal. App. 3d 1076, 1078, 203 Cal. Rptr. 26 (1984)
- Smith v. City and County of San Francisco, 68 Cal. App. 3d 227, 231, 137 Cal. Rptr. 146 (1977)
- Hardy v. Western Landscape Construction, 141 Cal. App. 3d 1015, 190 Cal. Rptr. 766 (1983)
- Martinez v. Ralphs Grocery Co., 138 Cal. App. 3d 557, 560-561, 188 Cal. Rptr. (1982)