

CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT,
DIVISION ONE

Jennifer O’Leary v. Walter Jones III

O’Leary v. Jones · No. D085327 · Decided March 24, 2026

SUMMARY

The California Court of Appeal affirmed the denial of attorney’s fees to Walter Jones, concluding that the dismissal of a petition to confirm an arbitration award did not finally resolve the contract dispute and therefore did not establish a prevailing party under Civil Code section 1717. The court held that Jones was nevertheless entitled to recover court costs because he was a defendant in whose favor a dismissal was entered under Code of Civil Procedure section 1032. The matter was remanded for the limited purpose of awarding Jones his costs.

CASE DETAILS

COURT	California Court of Appeal, Fourth Appellate District, Division One
WRITING FOR THE COURT	DATO, Acting P. J.; CASTILLO, J.; RUBIN, J.
JURISDICTION	California Court of Appeal, Fourth Appellate District, Division One
DECIDED	March 24, 2026
DOCKET	D085327
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jones appealed an order denying his motion for attorney’s fees and costs after the trial court dismissed a petition to confirm an arbitration award against him for lack of personal jurisdiction.
STANDARD OF REVIEW	The denial of contractual attorney’s fees under Civil Code section 1717 is reviewed for abuse of discretion, including the trial court’s determination of the prevailing party. Entitlement to costs under Code of Civil Procedure section 1032 is governed by the statute.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	Walter Jones III v. Jennifer O’Leary

TOPICS

- attorney fees
- costs
- arbitration
- appellate procedure
- contracts

PRACTICE AREAS

civil procedure

appellate procedure

contracts

commercial litigation

arbitration

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by determining that neither party prevailed on the contract for purposes of Civil Code section 1717 and denying Jones attorney's fees.
2. Whether Jones was entitled to recover costs as a defendant in whose favor a dismissal was entered under Code of Civil Procedure section 1032.

HOLDINGS

1. The trial court did not abuse its discretion in determining that neither party prevailed on the contract because the dismissal did not finally resolve the enforceability of the arbitration award or Jones's liability under the guarantee.
2. Jones was entitled as a matter of right to recover costs because he was a defendant in whose favor a dismissal was entered.

KEY QUOTATIONS

“ “[F]ees under section 1717 are awarded to the party who prevailed on the contract overall, not to a party who prevailed only at an interim procedural step.” ” (at 5)

“ “Except as otherwise expressly provided by statute, a prevailing party is entitled as a matter of right to recover costs in any action or proceeding.” ” (at 9)

FACTUAL BACKGROUND

Jones signed a commercial lease on behalf of Green America and separately signed a guarantee making him responsible for rent and enforcement costs and attorney's fees. An arbitration resulted in an award finding Jones liable as guarantor. The trial court confirmed the award against Green America but dismissed the confirmation petition as to Jones for lack of personal jurisdiction, without deciding whether the award was enforceable against him or ruling on his request to vacate it.

PROCEDURAL HISTORY

Scheinker obtained an arbitration award against Jones based on Jones's guarantee of a commercial lease. The trial court confirmed the award against Green America but dismissed the petition as to Jones for lack of personal jurisdiction and expressly declined to rule on Jones's request to vacate the award. The trial court denied Jones's attorney's-fee motion on the ground that neither party prevailed on the contract and did not separately address his request for statutory costs. The Court of Appeal affirmed the fee ruling but remanded for an award of costs to Jones.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remand to the trial court for the limited purpose of awarding Jones his costs under Code of Civil Procedure section 1032. O'Leary shall recover her costs on appeal.

CASES CITED

- Hsu v. Abbata (1995) 9 Cal.4th 863, 876-877
- DisputeSuite.com, LLC v. Scoreinc.com (2017) 2 Cal.5th 968, 971, 973-977, 979
- Bucur v. Ahmad (2016) 244 Cal.App.4th 175, 186
- Domestic Linen Supply Co., Inc. v. L J T Flowers, Inc. (2020) 58 Cal.App.5th 180, 183-187
- Otay River Constructors v. San Diego Expressway (2008) 158 Cal.App.4th 796, 800, 807-808
- Andrade v. Western Riverside Council of Governments (2024) 99 Cal.App.5th 1020, 1029

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