

SUPREME COURT OF CALIFORNIA

Kurwa v. Kislinger

4 Cal. 5th 109 (2018) · No. S234617 · Decided February 1, 2018

SUMMARY

The Supreme Court of California modified its December 18, 2017 opinion in Kurwa v. Kislinger concerning whether an interlocutory judgment became appealable after the plaintiff dismissed a remaining defamation claim. The court clarified that the 2010 judgment was not final because it disposed of fewer than all causes of action and that the dismissal did not retroactively make the judgment appealable; the modifications did not affect the judgment.

CASE DETAILS

COURT	Supreme Court of California
JURISDICTION	California
DECIDED	February 1, 2018
DOCKET	S234617
DISPOSITION	other
PROCEDURAL POSTURE	The California Supreme Court modified its previously filed opinion on its own motion. The modification addressed whether an interlocutory judgment became appealable after the plaintiff voluntarily dismissed a remaining cause of action.
STANDARD OF REVIEW	De novo review of appealability and finality under the judgment-finality rule.
PRECEDENTIAL VALUE	Published California Supreme Court opinion, as modified.
PARTIES	Badrudin Kurwa v. Mark B. Kislinger et al.

TOPICS

- final judgment rule
- appellate jurisdiction
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether a plaintiff's voluntary dismissal of a remaining cause of action transforms an earlier interlocutory judgment disposing of fewer than all causes of action into an appealable final judgment.
2. Whether the time to appeal the 2010 judgment was delayed until the later dismissal of the defamation claim.

HOLDINGS

1. A voluntary dismissal of a remaining cause of action did not transform the 2010 interlocutory judgment, which disposed of fewer than all causes of action, into an appealable final judgment.
2. The later dismissal did not delay the time for appealing the 2010 judgment; even assuming the dismissal could have altered the judgment's character, the deadline to appeal had already expired.

KEY QUOTATIONS

“The 2010 interlocutory judgment was not a final judgment because it disposed of less than all of the causes of action.” (115)

“And even if Kurwa’s dismissal with prejudice could have retroactively altered the character of the trial court’s 2010 interlocutory judgment, the Court of Appeal is correct that the time for appealing that judgment has long since expired.” (115)

FACTUAL BACKGROUND

The trial court entered a 2010 judgment resolving fiduciary duty claims but leaving a defamation cause of action unresolved. Kurwa subsequently dismissed the defamation claim with prejudice and sought to appeal from the 2010 judgment. The Supreme Court explained that the dismissal did not retroactively convert the earlier interlocutory judgment into a final judgment.

PROCEDURAL HISTORY

The superior court entered a 2010 interlocutory judgment concerning fiduciary duty claims while a defamation cause of action remained pending. Kurwa later dismissed the defamation claim with prejudice and appealed. The Court of Appeal concluded that the 2010 judgment was not appealable, and the Supreme Court's modification clarified that the dismissal did not transform the interlocutory judgment into a final appealable judgment; the modification did not affect the judgment.

DISPOSITION

other

CASES CITED

- Sullivan v. Delta Air Lines, Inc., 15 Cal. 4th 288, 304 (1997)
- U.S. Financial v. Sullivan, 37 Cal. App. 3d 5, 11 (1974)