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Appellate & Constitutional Law Update

July 16, 2026

California Supreme Court Rejects Voluntary Dismissal As Pathway To Appellate Review Of Interlocutory Orders

Maniago v. Desert Cardiology Consultants' Medical Group, S290188 –

Decided July 16, 2026

The California Supreme Court held today that a party seeking review of an interlocutory order that does not fully resolve all claims, such as an order sustaining a demurrer with leave to amend, may not expedite appellate review by voluntarily dismissing the unresolved claims.

“We hold that when, as here, the plaintiffs voluntarily dismiss their action before the court has reached a final resolution regarding any of the claims pleaded in the complaint, the effect of the dismissal is to terminate the action entirely, thus forfeiting the right to appeal.”

JUSTICE GROBAN, WRITING FOR THE COURT

Background:

Under the one-final-judgment rule, California appellate courts typically lack jurisdiction over appeals from interlocutory orders. Plaintiffs Glenn and Geneanne Maniago tried to circumvent that rule by voluntarily dismissing their complaint after two of their five claims survived a demurrer and they were granted leave to amend the three others. Unhappy with the trial court's demurrer order, the Maniagos voluntarily dismissed their entire complaint with prejudice before the time to amend had expired, explaining that the dismissal was "solely for the purpose of expediting an appeal."

The Court of Appeal held that it lacked jurisdiction over the appeal, reasoning that voluntary dismissal of live claims, with the hopes of reviving them after a successful appeal, does not create appellate jurisdiction to review a nonfinal order. The California Supreme Court granted review to resolve the issue.

Issue Presented:

Is a voluntary dismissal with prejudice an appealable order if it was entered after an adverse ruling by the trial court in order to expedite an appeal of the ruling?

Court's Holding:

No. The voluntary dismissal of claims that have not been resolved results in termination of the action and forfeiture of appellate rights, not appellate jurisdiction.

What It Means:

- The decision tells a cautionary tale for parties hoping to seek review of interlocutory orders: strategic attempts to manufacture appellate jurisdiction may well backfire, leading to forfeiture rather than creation of appellate rights.
- The decision disapproves prior precedent to the extent it suggested that a party may create appellate jurisdiction by voluntarily dismissing an action after the issuance of an interlocutory order that does not finally resolve each claim.
- The Court emphasized, however, that parties seeking review of interlocutory orders are not without options. The Maniagos, for instance, could have (1) filed a petition for a writ of mandate or (2) abandoned the claims that were not subject to the demurrer order and requested a judicial order of dismissal of their remaining claims after the deadline to amend had passed.
- The Court specifically reserved the question whether appellate courts have jurisdiction over appeals arising from a voluntary dismissal after interlocutory orders fully resolve an action but no final judgment is entered.

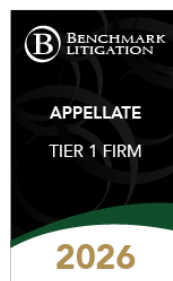
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The Court's opinion is available [here](#).

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the California Supreme Court. Please feel free to contact the following practice group leaders:

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