

DECEMBER 2024 APPELLATE UPDATE

Civil Procedure

When is an order an appealable judgment? Generally, appeals may be taken only from final judgments. In this case, the Superior Court entered an unsigned minute order granting a motion for nonsuit following trial. Opposing party appealed, but the Court invited the parties to brief the issue of appealability of the unsigned minute order. Appellant then submitted the minute order with the words “It is so ordered” added and signed by the trial judge. The Court of Appeal held the signed minute order was not a final judgment and therefore not appealable. The Court of Appeal urged the Superior Court to file signed orders clearly marked as “Judgment” to avoid future confusion.

Blauser v. Dubin

Case no. G063715 (Fourth Appellate District)

November 19, 2024

Arbitration

Where the parties have agreed pursuant to contract to submit their disputes to arbitration (also known as a pre-dispute agreement to arbitrate), Code of Civil Procedure section 1281.98 treats the drafting party’s failure to timely pay arbitration fees a material breach of the parties’ agreement, waiving the right to insist upon arbitration. In this case, the parties did not enter into a pre-dispute agreement to arbitrate, but stipulated to arbitration after the lawsuit was filed. Their stipulation provided that defendant JMM would pay the arbitrator’s fees. Arbitration commenced and JMM timely paid three of the arbitrator’s invoices. Before finalizing the decision in the case, the arbitrator sent a fourth invoice. When JMM failed to pay, the arbitrator emailed the parties stating that the decision had been written and would be released upon payment of the fees. JMM responded by immediately paying the arbitrator’s fee. Plaintiff then notified the arbitrator and JMM that she elected to withdraw from arbitration pursuant to section 1281.98. The Court of Appeal held that section 1281.98 does not apply to cases in which the parties stipulated to arbitration following the filing of the lawsuit.

Trujillo v. J-M Manufacturing Co., Inc.

Case no. B327111 (Second District)

December 2, 2024