

## **An Inconvenient Conflict – Case Summary**

Global Financial Distributors v. Superior Court (Perera)

*By Audrey Priolo, Litigation Review Attorney*

Recently, *Global Financial Distributors v. Superior Court (Perera)*, 2019 S.O.S. 2226, examined the tension between California Code of Civil Procedure Section 418.10 and 410.30 which both give deadlines to bring a motion to stay or dismiss an action on the ground of inconvenient forum. Section 418.10(a) provides that a defendant may file such a motion “on or before the last day of his or her time to plead.” Section 418.10 states a defendant may file the motion and “simultaneously answer, demur, or move to strike the complaint or cross-complaint.” Section 410.30 indicates a defendant may file a motion to stay or dismiss if “in the interest of substantial justice an action should be heard” in another state.

In *Global Financial Distributors*, the defendants filed a motion to stay or dismiss due to inconvenient forum claiming Georgia was the proper venue. Before filing the motion to move the case to Georgia, defendants filed two demurrers. The trial court found the motion untimely due to Section 418.10(e) because it was not filed simultaneously with defendant’s demurrer. The Court of Appeal disagreed and found defendant’s motion timely.

The Court of Appeals pointed out that “[o]ne of the statutes appears to authorize what the other precludes.” The Court harmonized the two statutes pointing out that it is preferable to interpret laws “in a way that allows both to be given effect.” *Id.* at 8 (quoting *Chavez v. City of Los Angeles* (2010) 47 Cal.4<sup>th</sup> 970, 986)) The Court explained that Section 418.10 applies before a defendant makes a general appearance and allows a defendant to file a motion to dismiss for lack of personal jurisdiction at the same time as a motion to stay or dismiss for inconvenient forum without making a general appearance. Section 410.30 applies after a defendant has made a general appearance. The Court further indicated that under Section 410.30, a defendant can file a forum non conveniens motion after an answer, demurrer or general appearance, however the defendant is not given an unlimited time frame and must bring the motion within a reasonable time.

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