

**BLOGS**  
Procedure

## Timely Voluntary Dismissal Held Sufficient to Avoid Summary Judgment in California

A panel of the California Court of Appeals has reversed a summary judgment and award of \$270,000 in attorney's fees that had been won by a franchisor in *Gogri v. Jack In The Box, Inc.*, 166 Cal. App. 4th 255 (Cal. App. 4 Dist. August 25, 2008). The basis of the reversal was that the plaintiff-franchisee had voluntarily withdrawn his claims prior to the summary judgment ruling. The appellate court found that the voluntary dismissal was timely under California state procedures even though the summary judgment motion had been pending at the time of the franchisee's withdrawal of claims. The court did remand the fees issue for further proceedings to determine whether the franchisor should be awarded anything as to a portion (*i.e.*, only the non-contract claims) of the plaintiff's original lawsuit.