

## ***ISSUES PENDING BEFORE THE CALIFORNIA SUPREME COURT IN CIVIL CASES***

*[These case summaries are made available to inform the public of the general subject matter in cases that the Supreme Court has accepted for review. The statement of the issue or issues in each case set out below does not necessarily reflect the views of the court, or define the specific issues that will be addressed by the court. This compilation is current as of Friday, September 2, 2022.]*

*Adolph v. Uber Technologies, Inc.*, S274671. (G059860, G060198; nonpublished opinion; Orange County Superior Court; 30-2019-01103801.) Petition for review after the Court of Appeal affirmed an order denying a petition to compel arbitration in a civil action. The court limited review to the following issue: Whether an aggrieved employee who has been compelled to arbitrate claims under the Private Attorneys General Act (PAGA) that are “premised on Labor Code violations actually sustained by” the aggrieved employee (*Viking River Cruises, Inc. v. Moriana* (2022) 596 U.S. \_\_\_, \_\_\_ [142 S.Ct. 1906, 1916] (*Viking River Cruises*); see Lab. Code, §§ 2698, 2699, subd. (a)) maintains statutory standing to pursue “PAGA claims arising out of events involving other employees” (*Viking River Cruises*, at p. \_\_\_ [142 S.Ct. at p. 1916]) in court or in any other forum the parties agree is suitable.

*Allied Premier Insurance v. United Financial Casualty Co.*, S267746. (9th Cir. No. 20-55099; 991 F.3d 1070; Central District of California No. 5:18-cv-00088-JGB-KK.) Request under California Rules of Court rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: Does a commercial automobile insurance policy continue in full force and effect under the Motor Carriers of Property Permit Act (Veh. Code, § 34600 et seq.) until the insurer cancels the corresponding Certificate of Insurance on file with the California Department of Motor Vehicles, regardless of the insurance policy’s stated expiration date? (See *Transamerica v. Tab Transportation* (1995) 12 Cal.4th 389.) #22-204

*Bailey v. San Francisco District Attorney’s Office*, S265223. (A153520; nonpublished opinion; San Francisco County Superior Court; CGC15549675.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Did the Court of Appeal properly affirm summary judgment in favor of defendants on plaintiff’s claims of hostile work environment based on race, retaliation, and failure to prevent discrimination, harassment and retaliation?

*Boermeester v. Carry*, S263180. (B290675; 49 Cal.App.5th 682; Los Angeles County Superior Court; BS170473.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issues: (1) Under what circumstances, if any, does the common law right to fair procedure require a private university to afford a student who is the subject of a disciplinary proceeding with the opportunity to utilize certain procedural processes, such as cross-examination of witnesses at a live hearing? (2) Did the student who was the

subject of the disciplinary proceeding in this matter waive or forfeit any right he may have had to cross-examine witnesses at a live hearing? (3) Assuming it was error for the university to fail to provide the accused student with the opportunity to cross-examine witnesses at a live hearing in this matter, was the error harmless? (4) What effect, if any, does Senate Bill No. 493 (2019-2020 Reg. Sess.) have on the resolution of the issues presented by this case?

*California-American Water Co. v. Public Utilities Commission*, S271493. Original proceeding. The court issued a writ of review regarding notice and due process requirements in proceedings before the Public Utilities Commission. (See also *Golden State Water Co. v. Public Utilities Commission*, S269099.)

*California Medical Assn. v. Aetna Health of California, Inc.*, S269212. (B304127; 63 Cal.App.5th 660; Los Angeles County Superior Court; BC487412.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Does an organization that expends resources and diverts them from other activities in order to counteract a defendant's allegedly unfair competition practices satisfy the requirement of injury in fact or lost money or property in order to have standing to bring an action under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.)? (2) Does organizational standing depend on whether the organization has members who are also injured by the practices and who would also benefit from the requested relief?

*Chevron U.S.A., Inc. v. County of Monterey*, S271869. (H045791; 70 Cal.App.5th 153; Monterey County Superior Court; 16CV003978.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issue: Does Public Resources Code section 3106 impliedly preempt provisions LU-1.22 and LU-1.23 of Monterey County's initiative "Measure Z"?

*County of Santa Clara v. Superior Court*, S274927. (H048486; 77 Cal.App.5th 1018; Santa Clara County Superior Court; 19CV349757.) Petition for review after the Court of Appeal issued a writ of mandate in a civil action. This case presents the following issue: Is Santa Clara County immune under the Government Claims Act (Gov. Code, § 810 et seq.) from an action seeking reimbursement for emergency medical care provided to persons covered by the county's health care service plan?

*In re D.P.*, S267429. (B301135; nonpublished opinion; Los Angeles County Superior Court; 19CCJP00973). Petition for review after the Court of Appeal dismissed the appeal in a juvenile dependency proceedings. The court ordered the parties to brief and argue the following issues: (1) Is an appeal of a juvenile court's jurisdictional finding moot when a parent asserts that he or she has been or will be stigmatized by the finding? (2) Is an appeal of a juvenile court's jurisdictional finding moot when a parent asserts that he or she may be barred from challenging a current or future placement on the Child Abuse Central Index as a result of the finding?

*Davis v. Fresno Unified School Dist.*, S266344. (F079811; 57 Cal.App.5th 911; Fresno County Superior Court; 12CECG03718.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court limited review to the following issue: Is a lease-leaseback arrangement in which construction is financed through bond proceeds, rather than by or through the builder, a “contract” within the meaning of Government Code section 53511?

*Doe v. Olson*, S258498. (B286105; nonpublished opinion; Los Angeles County Superior Court; SC126806.) Petition for review after the Court of Appeal affirmed and reversed orders in a civil action. This case presents the following issues: (1) Does the litigation privilege of Civil Code section 47, subdivision (b), apply to contract claims, and if so, under what circumstances? (2) Does an agreement following mediation between the parties in an action for a temporary restraining order, in which they agree not to disparage each other, bar a later unlimited civil lawsuit arising from the same alleged sexual violence?

*Estrada v. Royalty Carpet Mills, Inc.*, S274340. (G058397, G058969; 76 Cal.App.5th 685; Orange County Superior Court; 30-2013-00692890.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court limited review to the following issue: Do trial courts have inherent authority to ensure that claims under the Private Attorneys General Act (Lab. Code, § 2698 et seq.) will be manageable at trial, and to strike or narrow such claims if they cannot be managed?

*Family Health Centers of San Diego v. State Dept. of Health Care Services*, S270326. (C089555; 67 Cal.App.5th 356; Sacramento County Superior Court; 34201880002953CUWMGDS.) Petition for review after the Court of Appeal denied a petition for writ of mandate. This case presents the following issue: Are community outreach service expenses incurred by a qualified health center reimbursable as allowable costs under Medi-Cal as related to patient care, or are they non-reimbursable advertising to increase patient utilization?

*People ex rel. Garcia-Brower v. Kolla’s Inc.*, S269456. (G057831; nonpublished opinion; Orange County Superior Court; 30-2017-00950004.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: Does Labor Code section 1102.5, subdivision (b), which protects an employee from retaliation for disclosing unlawful activity, apply when the information is already known to that person or agency?

*Ganter v. PG&E Corporation*, S273340. (9th Cir. No. 21-15571; 26 F.4th 1085; Northern District of California; D.C. No. 4:20-cv-02584-HSG.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: “(1) Does California Public Utilities Code section 1759 preempt a plaintiff’s claim of negligence brought against a utility if the alleged negligent acts were not approved by the California Public Utilities Commission (“CPUC”), but those acts foreseeably resulted in the utility having to take subsequent action (here, a Public Safety Power Shutoff), pursuant to CPUC guidelines, and that subsequent action caused the plaintiff’s alleged injury? (2) Does PG&E’s Electric Rule Number 14 shield PG&E from liability for an interruption in its services that PG&E determines is necessary for the safety of the public at large, even if the need for that interruption arises from PG&E’s own negligence?”

*Golden State Water Co. v. Public Utilities Commission*, S269099. Original proceeding. The court issued a writ of review regarding notice and due process requirements in proceedings before the Public Utilities Commission. (See also *California-American Water Co. v. Public Utilities Commission*, S271493.)

*Haggerty v. Thornton*, S271483. (D078049; 68 Cal.App.5th 1003; San Diego County Superior Court; 37-2019-00028694-PR-TR-CTL.) Petition for review after the Court of Appeal affirmed an order in a probate proceeding. This case presents the following issue: Can a trust be modified according to the statutory procedures for revocation of a trust (Prob. Code, § 15401) if the trust instrument itself sets forth identical procedures for modification and revocation?

*Himes v. Somatics, LLC*, S273887. (9th Cir. No. 21-55517; 29 F.4th 1125; Central District of California; D.C. No. 2:17-cv-06686-RGK-JC.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: “Under California law, in a claim against a manufacturer of a medical product for a failure to warn of a risk, is the plaintiff required to show that a stronger risk warning would have altered the physician’s decision to prescribe the product? Or may the plaintiff establish causation by showing that the physician would have communicated the stronger risk warnings to the plaintiff, either in [] patient consent disclosures or otherwise, and a prudent person in the patient’s position would have declined the treatment after receiving the stronger risk warning?”

*Huerta v. CSI Electrical Contractors, Inc.*, S275431. (9th Cir. No. 21-16201; 39 F.4th 1176; Northern District of California; D.C. No. 5:18-cv-06761-BLF.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: “(1) Is time spent on an employer’s premises in a personal vehicle and waiting to scan an identification badge, have security guards peer into the vehicle, and then exit a Security Gate compensable as ‘hours worked’ within the meaning of California Industrial Welfare Commission Wage Order No. 16? (2) Is time spent on the employer’s premises in a personal vehicle, driving between the Security Gate and the employee parking lots, while subject to certain rules from the employer, compensable as ‘hours worked’ or as ‘employer-mandated travel’ within the meaning of California Industrial Welfare Commission Wage Order No. 16? (3) Is time spent on the employer’s premises, when workers are prohibited from leaving but not required to engage in employer-mandated activities, compensable as ‘hours worked’ within the meaning of California Industrial Welfare Commission Wage Order No. 16, or under California Labor Code Section 1194, when that time was designated as an unpaid ‘meal period’ under a qualifying collective bargaining agreement?”

*Jane S.D. Doe v. Superior Court*, S272166. (B313874; 71 Cal.App.5th 227; Los Angeles County Superior Court; BC712514.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issues: (1) Is evidence that a plaintiff in a civil action suffered a prior sexual assault admissible for impeachment purposes (Evid. Code, § 783) or inadmissible as a claim that the plaintiff did not suffer injury (Evid. Code, § 1106, subd. (a))? If admissible, what procedures and quantum of proof are required to admit such evidence?

*Kuciemba v. Victory Woodworks*, S274191. (9th Cir. No. 21-15963; 31 F.4th 1268; Northern District of California; D.C. No. 3:20-cv-09355-MMC.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: “1. If an employee contracts COVID-19 at his workplace and brings the virus home to his spouse, does California’s derivative injury doctrine bar the spouse’s claim against the employer? 2. Under California law, does an employer owe a duty to the households of its employees to exercise ordinary care to prevent the spread of COVID-19?”

*Law Finance Group, LLC v. Key*, S270798. (B305790; 67 Cal.App.5th 307; Los Angeles County Superior Court; 19STCP04251.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Does equitable tolling apply to the 100-day deadline in Code of Civil Procedure section 1288.2 to serve and file a request to vacate an arbitration award in a response to a petition to confirm the award?

*Leon v. County of Riverside*, S269672. (E073781; 64 Cal.App.5th 837; Riverside County Superior Court; RIC1722990.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Is immunity under Government Code section 821.6 limited to actions for malicious prosecution? (See *Sullivan v. County of Los Angeles* (1974) 12 Cal.3d 710.)

*Los Angeles Police Protective League v. City of Los Angeles*, S275272. (B306321; 78 Cal.App.5th 1081; Los Angeles County Superior Court; BC676283.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issues: (1) Does Penal Code section 148.6, subdivision (a), particularly subdivision (a)(2), constitute improper viewpoint discrimination in violation of the First Amendment? (2) Does Penal Code section 148.6, subdivision (a), particularly subdivision (a)(2), impose an impermissible burden on complainants' ability to file allegations of misconduct against peace officers? (3) Is it error to compel the City to comply with a statute that has been ruled unconstitutional by the United States Court of Appeals for the Ninth Circuit?

*Los Angeles Times Communications, LLC v. State Bar of California*, S269401. Original proceeding. The court issued an order to show cause why the relief sought in the petition should not be granted. This case presents the following issues: (1) Does the court have the authority to reverse a discretionary decision by the State Bar's Interim Chief Trial Counsel not to waive the confidentiality of disciplinary investigations involving alleged professional misconduct by Thomas V. Girardi, and if so, was such a waiver of confidentiality in this matter "warranted for protection of the public" within the meaning of Business and Professions Code section 6086.1, subdivision (b)(2)? (2) Are the State Bar of California's Chief Trial Counsel and Chair of the Board of Trustees authorized under Business and Professions Code section 6086.1, subdivision (b)(2) to disclose information and records regarding confidential disciplinary investigations that were closed without charges filed? (3) Is the scope of disclosures permitted under the confidentiality waiver in section 6086.1, subdivision (b)(2) limited to releases of information "confirming the fact of an investigation or proceeding, clarifying the procedural aspects and current status, and defending the right of the licensee to a fair hearing"?

*Los Angeles Unified School Dist. v. Superior Court*, S269608. (B307389; 64 Cal.App.5th 549; Los Angeles County Superior Court; BC659059.) Petition for review after the Court of Appeal granted a petition for writ of mandate. This case presents the following issue: Does Government Code section 818, which bars punitive damages against government defendants, preclude recovery under Code of Civil Procedure section 340.1, subdivision (b), which permits an award of up to treble damages after a child is sexually abused as a result of a cover up?

*Meinhardt v. City of Sunnyvale*, S274147. (D079451; 76 Cal.App.5th 43; Santa Clara County Superior Court; 19CV346911.) Petition for review after the Court of Appeal dismissed an appeal from the judgment in an action for writ of administrative mandate. The court limited review to the following issue: Did the Court of Appeal correctly dismiss the appeal as untimely?

*Michael G. v. Superior Court*, S271809. (G060407; 69 Cal.App.5th 1133; Orange County Superior Court; 19DP1381.) Petition for review after the Court of Appeal affirmed an order in a juvenile dependency proceeding. This case presents the following issue: Are juvenile courts required to extend reunification efforts beyond the 18-month review when families have been denied adequate reunification services in the preceding review period?

*Niedermeier v. FCA US LLC*, S266034. (B293960; 56 Cal.App.5th 1052; Los Angeles County Superior Court; BC638010.) Petition for review after the Court of Appeal modified and affirmed the judgment in a civil action. This case presents the following issues: (1) Does the statutory restitution remedy under the Song-Beverly Act (Civ. Code, § 1790 et seq.) necessarily include an offset for a trade-in credit? (2) If the amount that a consumer has received in a trade-in transaction must be subtracted from the consumer's recovery, should that amount be subtracted from the statutory restitution remedy or from the consumer's total recovery?

*In re N.R.*, S274943. (B312001; nonpublished opinion; Los Angeles County Superior Court; 20CCJP06523.) Petition for review after the Court of Appeal affirmed orders in a juvenile dependency proceeding. This case presents the following issues: (1) What is the definition of "substance abuse" for purposes of declaring a child a dependent under Welfare and Institutions Code section 300, subdivision (b)(1)? (2) Where a child is under the age of six, does a finding of parental substance abuse alone provide sufficient evidence to warrant juvenile court jurisdiction?

*Pacific Fertility Cases*, S275134. (A164472; 78 Cal.App.5th 568; San Francisco County Superior Court; CJC19005021.) Petition for review after the Court of Appeal dismissed the appeal in a civil action. The court limited review to the following issue: Whether a petition for writ of mandate is the exclusive means of challenging an order approving or denying a good faith settlement under Code of Civil Procedure section 877.6.

*Pico Neighborhood Assn. v. City of Santa Monica*, S263972. (B295935; 51 Cal.App.5th 1002; Los Angeles County Superior Court; BC616804.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court directed the parties to brief the following issue: What must a plaintiff prove in order to establish vote dilution under the California Voting Rights Act (Elec. Code, §§ 14025-14032)?

*Prang v. Amen*, S266590. (B298794; 58 Cal.App.5th 246; Los Angeles County Superior Court; BS173698.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does the term “stock” in Revenue and Taxation Code section 62, subdivision (a)(2), which defines when certain transactions transferring real property will or will not result in a change of ownership calling for reassessment of the property, refer to all types of stock shares, or only voting shares?

*Quach v. California Commerce Club, Inc.*, S275121. (B310458; 78 Cal.App.5th 470; Los Angeles County Superior Court; 19STCV42445.) Petition for review after the Court of Appeal reversed an order denying a petition to compel arbitration in a civil action. This case presents the following issue: Does California’s test for determining whether a party has waived its right to compel arbitration by engaging in litigation remain valid after the United States Supreme Court decision in *Morgan v. Sundance, Inc.* (2022) \_\_\_ U.S. \_\_\_ [142 S.Ct. 1708]?

*Quishenberry v. UnitedHealthCare, Inc.*, S271501. (B303451; nonpublished opinion; Los Angeles County Superior Court; BC631077.) Petition for review after the Court of Appeal affirmed the judgments in a civil action. This case presents issues regarding the preemption of claims for negligence, elder abuse, and wrongful death pursuant to the Medicare Part C preemption clause (42 U.S.C. § 1395w-26(b)(3)).

*Raines v. U.S. Healthworks Medical Group*, S273630. (9th Cir. No. 21-55229; 28 F.4th 968; Southern District of California; No. 3:19-cv-01539-DMS-DEB.) Request under California Rules of Court, rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: Does California’s Fair Employment and Housing Act, which defines “employer” to include “any person acting as an agent of an employer” (Gov. Code, § 12926, subd. (d)), permit a business entity acting as an agent of an employer to be held directly liable for employment discrimination?

*Ramirez v. Charter Communications, Inc.*, S273802. (B309408; 75 Cal.App.5th 365; Los Angeles County Superior Court; 20STCV25987.) Petition for review after the Court of Appeal affirmed an order denying a petition to compel arbitration in a civil action. This case includes the following issues: Did the Court of Appeal err in holding that a provision of an arbitration agreement allowing for recovery of interim attorney’s fees after a successful motion to compel arbitration, was so substantively unconscionable that it rendered the arbitration agreement unenforceable?

*Rattagan v. Uber Technologies*, S272113. (9th Cir. No. 20-16796; Northern District of California; No. 3:19-cv-01988-EMC.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: Under California law, are claims for fraudulent concealment exempted from the economic loss rule?



*Rodriguez v. FCA US, LLC*, S274625. (E073766; 77 Cal.App.5th 209; Riverside County Superior Court; RIC1807727.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Is a used vehicle that is still covered by the manufacturer’s express warranty a “new motor vehicle” within the meaning of Civil Code section 1793.22, subdivision (e)(2), which defines “new motor vehicle” as including a “motor vehicle sold with a manufacturer’s new car warranty”?

*Romero v. Shih*, S275023. (B310069; 78 Cal.App.5th 326; Los Angeles County Superior Court; EC064933.) Petitions for review after the Court of Appeal affirmed in part and reversed in part a judgment in a civil action. This case presents the following issue: Did the trial court correctly find the existence of an implied easement under the facts?

*Souliotes v. California Victim Compensation Bd.*, S267930. (B295163; 61 Cal.App.5th 73; Los Angeles County Superior Court; BS170608.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in an action for writ of administrative mandate and other relief. This case presents the following issues: (1) Does a federal court’s “gateway” finding of actual innocence (*Schlup v. Delo* (1995) 513 U.S. 298) satisfy the “factually innocent” standard of Penal Code section 1485.55, subdivision (a), for entitlement to compensation by a person wrongfully convicted and incarcerated? (2) Are the factual findings and credibility determinations made in a federal court’s *Schlup* order binding on state courts under Penal Code section 1485.5, subdivision (c)?

*Taking Offense v. State of California*, S270535. (C088485; 66 Cal.App.5th 696; Sacramento County Superior Court; 34201780002749CUWMGDS.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in an action for writ of administrative mandate. This case presents the following issue: Did the Court of Appeal err in declaring the provision of the Lesbian, Gay, Bisexual, and Transgender (LGBT) Long-Term Care Facility Residents’ Bill of Rights (Health & Saf. Code, § 1439.51) that criminalizes the willful and repeated failure to use a resident’s chosen name and pronouns unconstitutional on its face under the First Amendment?

*Tansavatdi v. City of Rancho Palos Verdes*, S267453. (B293670; 60 Cal.App.5th 423; Los Angeles County Superior Court; BC633651.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case includes the following issue: Can a public entity be held liable under Government Code section 830.8 for failure to warn of an allegedly dangerous design of public property that is subject to Government Code section 830.6 design immunity?

*Travis v. Brand*, S268480. (B298104, B301479; 62 Cal.App.5th 240; Los Angeles County Superior Court; BC665330.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: Must a prevailing defendant in an action under the Political Reform Act of 1974 (Gov. Code, § 81000 et seq.) show that the case was frivolous, unreasonable, or without foundation in order to recover attorney fees?

*TriCoast Builders, Inc. v. Fonnegra*, S273368. (B303300; 74 Cal.App.5th 239; Los Angeles County Superior Court; PC056615.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) When a trial court denies a request for relief from a jury waiver under Code of Civil Procedure section 631, and the losing party does not seek writ review but instead appeals from an adverse judgment after a bench trial, must the appellant show “actual prejudice” when challenging the order on appeal? (2) Does a trial court abuse its discretion when it denies a request for relief from a jury trial waiver without a showing that granting the request will prejudice the opposing party or the trial court?

*Truck Insurance Exchange v. Kaiser Cement*, S273179. (B278091; nonpublished opinion; Los Angeles County Superior Court; BC249550.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court limited review to the following issue: May a primary insurer seek equitable contribution from an excess insurance carrier after the primary policy underlying the excess policy has been exhausted (vertical exhaustion), or is equitable contribution from an excess insurance carrier available only after *all* primary policies have been exhausted (horizontal exhaustion)?

*Turner v. Victoria*, S271054. (D076318, D076336; 67 Cal.App.5th 1099; San Diego County Superior Court; 37-2017-00009873-PR-TR-CTL, 37-2018-00038613-CU-MC-CTL.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issues: (1) Does a director or officer of a California nonprofit public benefit corporation who brings an action under Corporations Code sections 5142, 5223, and/or 5233 for breach of charitable trust and/or improper conduct by directors of the trust lose standing to continue litigating the claims if he or she does not remain a director during the litigation? (2) Does the “continuous ownership” requirement of Corporations Code section 5710 for shareholder derivative standing in the for-profit context apply to derivative standing of members of a nonprofit public benefit corporation?

*Turrieta v. Lyft, Inc.*, S271721. (B304701; 69 Cal.App.5th 955; Los Angeles County Superior Court; BC714153.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issue: Does a plaintiff in a representative action filed under the Private Attorneys General Act (Lab. Code, § 2698, et seq.) (PAGA) have the right to intervene, or object to, or move to vacate, a judgment in a related action that purports to settle the claims that plaintiff has brought on behalf of the state?

*Yahoo! Inc. v. National Union Fire Ins. Co.*, S253593. (9th Cir. No. 17-16452; 913 F.3d 923; Northern District of California No. 5:17-cv-00447-NC) Request under California Rules of Court rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. As restated by the court, the question presented is: “Does a commercial general liability insurance policy that provides coverage for ‘personal injury,’ defined as ‘injury . . . arising out of . . . [o]ral or written publication, in any manner, of material that violates a person’s right of privacy,’ and that has been modified by endorsement with regard to advertising injuries, trigger the insurer’s duty to defend the insured against a claim that the insured violated the Telephone Consumer Protection Act by sending unsolicited text message advertisements that did not reveal any private information?”