



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
MAY 9 and 10, 2023**

Due to scheduled upgrades to the audio-visual system in the San Francisco courtroom, the May 9–10, 2023 oral argument session will be conducted with all justices and counsel participating remotely. The public will continue to have access to argument via live-streaming on the judicial branch website: <https://supreme.courts.ca.gov/>.

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald M. George State Office Complex, Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on May 9 and 10, 2023.

TUESDAY, MAY 9, 2023 — 9:00 A.M.

- (1) Kuciemba (Corby) et al. v. Victory Woodworks, Inc., S274191
- (2) Adolph (Erik) v. Uber Technologies, Inc., S274671
- (3) Family Health Centers of San Diego v. State Department of Health Care Services, S270326

1:30 P.M.

- (4) Boormeester (Matthew) v. Carry (Ainsley) et al., S263180
- (5) California Medical Association v. Aetna Health of California, Inc., S269212
- (6) People v. Carney (James Leo) et al., S260063

WEDNESDAY, MAY 10, 2023 — 9:00 A.M.

- (7) Quishenberry (Larry) v. UnitedHealthcare, Inc. et al., S271501
- (8) People v. Martinez (Monica Marie), S267138
- (9) County of Santa Clara v. Superior Court of Santa Clara County (Doctors Medical Center of Modesto et al., Real Parties in Interest), S274927

GUERRERO

Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA
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MAY 9 and 10, 2023**

The following case summaries are issued to inform the public about cases that the California Supreme Court has scheduled for oral argument and of their general subject matter. In most instances, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, MAY 9, 2023 — 9:00 A.M.

(1) *Kuciemba (Corby) et al. v. Victory Woodworks, Inc., S274191*

#22-171 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?

(2) *Adolph (Erik) v. Uber Technologies, Inc., S274671*

#22-204 Adolph v. Uber Technologies, Inc., S274671. (G059860, G060198; nonpublished opinion; Orange County Superior Court; 30-2019-01103801.) The court ordered the issue to be briefed and argued in this case limited to the following: 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.

(3) *Family Health Centers of San Diego v. State Department of Health Care Services, S270326*

#21-533 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?

1:30 P.M.

(4) *Boermeester (Matthew) v. Carry (Ainsley) et al., S263180*

#20-249 Boermeester v. Carry, S263180. (B290675; 49 Cal.App.5th 682; Los Angeles County Superior Court; BS170473.) After ordering review, the court limited review to 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?

(5) ***California Medical Association v. Aetna Health of California, Inc., S269212***

#21-379 *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?

(6) ***People v. Carney (James Leo) et al., S260063***

#20-90 *People v. Carney, S260063.* (C077558; nonpublished opinion; Sacramento

County Superior Court; 11F00700.) Petition for review after the Court of Appeal

remanded for resentencing in part and otherwise affirmed judgments of conviction of

criminal offenses. The court limited review to the following issues: (1) Does the

“substantial concurrent causation” theory of liability of *People v. Sanchez* (2001) 26

Cal.4th 834 permit a conviction for first degree murder if the defendants did not fire the

shot that killed the victim? (2) What impact, if any, do *People v. Chiu* (2014) 59 Cal.4th

155 and Senate Bill No. 1437 (Stats. 2018, ch. 1015, § 1, subd. (f)) have on the rule of

Sanchez?

WEDNESDAY, MAY 10, 2023 — 9:00 A.M.

(7) ***Quishenberry (Larry) v. UnitedHealthcare, Inc. et al., S271501***

#22-01 *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)).

(8) *People v. Martinez (Monica Marie), S267138*

#21-129 *People v. Martinez, S267138.* (H046164; 59 Cal.App.5th 280; Santa Clara County Superior Court; C1518585.) Review ordered on the court's own motion after the Court of Appeal reversed a judgment of conviction of a criminal offense. The court limited review to the following issue: Did the Court of Appeal correctly declare California Code of Regulations, title 10, section 2076, unconstitutional on its face?

(9) *County of Santa Clara v. Superior Court of Santa Clara County (Doctors Medical Center of Modesto et al., Real Parties in Interest), S274927*

#22-211 *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?