

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 Wednesday, November 27, 2024.]

In re Bradshaw on Discipline, S282314. (Unpublished opinion; State Bar Ct. No. 16-O-15558.) Petition for review after a State Bar Court recommendation of discipline of an attorney. This case presents the following issue: What is the appropriate discipline in light of the record in this case?

Brown v. City of Inglewood, S280773. (B320658; 92 Cal.App.5th 1256; Los Angeles County Superior Court; 21STCV30604.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order in a civil action. The court limited review to the following issue: Are elected officials employees for purposes of whistleblower protection under Labor Code section 1102.5, subdivision (b)?

California Department of Corrections and Rehabilitation v. Workers' Comp. Appeals Bd., S282013. (E079076; 94 Cal.App.5th 464; Workers' Compensation Appeals Board; ADJ1360597.) Petition for review after the Court of Appeal annulled and remanded the decision in a Workers' Compensation Appeals Board proceeding. This case presents the following issue: Should the calculation of enhanced workers' compensation benefits for an employer's serious and willful misconduct under Labor Code section 4553 be based on temporary disability payments available under the Labor Code?

Camp v. Home Depot U.S.A., Inc., S277518. (H049033; 84 Cal.App.5th 638; Santa Clara County Superior Court; 19CV344872.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Under California law, are employers permitted to use neutral time-rounding practices to calculate employees' work time for payroll purposes?

Capito v. San Jose Healthcare System LP, S280018. (H049646; nonpublished opinion; Santa Clara County Superior Court; 20CV366981.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does a hospital have a duty to disclose emergency room fees to patients beyond its statutory duty to make its chargemaster publicly available?

Center for Biological Diversity, Inc. v. Public Utilities Com., S283614. (A167721; 98 Cal.App.5th 20, mod. 98 Cal.App.5th 659e; Public Utilities Commission; 2212056.) Petition for review after the Court of Appeal affirmed a decision of the Public Utilities Commission. This case presents the following issues: (1) What standard of review applies to judicial review of a Public Utilities Commission decision interpreting provisions of the Public Utilities Code? (2) Did the Public Utilities Commission proceed in the manner required by law, specifically Public Utilities Code section 2827.1, subdivision (b)(1) and (3), when it adopted the successor tariff in *Decision Revising Net Energy Metering Tariff and Subtariffs* (2022) Cal.P.U.C. Dec. No. D.22-12-056?

City of Gilroy v. Superior Court, S282937. (H049552; 96 Cal.App.5th 818, mod. 97 Cal.App.5th 462a; Santa Clara County Superior Court; 20CV362347.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate.

Law Foundation of Silicon Valley v. Superior Court, S282950. (H049554; 96 Cal.App.5th 818, mod. 97 Cal.App.5th 462a; Santa Clara County Superior Court; 20CV362347.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate.

City of Gilroy and *Law Foundation of Silicon Valley* were consolidated for all purposes. They both present the following issues: (1) May an organization obtain declaratory relief under the Public Records Act (Gov. Code, § 7920.000 et seq.) based on a public entity's failure to preserve records while the organization's requests for those records were pending? (2) Is it a violation of the Public Records Act for a public entity to fail to preserve records it determined were exempt from disclosure before a court has had an opportunity to conduct a review?

City of San José v. Howard Jarvis Taxpayers Association, S285426. (H050889; 101 Cal.App.5th 777; Santa Clara County Superior Court; 21CV391517.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court limited review to the following issue: Is the issuance of pension obligation bonds to finance unfunded pension liability subject to the voter-approval requirement of article XVI, section 18, subdivision (a) of the California Constitution?

Cohen v. Superior Court, S285484. (B330202; 102 Cal.App.5th 706; Los Angeles County Superior Court; 22SMCV00736.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. The court limited review to the following issue: Does Government Code section 36900, subdivision (a) confer upon private citizens a right to redress violations of municipal ordinances?

Crescent Trust v. City of Oakland, S280234. (A162465; 90 Cal.App.5th 805, mod. 91 Cal.App.5th 850; Alameda County Superior Court; RG20068131.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of mandate. This case presents the following issue: Is a pre-1972 conveyance by a single deed of a group of fewer than five contiguous lots that are separately described in the deed by reference to lot numbers on a pre-1893 survey map a “division” of land that “creates” an individual lawful lot for each of the separately described lots in the single deed under the conclusive presumption set forth in Government Code section 66412.6, subdivision (a) of the Subdivision Map Act?

Doe v. Marysville Joint Unified School District, S283639. (C095446; 98 Cal.App.5th 95; Yuba County Superior Court; CVPO2100697.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Did the plaintiffs’ second voluntary dismissal of their federal court action preclude a subsequent state court action based on the same claims? (2) Did the defendant’s assertion of sovereign immunity over plaintiffs’ state law claims in federal court divest that court of subject matter jurisdiction over those claims?

EpicentRx, Inc. v. Superior Court, S282521. (D081670; 95 Cal.App.5th 890, mod. 95 Cal.App.5th 1320a; San Diego County Superior Court; 37-2022-00015228-CU-BT-CTL.) Petition for review after the Court of Appeal denied a petition for writ of mandate in a civil action. This case presents the following issue: Is a forum selection clause enforceable when a party’s right under California state law to a jury trial for their civil claims would not apply in the exclusive forum identified by the clause?

Escamilla v. Vannucci, S282866. (A166176; 97 Cal.App.5th 175; Alameda County Superior Court; RG21111193.) Petition for review after the Court of Appeal affirmed an order granting a special motion to strike in a civil action. This case presents the following issue: What statute of limitations applies to a malicious prosecution action brought against an attorney when the claim does not arise from an attorney-client relationship?

Fuentes v. Empire Nissan, Inc., S280256. (B314490; 90 Cal.App.5th 919; Los Angeles County Superior Court; 20STCV35350.) 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: Is the form arbitration agreement that the employer here required prospective employees to sign as a condition of employment unenforceable against an employee due to unconscionability?

Ford Motor Warranty Cases, S279969. (B312261; 89 Cal.App.5th 1324; Los Angeles County Superior Court; BC596216.) Petition for review after the Court of Appeal affirmed an order denying a motion to compel arbitration. The court limited review to the following issue: Do manufacturers' express or implied warranties that accompany a vehicle at the time of sale constitute obligations arising from the sale contract, permitting manufacturers to enforce an arbitration agreement in the contract pursuant to equitable estoppel?

Gilead Tenofovir Cases, S283862. (A165558; 98 Cal.App.5th 911, mod. 99 Cal.App.5th 196a; San Francisco County Superior Court; CJC19005043.) Petition for review after the Court of Appeal granted in part and denied in part a petition for writ of mandate. This case presents the following issue: Does a drug manufacturer have a duty of reasonable care to users of a drug it is currently selling, which is not alleged to be defective, when making decisions about the commercialization of an allegedly safer, and at least equally effective, alternative drug?

Gutierrez v. Tostado, S283128. (H049983; 97 Cal.App.5th 786; Santa Clara County Superior Court; 20CV361400.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does the one-year statute of limitations in the Medical Injury Compensation Reform Act (MICRA; Code Civ. Proc., § 340.5) apply to a personal injury claim alleging that the plaintiff's vehicle was struck by a negligently driven ambulance?

Hohenshelt v. Superior Court, S284498. (B327524; 99 Cal.App.5th 1319; Los Angeles County Superior Court; 20PSCV00827.) Petition for review after the Court of Appeal granted a petition for writ of mandate. This case presents the following issue: Does the Federal Arbitration Act (9 U.S.C. § 1 et seq.) preempt state statutes prescribing the procedures for paying arbitration fees and providing for forfeiture of the right to arbitrate if timely payment is not made by the party who drafted the arbitration agreement and who is required to pay such fees?

Holland v. Silverscreen Healthcare, Inc., S285429. (B323237; 101 Cal.App.5th 1125; Los Angeles County Superior Court; 22STCV01945.) Petition for review after the Court of Appeal reversed an order denying a motion to compel arbitration in a civil action. This case presents the following issue: In a lawsuit against a skilled nursing facility arising from the facility's alleged failure to protect a decedent from falls and infection, can the facility rely on an arbitration agreement signed only by the decedent to compel the decedent's heirs to arbitrate a wrongful death claim?

Iloff v. LaPaille, S275848. (A163504; 80 Cal.App.5th 427; Humboldt County Superior Court; CV2000529.) 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 issues: (1) Must an employer demonstrate that it affirmatively took steps to ascertain whether its pay practices comply with the Labor Code and Industrial Welfare Commission Wage Orders to establish a good faith defense to liquidated damages under Labor Code section 1194.2, subdivision (b)? (2) May a wage claimant prosecute a paid sick leave claim under section 248.5, subdivision (b) of the Healthy Workplaces, Healthy Families Act of 2014 (Lab. Code, § 245 et seq.) in a de novo wage claim trial conducted pursuant to Labor Code section 98.2?

In re Ja.O., S280572. (E079651; 91 Cal.App.5th 672; San Bernardino County Superior Court; J291035.) Petition for review after the Court of Appeal affirmed orders in a juvenile dependency proceeding. This case presents the following issues: (1) Does the duty of a child welfare agency to inquire of extended family members and others about a child's potential Indian ancestry apply to children who are taken into custody under a protective custody warrant? (2) What is the significance, if any, of Assembly Bill No. 81 (2023–2024 Reg. Sess.), enacted as Stats. 2024, ch. 656, to the issues presented in this case?

JJD-HOV Elk Grove, LLC v. Jo-Ann Stores, LLC, S275843. (C094190; 80 Cal.App.5th 409; Sacramento County Superior Court; 34201900248163CUBCGDS.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) What analytical framework should be applied in determining the enforceability of co-tenancy provisions in retail lease agreements? (2) Did the Court of Appeal correctly determine that the co-tenancy provision in this case is enforceable?

J.M. v. Illuminate Education, Inc., S286699. (B327683; 103 Cal.App.5th 1125; Ventura County Superior Court; 56-2022-00567324-CU-MC-VTA.) Petition for review after the Court of Appeal reversed the judgment in a civil action and remanded for further proceedings. This case presents the following issue: Is a company that stores students' confidential personal and medical information through its work providing software to school districts subject to liability to these students under the Confidentiality of Medical Information Act (Civ. Code, § 56 et seq.) and the Customer Records Act (Civ. Code, § 1798.80 et seq.) following disclosure of such information through a data breach?

Long v. City of Exeter, S286705. (B316324; nonpublished opinion; San Luis Obispo County Superior Court; 17CV0529.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: If a police department elects to sell a patrol canine that the department has trained to attack people, do the department officials responsible for oversight of the patrol canine program have a duty to warn the purchaser about precautions that must be taken in order to prevent the animal from killing or injuring members of the public?

Los Angeles County Employees Retirement Assn. v. County of Los Angeles, S286264. (B326977; 102 Cal.App.5th 1167; Los Angeles County Superior Court; 21STCP03475.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Does the board of a county public employee retirement system established under the County Employees Retirement Law of 1937 (CERL) (Gov. Code, § 31450 et seq.) have authority under the California Constitution and relevant statutes to create employment classifications and set salaries for employees of the retirement system? (2) Does Government Code section 31522.1 impose a ministerial duty on a county board of supervisors to include in the county's employment classifications and salary ordinance the classifications and salaries adopted by the board of a county public employee retirement system for employees of that system? (3) Do Proposition 162 (Cal. Const., art. XVI, § 17) and CERL override a county board of supervisors' constitutional authority to establish civil service classifications, set salaries, and maintain a civil service system for county employees under article XI of the California Constitution?

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 the ability to file, or on the City to accept, police misconduct complaints? (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?

Madrigal v. Hyundai Motor America, S280598. (C090463; 90 Cal.App.5th 385; Placer County Superior Court; SCV0038395.) Petition for review after the Court of Appeal reversed an order in a civil action. This case presents the following issue: Do Code of Civil Procedure section 998's cost-shifting provisions apply if the parties ultimately negotiate a pre-trial settlement?

Morgan v. Ygrene Energy Fund, Inc., S277628. (D079364, D079369; 84 Cal.App.5th 1002; San Diego County Superior Court; 37-2019-00059601-CU-OR-CTL.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Must a homeowner exhaust administrative tax remedies by filing a claim for a refund with an assessment board before filing an action asserting consumer protection claims against private entities involved in the implementation of a loan program in which the loans are repaid through assessments on the property and the local government acquires a tax lien on the property?

New England Country Foods, LLC v. Vanlaw Food Products, Inc., S282968. (9th Cir. No. 22-55432; 87 F.4th 1016; Central District of California; D.C. No. 8:21-cv-01060-DOC-ADS.) 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: “Is a contractual clause that substantially limits damages for an intentional wrong but does not entirely exempt a party from liability for all possible damages valid under California Civil Code [s]ection 1668?”

People v. The North River Ins. Co., S282020. (B322752; 94 Cal.App.5th 663; Santa Clara County Superior Court; F1765160.) Petition for review after the Court of Appeal reversed the judgment in a bail forfeiture action and remanded for further proceedings. This case presents the following issues: (1) In a bail bond forfeiture proceeding under Penal Code section 1305, subdivision (g), may the court compel the prosecution to make an extradition decision or toll the appearance period to allow time for the prosecution to make an extradition decision? (2) Is the prosecutor’s decision whether or not to extradite a fugitive defendant detained in a foreign jurisdiction a fact that must be alleged in a motion to vacate bail bond forfeiture?

Olympic & Georgia Partners, LLC v. County of Los Angeles, S280000. (B312862; 90 Cal.App.5th 100; Los Angeles County Superior Court; BC707591.) 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) Is income from a hotel occupancy tax rebate an intangible asset exempt from property taxation? (2) Is a “key money” deposit that a hotel received from its management companies at the onset of their contractual relationship exempt from property taxation? (3) Were certain other hotel enterprise assets properly valued for taxation purposes?

Raju v. Superior Court, S281001. (A164736; 92 Cal.App.5th 438, mod. 92 Cal.App.5th 1222; Contra Costa County Superior Court; MSRA210005.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Does a taxpayer have standing to pursue a civil action against a superior court based on its alleged failure to expedite and prioritize criminal cases? (2) If so, may such an action be based on Penal Code section 1049.5 or 1050?

Ranger v. Alamitos Bay Yacht Club, S282264. (B315302; 95 Cal.App.5th 240; Los Angeles County Superior Court; 19STCV22806.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: May a maritime worker described by 33 United States Code section 902(3)(A)–(F) within the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. § 901 et seq.) bring an action to recover for a workplace injury under the general maritime law or does California’s workers’ compensation scheme provide the worker’s exclusive remedy?

Shear Development Co., LLC v. California Coastal Commission, S284378. (B319895; nonpublished opinion; San Luis Obispo County Superior Court; 20CV-0431.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents the following issue: What standard of review applies to a decision by the California Coastal Commission asserting appellate jurisdiction under Public Resources Code section 30603, where such jurisdiction depends on the Coastal Commission's disagreement with a local government's interpretation of its local coastal program?

In re Spielbauer on Discipline, S283172. (__State Bar Court __; State Bar Ct. No. 19-O-30700.) Petitions for review after a State Bar Court recommendation of discipline of an attorney. This case presents the following issue: If a victim of attorney misconduct suffers damages recoverable in tort and incurs attorney fees as a result of the misconduct, under what circumstances may the State Bar Court order restitution based on such damages and fees as a condition of the attorney's probation? (See *Sorensen v. State Bar* (1991) 52 Cal.3d 1036.)

In re S.R., S285759. (B326812; nonpublished order; Los Angeles County Superior Court; 22CCJP03750A, 22CCJP03750B.) Petition for review after the Court of Appeal dismissed appeal as moot in a juvenile dependency proceeding. This case presents the following issues: (1) When a juvenile court's jurisdictional findings establish that a parent committed an offense that the law requires be reported to the statewide Child Abuse Centralized Index (CACI), should an appellate court presume, on an otherwise silent record, the offense has been or will be reported to CACI? (2) If unrebutted, is this presumption sufficient to avoid dismissal for mootness?

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?

TRC Operating Co., Inc. v. Chevron USA, Inc., S286233. (F083724; 102 Cal.App.5th 1040; Kern County Superior Court; S1500-CV-282520_JEB.) Petition for review after the Court of Appeal affirmed and reversed orders in a civil action and remanded for further proceedings. The court limited review to the following issue: Does Code of Civil Procedure section 660 preclude remand for further proceedings in the trial court on a motion for new trial?

Ventura County Employees' Retirement Assn. v. Criminal Justice Attorneys Assn. of Ventura County, S283978. (B325277; 98 Cal.App.5th 1119; Santa Barbara County Superior Court; VENCI00546574.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: For purposes of calculating retirement benefits for members of County Employees Retirement Law of 1937 (Gov. Code, § 31450 et seq.) retirement systems, does Government Code section 31461, subdivision (b)(2) exclude payments for accrued, but unused hours of annual leave that would exceed the maximum amount of leave that was earnable and payable in a calendar year?

Whitehead v. City of Oakland, S284303. (A164483; 99 Cal.App.5th 775; Alameda County Superior Court; RG18896233.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Does a liability release agreement between a bicyclist and the organizer of a recreational bicycle ride extend to the alleged negligent maintenance of a public road by a municipality named in the agreement but not a party to it? (2) Does the release in this case extend to a claim that the City of Oakland violated Government Code section 835 et seq., in light of Civil Code section 1668, which provides in relevant part that “[a]ll contracts which have for their object, directly or indirectly, to exempt anyone from responsibility for his own . . . violation of law, whether willful or negligent, are against the policy of the law”? (Cf. *City of Santa Barbara v. Superior Court* (2007) 41 Cal.4th 747, 763 [*Tunkl v. Regents of University of California* (1963) 60 Cal.2d 92 “found a release of liability for future ordinary negligence void on public policy grounds *other than those set forth in section 1668*”].)

Zhang v. Superior Court, S277736. (B314386; 85 Cal.App.5th 167; Los Angeles County Superior Court; 21STCV19442.) Petition for review after the Court of Appeal denied a petition for writ of mandate in a civil action. This case presents the following issues: (1) If an employer files a motion to compel arbitration in a non-California forum pursuant to a contractual forum-selection clause, and an employee raises as a defense Labor Code section 925, which prohibits an employer from requiring a California employee to agree to a provision requiring the employee to adjudicate outside of California a claim arising in California, is the court in the non-California forum one of “competent jurisdiction” (Code Civ. Proc., § 1281.4) such that the motion to compel requires a mandatory stay of the California proceedings? (2) Does the presence of a delegation clause in an employment contract delegating issues of arbitrability to an arbitrator prohibit a California court from enforcing Labor Code section 925 in opposition to the employer’s stay motion?