

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, July 21, 2023.]

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.)

Another Planet Entertainment, LLC v. Vigilant Insurance Company, S277893. (9th Cir. No. 21-16093; 56 F.4th 730; Northern District of California; D.C. No. 3:20-cv-07476-VC.) 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: “Can the actual or potential presence of the COVID-19 virus on an insured’s premises constitute ‘direct physical loss or damage to property’ for purposes of coverage under a commercial property insurance policy?”

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 Capital Ins. Co. v. Hoehn, S277510. (C092450; nonpublished opinion; Placer County Superior Court; SCV0026851.) Petition for review after the Court of Appeal affirmed an order in a civil action. This case presents the following issues: (1) Is there a time limitation for filing a motion under Code of Civil Procedure section 473, subdivision (d) to vacate a judgment that is allegedly void based on extrinsic evidence? (2) In the alternative, does an equitable motion to vacate an allegedly void judgment for lack of service require proving intentional bad conduct in order to show extrinsic fraud?

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?

Castellanos v. State of California, S279622. (A163655; 89 Cal.App.5th 131, mod. 90 Cal.App.5th 84a; Alameda County Superior Court; RG21088725.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in an action for writ of mandate. The court limited review to the following issue: Does Business and Professions Code section 7451, which was enacted by Proposition 22 (the "Protect App-Based Drivers and Services Act"), conflict with article XIV, section 4 of the California Constitution and therefore require that Proposition 22, by its own terms, be deemed invalid in its entirety?

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"?

City of Los Angeles v. PricewaterhouseCoopers, LLC, S277211. (B310118; 84 Cal.App.5th 466; Los Angeles County Superior Court; BC574690.) Petition for review after the Court of Appeal reversed an order in a civil action. This case presents the following issue: Is a court's authority to impose monetary sanctions for misuse of the discovery process limited to circumstances expressly delineated in a method-specific provision of the Civil Discovery Act, or do courts have independent authority to impose monetary sanctions for such discovery misconduct, including under Code of Civil Procedure sections 2023.010 and 2023.030?

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?

In Re Dezi C., S275578. (B317935; 79 Cal.App.5th 769; Los Angeles County Superior Court; 19CCJP08030.) Petition for review after the Court of Appeal affirmed orders in a juvenile dependency proceeding. This case presents the following issue: What constitutes reversible error when a child welfare agency fails to make the statutorily required inquiry concerning a child's potential Indian ancestry?

Downey v. City of Riverside, S280322. (D080377; 90 Cal.App.5th 1033; Riverside County Superior Court; RIC1905830.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: In order to recover damages for negligent infliction of emotional distress as a bystander to an automobile accident allegedly caused by dangerous conditions on nearby properties, must the plaintiff allege that she was contemporaneously aware of the connection between the conditions of the properties and the victim's injuries?

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?

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?

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?"

Gerro v. Blockfi Lending, S275530. (B307156, B312647; nonpublished opinion; Los Angeles County Superior Court; 20STCV31493.) 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: Did the Court of Appeal correctly hold that this action must remain in California despite the contractual forum selection clause?

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?”

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?

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?

John's Grill, Inc. v. The Hartford Financial Services Group, Inc., S278481. (A162709; 86 Cal.App.5th 1195; San Francisco County Superior Court; CGC20584184.) 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 a grant of coverage for property loss or damage to covered property caused by a virus rendered illusory where it is limited by a condition that makes coverage applicable only if the virus is the result of one or more of a number of listed causes? (2) Is a conditional grant of coverage for property loss or damage to covered property caused by a virus, including the cost of removal of the virus, triggered by cleaning surfaces in the covered property that are contaminated by the virus in the absence of physical alteration of the property?

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?

In re Kenneth D., S276649. (C096051; 82 Cal.App.5th 1027; Placer County Superior Court; 53005180.) Petition for review after the Court of Appeal affirmed an order in a juvenile dependency proceeding. This case presents the following issues: May an appellate court take additional evidence to remedy the failure of the child welfare agency and the trial court to comply with the inquiry, investigation, and notice requirements of the Indian Child Welfare Act (25 U.S.C. § 1901 et seq.; Welf. & Inst. Code, § 224 et seq.), and if so, what procedures must be followed?

Logan v. Country Oaks Partners, LLC, S276545. (B312967; 82 Cal.App.5th 365; Los Angeles County Superior Court; 20STCV26536.) Petition for review after the Court of Appeal affirmed an order denying a petition to compel arbitration in a civil action. This case presents the following issue: Does an agent operating under an advance health care directive and power of attorney for health care decisions have the authority to enter into an arbitration agreement with a nursing facility on behalf of the principal?

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?

Make UC A Good Neighbor v. Regents of University of California, S279242. (A165451; 88 Cal.App.5th 656, mod. 88 Cal.App.5th 1293a; Alameda County Superior Court; RG21110142.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Does the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) require public agencies to consider as an environmental impact the increased social noise generated by student parties that a student housing project might bring to a community? (2) Under CEQA, when a lead agency has identified potential sites for future development and redevelopment in a programmatic planning document, is the agency required to revisit alternative locations for a proposed site-specific project within the program?

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?

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?

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?

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?

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]?

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?

Ruelas v. County of Alameda, S277120. (9th Cir. No. 21-16528; 51 F.4th 1187; Northern District of California; D.C. No. 4:19-cv-07637-JST.) 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: "Do non-convicted incarcerated individuals performing services in county jails for a for-profit company to supply meals within the county jails and related custody facilities have a claim for minimum wages and overtime under Section 1194 of the California Labor Code in the absence of any local ordinance prescribing or prohibiting the payment of wages for these individuals?"

Stone v. Alameda Health System, S279137. (A164021; 88 Cal.App.5th 84; Alameda County Superior Court; RG21092734.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order in a civil action. This case presents the following issues: (1) Are all public entities exempt from the obligations in the Labor Code regarding meal and rest breaks, overtime, and payroll records, or only those public entities that satisfy the "hallmarks of sovereignty" standard adopted by the Court of Appeal in this case? (2) Does the exemption from the prompt payment statutes in Labor Code section 220, subdivision (b), for "employees directly employed by any county, incorporated city, or town or other municipal corporation" include all public entities that exercise governmental functions? (3) Do the civil penalties available under the Private Attorneys General Act of 2004, codified at Labor Code section 2698 et seq., apply to public entities?

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?

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?

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?