



**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
SACRAMENTO SESSION  
FEBRUARY 6 and 7, 2018  
FIRST AMENDED**

The following cases are placed upon the calendar of the Supreme Court for oral argument at its courtroom in the Stanley Mosk Library and Courts Building, 914 Capitol Mall, Sacramento, California, on February 6 and 7, 2018.

**TUESDAY, FEBRUARY 6, 2018 — 10:00 A.M.**

- (1) California Building Industry Association v. State Water Resources Control Board, S226753  
(*O'Rourke, J., assigned justice pro tempore*)
- (2) Dynamex Operations West, Inc. v. Superior Court of Los Angeles County (Charles Lee et al., Real Parties in Interest), S222732  
(*Siggins, J., assigned justice pro tempore*)

**1:30 P.M.**

- (3) People v. Chavez (Lorenzo), S238929  
(*Rothschild, P. J., assigned justice pro tempore*)
- (4) In re I.C., S229276  
(*Renner, J., assigned justice pro tempore*)
- (5) People v. Reed (Ennis) [Automatic Appeal], S082776  
(*Peña, Jr., J., assigned justice pro tempore*)

**WEDNESDAY, FEBRUARY 7, 2018 — 9:00 A.M.**

- (6) Heckart (Samuel) v. A-1 Self-Storage, Inc. et al., S232322  
(*Smith, J., assigned justice pro tempore*)
- (7) People v. Perez, Jr. (Alfredo), S238354  
(*Streeter, J., assigned justice pro tempore*)
- (8) People v. Soto (Juaquin Garcia), S236164  
(*Thompson, J., assigned justice pro tempore*)

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CANTIL-SAKAUYE

*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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*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, FEBRUARY 6, 2018 — 10:00 A.M.**

**(1) *California Building Industry Association v. State Water Resources Control Board, S226753 (O'Rourke, J., assigned justice pro tempore)***

#15-127 California Building Industry Association v. State Water Resources Control Board, S226753. (A137680; 235 Cal.App.4th 1430; Superior Court of San Francisco County; CGC11516510.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents the following issues: (1) Does Water Code section 181 permit the State Water Resources Control Board to approve its annual fee under the waste discharge permit program by a majority of the quorum? (2) Does Proposition 26 apply to the waste discharge permit program fee? (3) Does the Board have the initial burden of demonstrating the validity of its fee? (4) Is the fee, which is based on balancing the fees and costs of the waste discharge permit program, an invalid tax unless it separately balances the fees and costs of each of the eight program areas within the program?

**(2) *Dynamex Operations West, Inc. v. Superior Court of Los Angeles County (Charles Lee et al., Real Parties in Interest), S222732 (Siggins, J., assigned justice pro tempore)***

#15-08 Dynamex Operations West, Inc. v. Superior Court of Los Angeles County (Charles Lee et al., Real Parties in Interest), S222732. (B249546; 230 Cal.App.4th 718; Los Angeles County Superior Court; C332016.) Petition for review after the Court of Appeal granted in part and denied in part a petition for peremptory writ of mandate. This case presents the following issue: In a wage and hour class action involving claims that

the plaintiffs were misclassified as independent contractors, may a class be certified based on the Industrial Welfare Commission definition of employee as construed in *Martinez v. Combs* (2010) 49 Cal.4th 35, or should the common law test for distinguishing between employees and independent contractors discussed in *S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341 control?

**1:30 P.M.**

**(3) *People v. Chavez (Lorenzo), S238929 (Rothschild, P. J., assigned justice pro tempore)***

#17-74 *People v. Chavez (Lorenzo), S238929*. (C074138; 5 Cal.App.5th 110; Superior Court of Yolo County; CRF042140.) Petition for review after the Court of Appeal affirmed a post-conviction order in a criminal case. The court limited review to the following issues: (1) Does Penal Code section 1203.4 eliminate a trial court's discretion under Penal Code section 1385 to dismiss a matter in the interests of justice? (2) Do trial courts have authority to grant relief under Penal Code section 1385 after sentence has been imposed, judgment has been rendered, and any probation has been completed?

**(4) *In re I.C., S229276 (Renner, J., assigned justice pro tempore)***

#15-192 *In re I.C., S229276*. (A141143; 239 Cal.App.4th 304; Superior Court of Alameda County; SJ12019578.) Petition for review after the Court of Appeal affirmed orders in a juvenile dependency proceeding. This case presents the following issues: (1) Did the juvenile court err by failing to determine whether the truthfulness of the minor as a hearsay declarant was "so clear from the surrounding circumstances that the test of cross-examination would be of marginal utility" as required by *In re Lucero L.* (2000) 22 Cal.4th 1227? (2) Did the Court of Appeal err by affirming the trial court's jurisdictional finding without reviewing the entire record for substantial evidence of the minor's clear truthfulness?

**(5) *People v. Reed (Ennis), S082776 [Automatic Appeal] (Peña, Jr., J., assigned justice pro tempore)***

This matter is an automatic appeal from a judgment of death.

**WEDNESDAY, FEBRUARY 7, 2018 — 9:00 A.M.**

***(6) Heckart (Samuel) v. A-1 Self-Storage, Inc. et al., S232322 (Smith, J., assigned justice pro tempore)***

#16-82 Heckart (Samuel) v. A-1 Self Storage, Inc. et al., S232322. (D066831; 243 Cal.App.4th 525; Superior Court of San Diego County; 37-2013-00042315-CU-BT-CTL.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Was a self-storage facility's storage rental agreement, which included provisions arguably meeting the definition of "insurance" (see Ins. Code, §§ 22, 1758.75), subject to regulation under the Insurance Code when the principal purpose of the agreement between the parties was the rental of storage space rather than the shifting and distribution of risk?

***(7) People v. Perez, Jr. (Alfredo), S238354 (Streeter, J., assigned justice pro tempore)***

#17-02 People v. Perez Jr. (Alfredo), S238354. (F069020; 3 Cal.App.5th 812; Superior Court of Fresno County; CF94509578.) Petition for review after the Court of Appeal reversed an order denying a petition to recall sentence. This case presents the following issue: Did the Court of Appeal err when it failed to defer to the trial court's factual finding that defendant did not use a deadly weapon during his previous assault and was therefore eligible for resentencing under the Three Strikes Reform Act of 2012 (Pen. Code, § 1170.126)?

***(8) People v. Soto (Juaquin Garcia), S236164 (Thompson, J., assigned justice pro tempore)***

#16-343 People v. Soto (Juaquin Garcia), S236164. (H041615; 248 Cal.App.4th 884; Superior Court of Monterey County; SSC120180.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issues: (1) Did the trial court err in instructing the jury with regard to imperfect self-defense and voluntary intoxication? (2) If so, was the error prejudicial?