



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
LOS ANGELES SESSION
DECEMBER 6 and 7, 2016**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, Third Floor, North Tower, Los Angeles, California on December 6 and 7, 2016.

TUESDAY, DECEMBER 6, 2016—11:00 A.M.

IN MEMORIAM – HON. MALCOLM M. LUCAS
Chief Justice, California Supreme Court (1987–1996)
Associate Justice, California Supreme Court (1984–1987)

1:30 P.M.

- (1) People v. Superior Court of San Bernardino County
(Johnny Morales, Real Party in Interest), S228642
- (2) People v. Sivongxxay (Vaene) [Automatic Appeal], S078895
- (3) People v. Delgado (Anthony Gilbert) [Automatic Appeal], S089609

WEDNESDAY, DECEMBER 7, 2016—9:00 A.M.

- (4) City of San Jose et al. v. Superior Court of Santa Clara County
(Ted Smith, Real Party in Interest), S218066
- (5) Central Coast Forest Association et al. v. California Fish and Game Commission,
S208181
- (6) J.M., a Minor, etc., v. Huntington Beach Union High School District, S230510

1:30 P.M.

- (7) McGill (Sharon) v. Citibank, N.A., S224086
(*Corrigan J., not participating; Haller, J., assigned justice pro tempore.*)
- (8) Roy Allan Slurry Seal, Inc. et al. v. American Asphalt South, Inc., S225398
- (9) People v. Hall (LaQuincy), S227193

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).)

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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, DECEMBER 6, 2016—11:00 A.M.

IN MEMORIAM – HON. MALCOLM M. LUCAS
Chief Justice, California Supreme Court (1987–1996)
Associate Justice, California Supreme Court (1984–1987)

1:30 P.M.

(1) ***People v. Superior Court of San Bernardino County (Johnny Morales, Real Party in Interest), S228642***

#15-172 People v. Superior Court of San Bernardino County (John Morales, Real Party in Interest), S228642. (E061754; 239 Cal.App.4th 93; Superior Court of San Bernardino County; FVA015456.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Did the superior court have jurisdiction to order various entities to preserve materials that might at a later date be included in a motion for post-conviction discovery under Penal Code section 1054.9?

(2) ***People v. Sivongxay (Vaene), S078895 [Automatic Appeal]***

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

(3) ***People v. Delgado (Anthony Gilbert), S089609 [Automatic Appeal]***

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

WEDNESDAY, DECEMBER 7, 2016—9:00 A.M.

(4) *City of San Jose et al. v. Superior Court of Santa Clara County (Ted Smith, Real Party in Interest), S218066*

#14-62 City of San Jose et al. v. Superior Court of Santa Clara County (Ted Smith, Real Party in Interest), S218066. (H039498; 225 Cal.App.4th 75; Superior Court of Santa Clara County; CV150427.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Are written communications pertaining to city business, including email and text messages, which (a) are sent or received by public officials and employees on their private electronic devices using their private accounts, (b) are not stored on city servers, and (c) are not directly accessible by the city, “public records” within the meaning of the California Public Records Act?

(5) *Central Coast Forest Association et al. v. California Fish and Game Commission, S208181*

#13-26 Central Coast Forest Association et al. v. California Fish and Game Commission, S208181. (C060569; 211 Cal.App.4th 1433; Superior Court of Sacramento County; 07CS00851.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. The court limited review to the following issues: (1) Under the California Endangered Species Act, Fish and Game Code section 2050 et seq., may the Fish and Game Commission consider a petition to delist a species on the ground that the original listing was in error? (2) If so, does the petition at issue here contain sufficient information to warrant the Commission’s further consideration?

(6) *J.M., a Minor, etc., v. Huntington Beach Union High School District, S230510*

#15-233 J.M., a Minor, etc., v. Huntington Beach Union High School District, S230510. (G049773; 240 Cal.App.4th 1019; Superior Court of Orange County; 30-2013-00684104.) Petition for review after the Court of Appeal affirmed an order denying a petition for relief under the Government Claims Act (Gov. Code, § 810, et seq.). This case includes the following issue: Must a claimant under the Government Claims Act file a petition for relief from Government Code section 945.4’s claim requirement, as set forth in Government Code section 946.6, if he has submitted a timely application for leave to present a late claim under Government Code section 911.6, subdivision (b)(2), and was a minor at all relevant times?

1:30 P.M.

(7) *McGill (Sharon) v. Citibank, N.A., S224086 (Corrigan J., not participating; Haller, J., assigned justice pro tempore.)*

#15-38 McGill (Sharon) v. Citibank, N.A., S224086. (G049838; 232 Ca4th 753; Superior Court of Riverside County; .RIC1109398) 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 the Federal Arbitration Act (9 U.S.C. § 1 et seq.), as interpreted in *AT&T Mobility LLC v. Concepcion* (2011) 563 U.S. 321, preempt the California rule (*Broughton v. Cigna Healthplans* (1999) 21 Cal.4th 1066; *Cruz v. PacifiCare Health Systems, Inc.* (2003) 30 Cal.4th 303) that statutory claims for public injunctive relief are not subject to compulsory private arbitration?

(8) *Roy Allan Slurry Seal, Inc. et al. v. American Asphalt South, Inc., S225398*

#15-70 Roy Allen Slurry Seal, Inc. et al. v. American Asphalt South, Inc., S225398. (B255558; 234 Cal.App.4th 748; Superior Court of Riverside County; RIC1308832.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) In the context of competitive bidding on a public works contract, may the second lowest bidder state a claim for intentional interference with prospective economic advantage against the winning bidder based on an allegation that the winning bidder did not fully comply with California's prevailing wage law after the contract was awarded? (2) To state a cause of action for intentional interference with prospective economic advantage, must the plaintiff allege that it had a *preexisting* economic relationship with a third party with probable future benefit that preceded or existed separately from defendant's interference, or is it sufficient for the plaintiff to allege that its economic expectancy arose at the time the public agency awarded the contract to the low bidder?

(9) *People v. Hall (LaQuincy), S227193*

#15-157 People v. Hall (LaQuincy), S227193. (A141278; 236 Cal.App.4th 1124; Superior Court of Contra Costa County; 51315225.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Are probation conditions prohibiting defendant from: (a) "owning, possessing or having in

his custody or control any handgun, rifle, shotgun or any firearm whatsoever or any weapon that can be concealed on his person”; and (b) “using or possessing or having in his custody or control any illegal drugs, narcotics, narcotics paraphernalia without a prescription,” unconstitutionally vague? (2) Is an explicit knowledge requirement constitutionally mandated?