



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
MARCH 6, 7, and 8, 2018
SECOND AMENDED**

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 March 6, 7, and 8, 2018.

TUESDAY, MARCH 6, 2018 — 9:00 A.M.

- (1) Liberty Surplus Insurance Corporation, a New Hampshire corporation;
Liberty Insurance Underwriters, Inc., v. Ledesma and Meyer Construction
Company, Inc., a California corporation; Joseph Ledesma, an individual;
Kris Meyer, an individual, S236765
(*Bigelow, P. J., assigned justice pro tempore*)
- (2) Facebook Inc., et al. v. Superior Court of the City and County of San
Francisco (Derrick D. Hunter et al., Real Parties in Interest), S230051
(*Yegan, J., assigned justice pro tempore*)
- (3) United Riggers & Erectors, Inc. v. Coast Iron & Steel Co. et al., S231549
(*Bamattre-Manoukian, J., assigned justice pro tempore*)

1:30 P.M.

- (4) People v. Ruiz II (Felix Corral), S235556
(*Ashmann-Gerst, J., assigned justice pro tempore*)
- (5) People v. Buycks (Stevenson), S231765, People v. Valenzuela
(Laura Reynoso), S232900, and In re John Manuel Guiomar
on Habeas Corpus, S238888
(*consolidated cases*)
(*Bruiniers, J., assigned justice pro tempore*)
- (6) People v. Penunuri (Richard), [Automatic Appeal], S095076
(*Willhite, Jr., J., assigned justice pro tempore*)

WEDNESDAY, MARCH 7, 2018 — 9:00 A.M.

- (7) Delano Farms Company et al. v. California Table Grape Commission, S226538
(*Kruger, J., not participating; Ramirez, P. J., assigned justice pro tempore; Aaron, J., assigned justice pro tempore*)
- (8) In re Robert Lewis, Jr., on Habeas Corpus, [related to an underlying Automatic Appeal], S117235
(*Chavez, J., assigned justice pro tempore*)
- (9) People v. Gonzalez (Jorge) et al. S234377
(*Zelon, J., assigned justice pro tempore*)

1:30 P.M.

- (10) People v. Adelman (Steven Andrew), S237602
(*Duarte, J., assigned justice pro tempore*)
- (11) People v. Case (Charles Edward), [Automatic Appeal], S057156
(*Chaney, J., assigned justice pro tempore*)
- (12) People v. Smith (Floyd Daniel), [Automatic Appeal], S065233
(*Benke, J., assigned justice pro tempore*)

THURSDAY, MARCH 8, 2018 — 9:00 A.M.

- (13) People v. Rodriguez (Jesus Manuel) et al. S239713
(*Blease, J., assigned justice pro tempore*)
- (14) People v. Hardy (Warren Justin), [Automatic Appeal], S113421
(*Baker, J., assigned justice pro tempore*)

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
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
MARCH 6, 7, and 8, 2018**

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, MARCH 6, 2018 — 9:00 A.M.

(1) *Liberty Surplus Insurance Corporation, a New Hampshire corporation; Liberty Insurance Underwriters, Inc., v. Ledesma and Meyer Construction Company, Inc., a California corporation; Joseph Ledesma, an individual; Kris Meyer, an individual, S236765 (Bigelow, P. J., assigned justice pro tempore)*

#16-363 Liberty Surplus Insurance Corporation, a New Hampshire corporation; Liberty Insurance Underwriters, Inc., v. Ledesma and Meyer Construction Company, Inc., a California corporation; Joseph Ledesma, an individual; Kris Meyer, an individual, S236765. (9th Cir. No. 14-56120; ___ F.3d ___, 2016 WL 4434589; Central District of California; No. 2:12-cv-00900-RGK-SP.) In this request under California Rules of Court, rule 8.548, that the California Supreme 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: “Whether there is an ‘occurrence’ under an employer’s commercial general liability policy when an injured third party brings claims against the employer for the negligent hiring, retention, and supervision of the employee who intentionally injured the third party.”

(2) *Facebook Inc., et al. v. Superior Court of the City and County of San Francisco (Derrick D. Hunter et al., Real Parties in Interest), S230051 (Yegan, J., assigned justice pro tempore)*

#15-232 Facebook Inc., et al. v. Superior Court of the City and County of San Francisco (Derrick D. Hunter et al., Real Parties in Interest), S230051. (A144315; 240 Cal.App.4th 203; Superior Court of San Francisco County; 13035657.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Did the Court of Appeal properly conclude that defendants are not entitled to *pretrial* access to records in the possession of Facebook, Instagram, and Twitter under the federal Stored Communications Act (18 U.S.C. § 2701, et seq.) and *People v. Hammon* (1997) 15 Cal.4th 117? (2) Does an order barring pretrial access to the requested records violate defendants' right to compulsory process and confrontation under the Sixth Amendment or their due process right to a fair trial? (3) Should this court limit or overrule *People v. Hammon* (1997) 15 Cal.4th 117?

(3) *United Riggers & Erectors, Inc. v. Coast Iron & Steel Co. et al.*, S231549 (*Bamattre-Manoukian, J.*, assigned justice *pro tempore*)

#16-83 United Riggers & Erectors, Inc. v. Coast Iron & Steel Co. et al., S231549. (B258860; 243 Cal.App.4th 151; Superior Court of Los Angeles County; VC062679.) 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 contractor withhold retention payments when there is a good faith dispute of any kind between the contractor and a subcontractor, or only when the dispute relates to the retention itself?

1:30 P.M.

(4) *People v. Ruiz II (Felix Corral)*, S235556 (*Ashmann-Gerst, J.*, assigned justice *pro tempore*)

#16-312 People v. Ruiz II (Felix Corral), S235556. (F068737; nonpublished opinion; F068737; VCF241607J.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: May a trial court properly impose a criminal laboratory analysis fee (Health & Saf. Code, § 11372.5, subd. (a)) and a drug program fee (Health & Saf. Code, §

11372.7, subd. (a)) based on a defendant's conviction for conspiracy to commit certain drug offenses?

(5) *People v. Buycks (Stevenson)*, S231765, *People v. Valenzuela (Laura Reynoso)*, S232900, and *In re John Manuel Guiomar on Habeas Corpus*, S238888 (consolidated cases) (Bruiniers, J., assigned justice pro tempore)

#16-19 *People v. Buycks*, S231765. (B262023; 241 Cal.App.4th 519, 241 Cal.App.4th 1168e; Los Angeles County Superior Court; 097755.) Review on the court's own motion after the Court of Appeal reversed in part and affirmed in part a judgment of conviction of criminal offenses. #16-97 *People v. Valenzuela*, S232900. (D066907; 244 Cal.App.4th 692; San Diego County Superior Court; JCF32712.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. #17-40 *In re Guiomar*, S238888. (H043114; 5 Cal.App.5th 265; Monterey County Superior Court; HC8598.) Petition for review after the Court of Appeal modified sentence and otherwise denied a petition for writ of habeas corpus. These consolidated matters present the following issue: Does Proposition 47's requirement that a felony reduced under the initiative "be considered a misdemeanor for all purposes" permit a defendant to challenge a felony-based enhancement or a subsequent felony-based offense where the underlying felony supporting the enhancement or subsequent offense has been reduced to a misdemeanor?

(6) *People v. Penunuri (Richard)*, S095076 [Automatic Appeal], (*Willhite, Jr., J.*, assigned justice pro tempore)

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

WEDNESDAY, MARCH 7, 2018 — 9:00 A.M.

(7) *Delano Farms Company et al. v. California Table Grape Commission*, S226538 (*Kruger, J.*, not participating; *Ramirez, P. J.*, assigned justice pro tempore; *Aaron, J.*, assigned justice pro tempore)

#15-128 *Delano Farms Company et al. v. California Table Grape Commission*, S226538. (F067956; 235 Cal.App.4th 967; Superior Court of Fresno County; 636636-3, 642546, 01CECG01127, 01CECG02289, 01CECG02292, 11CECG00178.) Petition for review

after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Under Article 1, section 2, subdivision (a), of the California Constitution, can the California Table Grape Commission compel unwilling produce growers to contribute for generic commercial advertising?

(8) ***In re Robert Lewis, Jr., on Habeas Corpus, [related to an underlying Automatic Appeal], S117235 (Chavez, J., assigned justice pro tempore)***

This habeas corpus matter, which is related to an underlying automatic appeal from a judgment of death (*People v. Lewis* (1990) 50 Cal.3d 262), concerns whether the petitioner is intellectually disabled, and hence entitled to relief from the judgment of death. (See *Atkins v. Virginia* (2002) 536 U.S. 304; *In re Hawthorne* (2005) 35 Cal.4th 40.)

(9) ***People v. Gonzalez (Jorge) et al. S234377 (Zelon, J., assigned justice pro tempore)***

#16-236 *People v. Gonzales (Jorge) et al. S234377*. (B255375; 246 Cal.App.4th 1358; Superior Court of Los Angeles County; YA076269.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. The court limited review to the following issue: Was the trial court's failure to instruct on murder with malice aforethought, lesser included offenses of murder with malice aforethought, and defenses to murder with malice aforethought rendered harmless by the jury's finding of a felony murder special circumstance?

1:30 P.M.

(10) ***People v. Adelman (Steven Andrew), (Duarte, J., assigned justice pro tempore)***

#16-383 *People v. Adelman (Steven Andrew), S237602*. (E064099; 2 Cal.App.5th 1188; Superior Court of Riverside County; SWF1208202.) Petition for review after the Court of Appeal affirmed an order granting a petition to recall sentence. This case presents the following issue: If a case is transferred from one county to another for purposes of probation (Pen. Code, § 1203.9), must a Proposition 47 petition to recall sentence be filed in the court that entered the judgment of conviction or in the superior court of the receiving county?

(11) ***People v. Case (Charles Edward), S057156 [Automatic Appeal] (Chaney, J., assigned justice pro tempore)***

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

(12) ***People v. Smith (Floyd Daniel), S065233 [Automatic Appeal] (Benke, J., assigned justice pro tempore)***

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

THURSDAY, MARCH 8, 2018—9:00 A.M.

(13) ***People v. Rodriguez (Jesus Manuel) et al. S239713 (Blease, J., assigned justice pro tempore)***

#17-117 People v. Rodriguez (Jesus Manuel) et al. S239713. (F065807; nonpublished opinion; Superior Court of Stanislaus County; 1085319, 1085636.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) Was the accomplice testimony in this case sufficiently corroborated? (See *People v. Romero & Self* (2015) 62 Cal.4th 1, 36.) (2) Is defendant's constitutional challenge to his 50 years to life sentence moot when, unlike in *People v. Franklin* (2016) 63 Cal.4th 261, his case was not remanded to the trial court to determine if he was provided an adequate opportunity to make a record of information that will be relevant to the Board of Parole Hearings as it fulfills its statutory obligations under Penal Code sections 3051 and 4801?

(14) ***People v. Hardy (Warren Justin), S113421 [Automatic Appeal] (Baker, J., assigned justice pro tempore)***

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