FILED 08/03/2016

SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
SEPTEMBER 7 and 8, 2016

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 September 7 and 8, 2016.

WEDNESDAY, SEPTEMBER 7, 2016—9:00 A.M.

(1) Kesner, Jr. (Johnny Blaine) v. Superior Court of Alameda County (Pneumo Abex LLC, Real Party in Interest), S219534 and Haver (Joshua) et al. v. BNSF Railway Company, S219919 *(consolidated cases)*

(2) Augustus et al. (Jennifer) v. ABM Security Services, Inc., S224853

(3) Maas (Michael Eugene) v. Superior Court of San Diego County (People, Real Party in Interest), S225109

1:30 P.M.

(4) People v. Thompson (Catherine) [Automatic Appeal], S033901

(5) People v. Williams (George) [Automatic Appeal], S131819

THURSDAY, SEPTEMBER 8, 2016—9:00 A.M.

(6) Horiike (Hiroshi) v. Coldwell Banker Residential Brokerage Company et al., S218734

(7) Centinela Freeman Emergency Medical Associates et al., v. Health Net of California, Inc. et al., S218497

(8) People v. Winbush (Grayland) [Automatic Appeal], S117489

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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SEPTEMBER 7 and 8, 2016

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.

WEDNESDAY, SEPTEMBER 7, 2016—9:00 A.M.

(1) ***Kesner, Jr. (Johnny Blaine) v. Superior Court of Alameda County (Pneumo Abex LLC, Real Party in Interest), S219534*** **and Haver (Joshua) et al. v. BNSF Railway Company, S219919** ***(consolidated cases)***

#14-98 Kesner, Jr. (Johnny Blaine) v. Superior Court of Alameda County (Pneumo Abex LLC, Real Party in Interest), S219534. (A136378, A136416; 226 Cal.App.4th 251, and Haver (Joshua) et al. v BNSF Railway Company, S219919. (B246527; 226 Cal.App.4th 1104, mod. 226 Cal.App.4th 1376b; Superior Court of Los Angeles County; BC435551.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. Superior Court of Alameda County; RG11578906.) Both cases present the following issue: If an employer's business involves either the use or the manufacture of asbestos-containing products, does the employer owe a duty of care to members of an employee's household who could be affected by asbestos brought home on the employee's clothing?

(2) ***Augustus et al. (Jennifer) v. ABM Security Services, Inc., S224853***

#15-50 Augustus et al. (Jennifer) v. ABM Security Services, Inc., S224853. (B243788; 233 Cal.App.4th 1065; Superior Court of Los Angeles County; BC336416, BC345918, CG5444421.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Do Labor Code, § 226.7, and Industrial Welfare Commission wage order No. 4-2001 require that employees be relieved of all duties during rest breaks? (2) Are security guards who remain on call

during rest breaks performing work during that time under the analysis of *Mendiola v. CPS Security Solutions, Inc*. (2015) 60 Cal.4th 833?

(3) ***Maas (Michael Eugene) v. Superior Court of San Diego County (People, Real Party in Interest), S225109***

#15-29 Maas (Michael Eugene) v. Superior Court of San Diego County (People, Real Party in Interest), S225109. (D064639; 232 Cal.App.4th 169; Superior Court of San Diego County; SCE185960, SCE188460.) Review ordered on the court's own motion after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Does Code of Civil Procedure section 170.6 permit a peremptory challenge to be asserted, before an order to show cause has issued, against a judge who is assigned to assess a petition for writ of habeas corpus?

1:30 P.M.

(4) ***People v. Thompson (Catherine), S033901 [Automatic Appeal]***

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

(5) ***People v. Williams (George), S131819 [Automatic Appeal]***

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

THURSDAY, SEPTEMBER 8, 2016—9:00 A.M.

(6) ***Horiike (Hiroshi) v. Coldwell Banker Residential Brokerage Company et al., S218734***

#14-80 Horiike (Hiroshi) v. Coldwell Banker Residential Brokerage Company et al., S218734. (B246606; 225 Cal.App.4th 427; Superior Court of Los Angeles County; SC110477.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: When the buyer and the seller in a residential real estate transaction are each independently represented by a different salesperson from the same brokerage firm, does Civil Code section 2079.13, subdivision

(b), make each salesperson the fiduciary to both the buyer and the seller with the duty to provide undivided loyalty, confidentiality and counseling to both?

(7) ***Centinela Freeman Emergency Medical Associates et al., v. Health Net of California, Inc. et al., S218497***

#14-76 Centinela Freeman Emergency Medical Associates et al., v. Health Net of California, Inc. et al., S218497. (B238867; 225 Cal.App.4th 237; Superior Court of Los Angeles County; BC449056.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Does the delegation — by a health care service plan (HMO) to an independent physicians association (IPA), under Health and Safety Code section 1371.4, subdivision (e) — of the HMO's responsibility to reimburse emergency medical service providers for emergency care provided to the HMO's enrollees relieve the HMO of the ultimate obligation to pay for emergency medical care provided to its enrollees by non-contracting emergency medical service providers, if the IPA becomes insolvent and is unable to pay? (2) Does an HMO have a duty to emergency medical service providers to protect them from financial harm resulting from the insolvency of an IPA which is otherwise financially responsible for the emergency medical care provided to its enrollees?

(8) ***People v. Winbush (Grayland), S117489 [Automatic Appeal]***

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