Case No. S247677

IN THE
SUPREME COURT OF CALIFORNIA

LUIS GONZALEZ,
Plaintiff and Appellant,

v.

JOHN R. MATHIS AND JOHN R. MATHIS AS TRUSTEE OF THE JOHN R. MATHIS TRUST
Defendants and Respondents.

After a Published Decision by the Court of Appeal,
Second Appellate District, Division Seven, Case No. B272344

Superior Court for the County of Los Angeles,
Case No. BC542498, Honorable Gerald Rosenberg, Judge

OPENING BRIEF ON THE MERITS

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CERTIFICATION OF INTERESTED ENTITIES OR PERSONS

S247677 - GONZALEZ v. MATHIS

Full Name of Interested Entity/Person	**Party/Non-Party Nature of Interest**
Not Applicable	Not Applicable

Dated: May 25, 2018

Respectfully submitted,

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ISSUES PRESENTED

The following issues were presented in the Petition for Review (Pet.) at p. 5:

1. Whether a hirer who delegates responsibility for worksite safety to an independent contractor nonetheless may be liable in tort for injury sustained by the contractor's employee when the hirer does not retain control over the worksite and the hazard causing the injury was known to the contractor.

2. Whether, even assuming a hirer may be liable in such circumstances, the Court of Appeal properly held that the hirer is entitled to summary judgment only if the hirer establishes as a matter of law that the contractor could unilaterally have taken reasonable safety precautions to remedy the hazard causing the injury.

The following additional issue was presented in the Answer to the Petition for Review (Ans.) at p. 5:

3. Where a house cleaner is injured because he reasonably went to the work location by traversing a portion of the hirer's property which is dangerous as a result of the hirer's negligent failure to maintain the property, and the cleaner has no authority or ability to restrict access or make changes to the dangerous location, has the hirer "retained control" and affirmatively contributed to the cleaner's injury under *Privette v. Superior Court* (1993) 5 Cal.4th 689, such that he may be held liable to the cleaner?

INTRODUCTION

Over the last 25 years, beginning with *Privette v. Superior* Court (1993) 5 Cal.4th 689, this Court has carefully defined and limited the circumstances in which an independent contractor's employee may recover in tort from the party hiring the contractor. Under those decisions, when employees of independent contractors are injured at a worksite, they generally cannot sue the party that hired the independent contractor. (See *SeaBright Ins. Co. v. US Airways, Inc.* (2011) 52 Cal.4th 590, 594.)

This Court has identified two exceptions to *Privette*'s general rule: (1) when the hirer retains control over the contractor's work and affirmatively contributes to the injury (see *Hooker v. Dept. of Transportation* (2002) 27 Cal.4th 198); and (2) when the hirer fails to warn the contractor of a concealed hazard (see *Kinsman v. Unocal Corp.* (2005) 37 Cal.4th 659). Absent those narrow exceptions, this Court has explained that "[b]y hiring an independent contractor, the hirer implicitly delegates to the contractor *any tort law duty* it owes to the contractor's employees to ensure the safety of the specific workplace that is the subject of the contract." (*Seabright, supra*, 52 Cal.4th at p. 594, italics added.) As a result, "when employees of independent contractors are injured in the workplace, they cannot sue the party that hired the contractor to do the work." (*Ibid.*, citation omitted.)

Applying those principles, the trial court held that the employee of an independent contractor (plaintiff Luis Gonzalez) could not recover against a homeowner (defendant Johnny Mathis) for injuries sustained when he fell while cleaning a skylight

located on the roof of Mathis's one-story home—a skylight Gonzalez had been cleaning without incident for 20 years. Because Mathis delegated control over the worksite to Gonzalez and did not affirmatively contribute to Gonzalez's injury, and any hazards were well known to Gonzalez, the trial court held that neither of *Privette*'s exceptions applied, and that Mathis was not liable for Gonzalez's injuries as a matter of law.

The Court of Appeal reversed, sharply departing from *Privette*'s settled framework by reading dicta in this Court's 20-year old decision in *Kinsman* to establish a third, previously unrecognized exception to *Privette*'s general rule. Pursuant to this new exception, the Court of Appeal held that a homeowner or other hirer is liable for injuries sustained by an independent contractor's employee "when he or she exposes a contractor (or its employees) to a known hazard that cannot be remedied through reasonable safety precautions." (Opinion of the Court of Appeal, Second Appellate District, Division Seven, filed Feb. 6, 2018 at p. 19, attached hereto as Exhibit A (Op.).)

The Court of Appeal's new exception would work a sea change in California law that would eviscerate *Privette*'s careful framework and undermine its important policies. As *amici* representing the interests of homeowners, builders, the real estate industry, contractors, and insurers, among others, have explained, the Court of Appeal's decision would frustrate *Privette*'s goals and increase the costs of millions of transactions in California each year. This Court should prevent those consequences and reverse the Court of Appeal's decision for four principal reasons.

First, the Court of Appeal's new exception is fundamentally incompatible with this Court's own caselaw. In *Hooker*, the Court held that a hirer who retains control of a worksite is not liable for injuries sustained by an independent contractor's employee unless the hirer affirmatively contributes to the injury. (27 Cal.4th at p. 202.) But under the Court of Appeal's decision, a hirer who *delegates* control of the worksite and *does not* affirmatively contribute to the injury would now be liable. Penalizing property owners for delegating responsibility for safety to contractors not only makes little sense, it contradicts California's "strong policy 'in favor of delegation of responsibility and assignment of liability' to independent contractors." (*SeaBright, supra*, 52 Cal.4th at p. 596, citation omitted.)

The Court of Appeal's exception also contradicts *Tverberg v. Fillner Construction, Inc.* (2010) 49 Cal.4th 518, 521. There, this Court unanimously held that unless *Hooker*'s retained control exception applied, an independent contractor could not recover from a hirer for injuries sustained by an open hazard, even though the employee claimed that he lacked "the ability to" remedy the hazard. (Answering Brief on the Merits, *Tverberg, supra*, 49 Cal.4th 518 (July 6, 2009, S169753) (hereafter *Tverberg*, Merits Ans. Br.), at p. 53, citations omitted.) Under the Court of Appeal's new exception, however, the opposite result would follow. Such an outcome would expose unwitting homeowners to catastrophic liability—even when the homeowner has no reason to believe the contractor cannot take reasonable precautions against any risk. And it is fundamentally inconsistent with *Seabright*'s clear

guidance that a hirer may delegate "any tort law duty it owes *to the contractor's employees* to ensure the safety of the specific workplace that is the subject of the contract." (52 Cal.4th at p. 594.)

Second, the Court of Appeal's decision contravenes the important policies underlying *Privette*'s rule. By sharply restricting a hirer's ability to delegate responsibility for safety at the worksite to an independent contractor, while substantially expanding homeowners' and other hirers' liability for injuries sustained by an independent contractor's employees, the Court of Appeal's decision undercuts the essential underpinnings of the *Privette* doctrine. As *amici* explain, the Court of Appeal's decision would discourage reliance on independent contractors, reduce workplace safety, interfere with the exclusivity of workers' compensation, and "arbitrarily favor some claimants with work-related injuries over others"—results fundamentally at odds with what the *Privette* doctrine is designed to accomplish. (See Ltr. of Amicus Curiae, California Assn. of Realtors at pp. 3–5 (Apr. 6, 2018); Ltr. of Amicus Curiae, California Bldg. Assn., et al. at pp. 2–5 (Apr. 5, 2018); Ltr. of Amicus Curiae, American Insurance Assn. at p. 3 (Apr. 12, 2018); Ltr. of Amicus Curiae, Associated Gen. Contractors of California at pp. 1–6 (Apr. 13, 2018); see also Pet. at p. 24.)

Moreover, the Court of Appeal's exception would trigger harmful consequences that Californians can ill afford to bear—increasing construction prices, driving up insurance premiums, exposing homeowners to heightened risk of "catastrophic loss," and

substantially "increas[ing] the costs of purchasing or maintaining homes." (*Id.*)

Third, because *Privette*'s framework affects millions of transactions across California each year, the importance of fashioning rules in this area that provide clarity to hirers, independent contractors, and employees is paramount. But the Court of Appeal's decision would frustrate that important goal, replacing a settled and well-working framework with a rule that will be difficult to apply, and is certain to prolong litigation and render summary judgment effectively impossible in the many cases that implicate *Privette*'s rule.

Finally, the Court of Appeal's exception is premised on a misreading of *Kinsman*'s dicta that ignores the actual *holding* of that case and fails to account for important distinctions between common law premises liability principles and the very different context of hirer liability for an independent contractor's employee.

For all these reasons, the Court of Appeal's decision is wrong as a matter of law and policy, and should be reversed.

STATEMENT OF THE CASE

A. Factual Background

1. Defendant Johnny Mathis, one of the most well-recognized American recording artists of the twentieth century, has lived in the same one-story house in Los Angeles for 56 years.

(2-AA-317.[1]) The home has a flat roof, part of which is covered by a large skylight. (*Ibid.*)

Plaintiff Luis Gonzalez cleaned Mathis's skylight for roughly 20 years prior to the events at issue in this case. According to his marketing materials, Gonzalez has been a professional window and skylight cleaner "since 1988." (1-AA-162; 3-AA-667.) He began cleaning Mathis's house in the 1990s while working for Beverly Hills Window Cleaning. (2-AA-257–258.) In the mid-2000s, he started his own cleaning business, Hollywood Hills Window Cleaning, which he advertised as a professional, expert company that "[s]pecialized in hard to reach windows and skylights." (3-AA-669; see 1-AA-162.) By 2012, Gonzalez's company had 200-300 customers and seven employees. (3-AA-670, 674.) The company's advertisements touted his "[m]eticulous and careful workers" and represented that his employees were trained "to take extra care in his clients' homes, as well as with their own safety when cleaning windows." (3-AA-669.) Although he also represented that his company was bonded and carried insurance, Gonzalez never actually obtained workers' compensation insurance, in violation of California law. (3-AA-669, 675; see Cal. Lab. Code, div. 4, pt. 1, ch. 4, § 3700.)[2]

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[1] "AA" refers to Appellant's Appendix, and "RA" refers to Respondent's Appendix.

[2] Had Gonzalez obtained workers' compensation insurance for his business, he would have received workers' compensation for his injuries. Having failed to acquire the insurance that he was required to obtain by California law, he looks instead to Mathis for recovery.

Shortly after opening his new business, Gonzalez contacted Marcia Carrasco, Mathis's longtime housekeeper, about hiring Hollywood Hills Window Cleaning rather than Gonzalez's former employer to clean Mathis's skylights, windows, and house. (3-AA-667.) Carrasco ultimately hired Gonzalez's company as an independent contractor to clean Mathis's skylight. (Op. at p. 5) From 2007 until December 2012, Hollywood Hills Window Cleaning was "regularly hired ... to wash the skylight and perform other services on the property."[3] (*Id.* at pp. 2–3.)

Gonzalez relied on his expertise and decades of experience to oversee the cleaning of the skylight. Neither Mathis nor Carrasco ever told Gonzalez "how [his] company should do the services" or "how to clean the skylight[]." (1-AA-104; 2-AA-307; 3-AA-561.) Nor could they have supervised this work—Carrasco, then in her 70s, was a housekeeper who had been on the roof only three or four times in the entire 40 years she worked for Mathis. (3-AA-677–679.) Mathis, meanwhile, was almost 80 years old and recovering in the hospital from hip surgery at the time of Gonzalez's accident. (2-AA-317.)

2. Having cleaned Mathis's skylight for 20 years, and accessed the roof "many, many times," Gonzalez knew the details

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[3] The Court of Appeal loosely referred to Gonzalez (rather than his company) as the independent contractor, but it is undisputed that Mathis contracted with Gonzalez's company to clean the skylight. (See 2-AA-319). In any event, the *Privette* framework applies to injuries sustained by either "the contractor himself" or "the contractor's employee." (*SeaBright*, *supra*, 52 Cal.4th at p. 600, italics omitted.)

of Mathis's roof well. (3-AA-673; see Op. at p. 3.) A one-story ladder accessing the roof is permanently affixed to the west side of the house. (Op. at p. 3.) An approximately three-foot high parapet wall begins near the top of the ladder, separating the main, interior part of the roof, including the skylight, from an exposed outer ledge, roughly two feet wide.[4] (*Id.* at p. 2.) Although ventilation pipes and other mechanical equipment somewhat limit mobility, Mathis presented video and photographic evidence that individuals can walk inside of the parapet wall, even side-by-side. (See 4-AA-838–841; see also 1-RA-1.)

Unbeknownst to Mathis, Gonzalez and his employees "always" used the ledge on the outside of the three-foot parapet wall to access the skylight. (Op. at p. 3.) Gonzalez "knew [that] the ledge lacked any protective features," such as guard rails. (*Id.* at p. 4; see also 3-AA-673). Gonzalez also stated that "[e]verybody knew" that the presence of loose pebbles and sand on the roof made it "slippery." (1-AA-144–146; see 3-AA-673.) Indeed, Gonzalez claimed that he discussed these conditions with his employees for years prior to his fall. (3-AA-673.) But there is no evidence that Gonzalez or his employees took numerous possible safety precautions against that purported hazard—such as sweeping up the alleged loose pebbles or sand, holding onto the parapet wall, walking on the inside of the parapet wall, putting up a ladder closer to the skylight, setting up a safety net near the workspace, using a harness, or other potential precautions. Instead, neither

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[4] Photographs of the ladder, parapet wall, and ledge are available at 1-AA-48–58.

he nor his employees ever attempted to take any safety measures other than not walking too close to the ledge. (3-AA-564–565, 582).

Gonzalez even admitted below that there were at least "two preventive measures available in the instant case[:] repairing the roof and installing safety hooks." (Appellant's Opening Brief, Court of Appeal, filed Jan. 12, 2017, at p. 25.) But he did not allege nor point to any evidence that he ever asked Mathis or Carrasco to install safety hooks. And although Gonzalez claimed that he told Mathis's housekeeper that certain portions of the roof needed repair (Op. at p. 3), there is no evidence that he directed his employees not to clean the skylight in the meantime, or ever told Mathis or Carrasco that he could not safely clean the skylight absent those repairs.

3. In the summer of 2012, Carrasco once again hired Gonzalez to clean the house and the skylight. (3-AA-693.) While two of Gonzalez's employees were cleaning the skylight, Carrasco noticed water leaking into the house. (3-AA-568.) She asked Gonzalez to tell his employees on the roof to use less water so as to not damage the interior of the home. (3-AA-570.) After he spoke to his employees, Gonzalez decided to leave the roof. (1-AA-115; 3-AA-673.) In so doing, he chose to walk on the two-foot ledge outside the parapet wall, rather than walking inside of it. (*Ibid.*) He did not try to hold on to the parapet wall or take any safety precaution other than trying not to walk too close to the ledge. (3-AA-564–565, 3-AA-582.) Gonzalez lost his footing and fell to the ground, sustaining serious injury. (3-AA-580–583.)

B. Procedural Background

1. On April 11, 2014, Gonzalez sued Mathis, asserting claims based on premises liability and negligence. (1-AA-1–5.) After full briefing and a hearing, the trial court granted Mathis's motion for summary judgment on March 8, 2016, holding that under *Privette* and its progeny, Mathis was not liable for Gonzalez's injury.[5] (4-AA-870–871.) In so ruling, the court held that neither of *Privette*'s two exceptions applied. The court found *Hooker*'s retained-control exception inapplicable because neither Mathis nor Carrasco controlled the operative details of Gonzalez's work or affirmatively contributed to his injury. (4-AA-870.) The court likewise found *Kinsman*'s concealed-hazard exception inapplicable because "[n]one of the conditions were concealed to" Gonzalez, as Gonzalez readily admitted that he "knew of the purported dangerous conditions." (4-AA-871.)

2. The Court of Appeal reversed. (Op. at p. 2.) The court agreed with the trial court that Gonzalez was hired "as an independent contractor," and that his "claims are therefore subject

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[5] The trial court also sustained Mathis's objections to declarations submitted by Gonzalez's purported "experts" Brad Avrit (3-AA-625–629) and Ernest Orchard (3-AA-629–635). (See 1-RA-4–6; 4-AA-849–856.) Although Gonzalez did not appeal this ruling, he nonetheless impermissibly has sought at times to rely on the excluded evidence. (See Gonzalez Answer to Petition for Review, filed Apr. 6, 2018, at pp. 8–9, citing 3-AA-627, 631–633.) To the extent he attempts to do so again here, it is improper. (See *Guz v. Bechtel Nat., Inc.* (2000) 24 Cal.4th 317, 334, citation omitted [court reviewing grant of summary judgment shall not consider "evidence . . . to which objections have been made and sustained"].)

to *Privette* and its progeny." (*Id.* at p. 14.) The court further agreed that an independent contractor's employees are generally prohibited from suing the contractor's hirer for workplace injuries. (*Id.* at p. 4.)

The court next analyzed whether either of the "two exceptions" to *Privette*'s rule articulated in *Hooker* and *Kinsman* applied. (Op. at p. 9.) The court first held *Hooker*'s retained control exception was inapplicable because Gonzalez presented no evidence that Mathis retained control over the worksite in a manner that affirmatively contributed to his injuries. (*Id.* at pp. 14–17.) The court rejected Gonzalez's argument that Mathis retained control because Mathis was allegedly "the only party who had authority to fix the dangerous conditions on the roof." (*Id.* at p. 16.) As the court explained, "'[p]assively permitting an unsafe condition to occur'" is "not sufficient to establish liability under *Hooker*." (*Ibid.*, citation omitted.) The court also reiterated that a homeowner's "failure to institute specific safety measures is not actionable unless there is some evidence the hirer . . . had agreed to implement these measures." (*Ibid.*, citation omitted.) Because Gonzalez "presented no evidence showing that Mathis ever agreed to remedy the conditions on the roof," the court held that Mathis could not be liable under *Hooker* for Gonzalez's injuries. (Op. at pp. 16–17.)

The court next turned to *Kinsman*. Because Gonzalez admitted that he was well aware of the purported hazards on the roof, *Kinsman's* exception for concealed hazards indisputably did not apply. The Court of Appeal, however, believed that *Kinsman*

provides for an additional exception. Relying on language it conceded to be "technically dicta" (Op. at p. 18, fn. 1), the court pointed to *Kinsman*'s acknowledgment that there "'may be situations . . . in which an obvious hazard, for which no warning is necessary, nonetheless gives rise to a duty on a landowner's part to remedy the hazard because knowledge of the hazard is inadequate to prevent injury'" (*id* at p. 12, quoting *Kinsman*, *supra*, 37 Cal.4th at p. 673). Although *Kinsman* had no occasion, given the facts of that case, to decide whether or in what circumstances landowners *would* owe such a duty—or more importantly, whether that duty could be delegated like "any tort law duty the hirer owes to the contractor's employees" (*Seabright*, *supra*, 52 Cal.4th at p. 594), the Court of Appeal held that *Kinsman* created a third exception to *Privette*, resulting in the following rule: Although a "hirer cannot be held liable for injuries resulting from open or known hazards the contractor could have remedied through the adoption of reasonable safety precautions," a "hirer can be held liable when he or she exposes a contractor (or its employees) to a known hazard that cannot be remedied through reasonable safety precautions." (Op. at pp. 18–19.)

Applying this newfound rule, the court held that summary judgment was now unavailable to Mathis unless he could "establish[] as a matter of law that [the contractor] could have remedied the dangerous conditions of the roof through the adoption of reasonable safety precautions." (Op. at p. 20.)

Although the court acknowledged that video and photographic evidence of Mathis's roof "certainly cast doubt on

Gonzalez's assertion" that he could not have avoided the ledge simply by walking on the inside of the parapet wall, the court found that such evidence could not "conclusively establish[]" that fact. (Op. at p. 21.) The court speculated that Gonzalez's "ability to traverse the area inside the parapet wall" "might" have been affected by "his size" or the possibility that he was "required to carry equipment that rendered the pathway impassable." (*Id.* at p. 22.) Although Gonzalez presented no evidence to support those theories, one of which contradicted Gonzalez's own testimony that he was not carrying anything when he fell (3-AA-582), the court believed that it was Mathis's obligation to "present[] evidence *negating* ... factors that might have affected Gonzalez's ability to traverse the area inside the parapet wall." (Op. at p. 22, italics added.)

The court did not address the safety precautions that even Gonzalez admitted could have remedied the risk. The court also rejected any inquiry into whether Gonzalez's claimed inability to take precautions was foreseeable to Mathis, holding that "a hirer's liability for injuries resulting from an open hazard is not dependent on the foreseeability that a contractor might encounter the hazard." (Op. at p. 19, fn. 2.) Instead, the court reversed the district court's judgment and remanded for trial. (*Id.* at p. 23.)

3. Mathis filed a petition for rehearing, which the Court of Appeal denied on March 2, 2018. Mathis filed a Petition for Review in this Court on March 19, 2018. This Court granted the Petition on May 16, 2018.

ARGUMENT

I. HIRERS WHO DELEGATE RESPONSIBILITY FOR WORKPLACE SAFETY TO CONTRACTORS ARE NOT LIABLE FOR INJURIES RESULTING FROM OBVIOUS WORKPLACE HAZARDS

The *Privette* doctrine affords homeowners and other hirers the "right to delegate to independent contractors the responsibility of ensuring the safety of their own workers." (*Toland v. Sunland Housing Group, Inc.* (1998) 18 Cal.4th 253, 269.) "By hiring an independent contractor, the hirer implicitly delegates to the contractor any tort law duty it owes to the contractor's employees to ensure the safety of the specific workplace that is the subject of the contract." (*SeaBright, supra*, 52 Cal.4th at p. 594, italics omitted.) "[A]ssignment of liability to the contractor follow[s] that delegation." (*Kinsman, supra*, 37 Cal.4th at p. 671, citing *Privette, supra*, 5 Cal.4th at p. 693.) As a result, "when employees of independent contractors are injured in the workplace, they cannot sue the party that hired the contractor to do the work." (*SeaBright, supra*, 52 Cal.4th at p. 594, citation omitted.)

This Court has long recognized two exceptions to *Privette*'s rule, under which an independent contractor's employee may recover in tort from a hirer. But both narrow exceptions spring from situations in which a hirer effectively *declines* to delegate responsibility for safety at the worksite to the contractor, either by: (1) retaining control over the worksite and affirmatively contributing to the employee's injury, or (2) actively concealing from the contractor the hazard that produces the injury. Where, as here, however, a homeowner or other hirer exercises his or her

right to "delegate[] the responsibility of employee safety to the contractor, the teaching of the *Privette* line of cases is that a hirer has no duty to act to protect the employee when the contractor fails in that task and therefore no liability." (*Kinsman*, *supra*, 37 Cal.4th at p. 674, citation omitted.)

Because the Court of Appeal's new exception would upend that settled framework and undermine *Privette*'s important policies, this Court should reject it and reverse the decision below.

A. Under *Privette*'s Framework, Hirers Have The Right To Delegate Responsibility For Ensuring Workplace Safety To Hired Contractors

1. At common law, "when a hirer delegated a task to an independent contractor, it in effect delegated responsibility for performing that task safely, and assignment of liability to the contractor followed that delegation." (*Kinsman*, *supra*, 37 Cal.4th at p. 671, citation omitted); see Rest.2d Torts, § 409.) Over time, however, courts "severely limited the hirer's ability to delegate responsibility and escape liability." (*Kinsman*, *supra*, 37 Cal.4th at p. 671, citation omitted.)

In particular, courts fashioned the "peculiar risk doctrine," an "'exception to the general rule of nonliability'" designed "'to ensure that *innocent third parties* injured by the negligence of an independent contractor hired by a landowner to do inherently dangerous work on the land would not have to depend on the contractor's solvency in order to receive compensation for the injuries.'" (*Kinsman*, *supra*, 37 Cal.4th at p. 668, italics added, quoting *Privette*, *supra*, 5 Cal.4th at p. 694.) "Gradually, the peculiar risk doctrine was expanded to allow the hired contractor's

employees to seek recovery from the nonnegligent property owner for injuries caused by the negligent contractor." (*Privette*, *supra*, 5 Cal.4th at p. 696.)

In *Privette*, however, this Court recognized that "the justifications for the peculiar risk doctrine did not apply to situations in which a contractor's employee is injured and workers' compensation is available." (*Kinsman*, *supra*, 37 Cal.4th at p. 668.) As this Court explained:

> [T]he peculiar risk doctrine "seeks to ensure that injuries caused by contracted work will not go uncompensated, that the risk of loss for such injuries is spread to the person who contracted for and thus primarily benefited from the contracted work, and that adequate safety measures are taken to prevent injuries resulting from such work. But in the case of on-the-job injury to an employee of an independent contractor, the workers' compensation system of recovery regardless of fault achieves . . . identical purposes . . . . It ensures compensation for injury by providing swift and sure compensation to employees for any workplace injury; it spreads the risk created by the performance of dangerous work to those who contract for and thus benefit from such work, by including the cost of workers' compensation insurance in the price for the contracted work; and it encourages industrial safety."

(*Privette*, *supra*, 5 Cal.4th at p. 701, original alterations, citation omitted.) *Privette* thus restored the right of a hirer "'to delegate to an independent contractor the duty to provide the contractor's employees with a safe working environment.'" (*SeaBright*, *supra*, 52 Cal.4th at pp. 600, 602, citation omitted.)

Since *Privette*, this Court has "extended and elaborated" on its rule, explaining that *Privette*'s holding is not limited to cases