



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
NOVEMBER 3, 2021
SECOND AMENDED**

Due to the COVID-19 coronavirus pandemic and related public health directives from state and local authorities, the procedures specified by Administrative Orders Nos. [2020-03-13 \(Mar. 16, 2020\)](#), [2020-03-27 \(March 27, 2020\)](#), and [2020-08-19 \(August 19, 2020\)](#) apply. Counsel will appear remotely and courtroom seating for the press will be strictly limited to achieve appropriate distancing. The public will continue to have access to argument via live-streaming on the judicial branch website: <https://www.courts.ca.gov/>.

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 November 3, 2021.

WEDNESDAY, NOVEMBER 3, 2021 — 9:00 A.M.

- (1) Segal (Mickey) et al. v. ASICS America Corporation et al., S263569
(*Irion, J., assigned justice pro tempore*)
- (2) Jane Doe v. Olson (Curtis), S258498
(*Moor, J., assigned justice pro tempore*)
- (3) Lawson (Wallen) v. PPG Architectural Finishes, Inc., S266001
(*Miller (Douglas P.), J., assigned justice pro tempore*)

1:30 P.M.

- (4) People v. Tirado (Jose Guadalupe), S257658
(*Perluss, P.J., assigned justice pro tempore*)
- (5) People v. Holmes (Karl Darnell), McClain (Herbert Charles) and Newborn (Lorenzo), [Automatic Appeal], S058734
(*O'Rourke, 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).)

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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.

WEDNESDAY, NOVEMBER 3, 2021 — 9:00 A.M.

(1) *Segal (Mickey) et al. v. ASICS America Corporation et al., S263569 (Irion, J., assigned justice pro tempore)*

#20-275 Segal (Mickey) et al. v. ASICS America Corporation et al., S263569 (B299184; 50 Cal.App.5th 659; Los Angeles County Superior Court; BC597769.) Petition for review after the Court of Appeal affirmed a post-judgment order in a civil action. The court limited review to the following issue: May a party recover costs for preparing multiple sets of trial exhibits and closing slides that were not used at trial?

(2) *Jane Doe v. Olson (Curtis), S258498 (Moor, J., assigned justice pro tempore)*

#19-183 Jane Doe v. Olson (Curtis), S258498 (B286105; nonpublished opinion; Los Angeles County Superior Court; SC126806.) Petition for review after the Court of Appeal affirmed and reversed orders in a civil action. This case presents the following issues: (1) Does the litigation privilege of Civil Code section 47, subdivision (b), apply to contract claims, and if so, under what circumstances? (2) Does an agreement following mediation between the parties in an action for a temporary restraining order, in which they agree not to disparage each other, bar a later unlimited civil lawsuit arising from the same alleged sexual violence?

(3) *Lawson (Wallen) v. PPG Architectural Finishes, Inc., S266001 (Miller (Douglas P.), J., assigned justice pro tempore)*

#21-49 Lawson (Wallen) v. PPG Architectural Finishes, Inc., S266001 (9th Cir No. 19-55802; 982 F.3d 752; Central District of California No. 8:18-cv-00705-AG-JPR.) Request under

California Rules of Court rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: Does the evidentiary standard set forth in Labor Code section 1102.6 replace the rest of test of McDonnell Douglas Corp. v. Green (1973) 411 U.S. 792 as the relevant evidentiary standard for retaliation claims brought pursuant to Labor Code section 1102.5?

1:30 P.M.

(4) ***People v. Tirado (Jose Guadalupe), S257658 (Perluss, P.J., assigned justice pro tempore)***
#19-174 *People v. Tirado (Jose Guadalupe), S257658 (F076836; 38 Cal.App.5th 637; Kern County Superior Court; BF163811A.)* Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Can the trial court impose an enhancement under Penal Code section 12022.53, subdivision (b), for personal use of a firearm, or under section 12022.53, subdivision (c), for personal and intentional discharge of a firearm, as part of its authority under section 1385 and subdivision (h) of section 12022.53 to strike an enhancement under subdivision (d) for personal and intentional discharge of a firearm resulting in death or great bodily injury, even if the lesser enhancements were not charged in the information or indictment and were not submitted to the jury?

(5) ***People v. Holmes (Karl Darnell), McClain (Herbert Charles) and Newborn (Lorenzo), [Automatic Appeal], S058734 (O'Rourke, J. assigned justice pro tempore)***

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