



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF AUGUST 30, 2004

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#04-92 *Elisa B. v. Superior Court*, S125912. (C042077; 118 Cal.App.4th 966; El Dorado County Superior Court; PFS20010244.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate.

#04-93 *K.M. v. E.G.*, S125643. (A101754; 118 Cal.App.4th 477, mod. 118 Cal.App.4th 1352c; Marin County Superior Court; CV 020777.) Petition for review after the Court of Appeal affirmed the judgment in a civil action.

#04-94 *Kristine H. v. Lisa R.*, S126945. (B167799; 120 Cal.App.4th 143, mod. 120 Cal.App.4th 881j; Los Angeles County Superior Court; PF001550.) Petition for review after the Court of Appeal reversed an order denying a motion to vacate the judgment in a civil action.

Elisa B., *K.M.*, and *Kristine H.* each includes one or more of the following issues: (1) May the presumption in Family Code section 7611, subdivision (d) — that a man is a presumed father if he “receives the child into his home and openly holds the child out as his natural child” — be applied to a birth mother’s same-sex partner when both women made the decision to have a child, received the child into their home and held the child out as their own, and agreed to support the child? (2) Under *Johnson v. Calvert* (1993) 5

(over)

Cal.4th 84, can both same-sex partners be considered the legal parents of children conceived as a result of artificial insemination and born during their domestic partnership? (3) Must a woman who donates ova which are fertilized in vitro and implanted in her domestic partner's womb, resulting in the birth of a child, file an adoption petition in order to be a parent of the child under *Johnson v. Calvert*?

#04-95 *Seibel v. Mittlesteadt*, S125590. (H025069; 118 Cal.App.4th 406; Santa Clara County Superior Court; CV790935.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Where a post-judgment settlement agreement (1) revises a damages award, (2) provides for the parties to withdraw their appeals but does not provide for an amended judgment, and (3) expressly preserves the defendant's right to bring a malicious prosecution action, does the settlement agreement preclude a finding that the initial action was "favorably terminated" (in defendant's favor) for purposes of the defendant's subsequent malicious prosecution action?

#04-96 *In re Silverton on Discipline*, S123042. Unpublished order. Review on the court's own motion after a State Bar Court recommendation of discipline. This case presents the following issue: Is the discipline recommended by the State Bar Court in this matter adequate or should this court impose a greater degree of discipline in light of the attorney's prior disbarment and present misconduct?

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