

**SUPREME COURT MINUTES
TUESDAY, OCTOBER 7, 2014
SAN FRANCISCO, CALIFORNIA**

S221146

**ASHANTI (ASKIA S.) v.
CALIFORNIA DEPARTMENT
OF FORESTRY & FIRE
PROTECTION (CALIFORNIA
HEALTH CARE FACILITY)**

Vexatious litigant application denied

The application of petitioner for leave to file Petition for Writ of Mandate is hereby denied.

S022998

**PEOPLE v. TOWNSEL
(ANTHONY LETRICE)**

Extension of time granted

Good cause appearing, and based upon Senior Deputy State Public Defender C. Delaine Renard's representation that the supplemental appellant's opening brief is anticipated to be filed by November 30, 2014, counsel's request for an extension of time in which to file that brief is granted to December 1, 2014. After that date, no further extension is contemplated.

S044693

**PEOPLE v. WALL (RANDALL
CLARK)**

Extension of time granted

Good cause appearing, and based upon Senior Deputy State Public Defender Andrea G. Asaro's representation that the appellant's reply brief is anticipated to be filed by November 20, 2014, counsel's request for an extension of time in which to file that brief is granted to November 20, 2014. After that date, no further extension is contemplated.

S107653

**PEOPLE v. CRAWFORD
(CHARLES EDWARD)**

Extension of time granted

Good cause appearing, and based upon counsel David Joseph Macher's representation that the appellant's opening brief is anticipated to be filed by December 31, 2014, counsel's request for an extension of time in which to file that brief is granted to December 2, 2014. After that date, only one further extension totaling about 35 additional days will be granted.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S110804**PEOPLE v. ACREMANT
(ROBERT JAMES)**

Extension of time granted

Good cause appearing, and based upon Senior Deputy State Public Defender Marianne D. Bachers's representation that the appellant's opening brief is anticipated to be filed by January 20, 2015, counsel's request for an extension of time in which to file that brief is granted to December 15, 2014. After that date, only one further extension totaling about 37 additional days will be granted.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S136171**PEOPLE v. WESSON
(MARCUS DELON)**

Extension of time granted

Good cause appearing, and based upon counsel Mark E. Cutler's representation that the appellant's opening brief is anticipated to be filed by February 28, 2015, counsel's request for an extension of time in which to file that brief is granted to December 4, 2014. After that date, only two further extensions totaling about 85 additional days are contemplated.

S142959**PEOPLE v. YOUNG
(DONALD RAY) & YOUNG
(TIMOTHY JAMES)**

Extension of time granted

On application of appellant Donald Ray Young and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to December 15, 2014.

S149039**PEOPLE v. AGUAYO
(JOSEPH MORENO)**

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Alice Su's representation that the respondent's brief is anticipated to be filed by December 16, 2014, counsel's request for an extension of time in which to file that brief is granted to December 16, 2014. After that date, no further extension is contemplated.

S166737**PEOPLE v. FLORES (RALPH STEVEN)**

Extension of time granted

Good cause appearing, and based upon counsel John L. Dodd's representation that the appellant's opening brief is anticipated to be filed by May 6, 2015, counsel's request for an extension of time in which to file that brief is granted to December 3, 2014. After that date, only three further extensions totaling about 150 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S178669**PEOPLE v. WYCOFF
(EDWARD MATTHEW)**

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to December 2, 2014.

S191869**CARRASCO (ROBERT) ON
H.C.**

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Roberta L. Davis's representation that the supplemental informal response to the petition for writ of habeas corpus is anticipated to be filed by December 5, 2014, counsel's request for an extension of time in which to file that document is granted to December 5, 2014. After that date, no further extension is contemplated.

S197707**LOMAX (DARRELL LEE) ON
H.C.**

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General David A. Voet's representation that the informal response to the petition for writ of habeas corpus is anticipated to be filed by December 26, 2014, counsel's request for an extension of time in which to file that document is granted to December 8, 2014. After that date, only one further extension totaling about 20 additional days is contemplated.

S214863**SALCIDO (RAMON
BOJORQUEZ) ON H.C.**

Extension of time granted

Good cause appearing, and based upon Deputy Federal Public Defenders Michael D. Weinstein's representation that the reply to the informal response to the petition for writ of habeas corpus is anticipated to be filed by November 25, 2014, counsel's request for an extension of time in which to file that document is granted to November 25, 2014. After that date, no further extension is contemplated.

S215727 D059007 Fourth Appellate District, Div. 1**PEOPLE v. LOWE (JUSTIN
SAMUEL)**

Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the answer brief on the merits is extended to November 5, 2014.

S217979 F066645/F066646 Fifth Appellate District**PEOPLE v. NASSER (KAMAL
KENNY)**

Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the answer brief on the merits is extended to November 24, 2014.

No further extensions of time are contemplated.

S218176 B248038 Second Appellate District, Div. 4**RAMOS (FLAVIO) v.
BRENNTAG SPECIALTIES,
INC.**

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file the answer brief on the merits is extended to November 7, 2014.

**SUPREME COURT MINUTES
TUESDAY, OCTOBER 7, 2014
SAN FRANCISCO, CALIFORNIA**

The Supreme Court of California convened in the courtroom of the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on Tuesday, October 7, 2014, at 10:00 a.m.

Present: Chief Justice Tani Cantil-Sakauye, presiding, and Associate Justices Baxter, Werdegarr, Chin, Corrigan, and Liu.

Officers present: Frank A. McGuire, Clerk, and Gail Gray, Calendar Coordinator.

The Honorable Fred Woods, Associate Justice, Court of Appeal, Second Appellate District, Division Seven, sitting on the following case, under assignment by the Chairperson of the Judicial Council, joined the court at the bench.

S213894 Joshua Graham Packer, Petitioner,
v.
Superior Court of Ventura County, Respondent;
The People, Real Party in Interest.

Cause called. Michael McMahon, Office of the Public Defender, argued for Petitioner.

Michelle J. Contois, Office of the District Attorney, argued for Real Party in Interest.

Steven D. Matthews, Office of the Attorney General, argued for Real Party in Interest.

Mr. McMahon replied.
Cause submitted.

Justice Fred Woods departed the bench. The court is now joined at the bench by the Honorable Richard D. Aldrich, Associate Justice, Court of Appeal, Second Appellate District, Division Three.

S209957 The People, Plaintiff and Respondent,
 v.
 Jonis Centeno, Defendant and Appellant.

Cause called. Jean Ballantine, Court-appointed Counsel, argued for Appellant.
Vincent P. LaPietra, Office of the Attorney General, argued for Respondent.

Ms. Ballantine replied.
Cause submitted.

Justice Richard D. Aldrich departed the bench. The court is now joined at the bench by the Honorable Laurie D. Zelon, Associate Justice, Court of Appeal, Second Appellate District, Division Seven.

S076339 The People, Plaintiff and Respondent,
 v.
 Gary Lee Grimes, Defendant and Appellant.

Cause called. Cliff Gardner, Court-appointed Counsel, argued for Appellant.
Stephanie A. Mitchell, Office of the Attorney General, argued for Respondent.

Mr. Gardner replied.
Cause submitted.

Court recessed until 2:00 p.m. this date.

Court reconvened pursuant to recess.

Justice Laurie D. Zelon departed the bench. The court is now joined at the bench by the Honorable Jennifer R. S. Detjen, Associate Justice, Court of Appeal, Fifth Appellate District.

S214430 Hamid Rashidi, Plaintiff, Respondent and Cross-Appellant,
v.
Franklin Moser, Defendant, Appellant and Cross-Respondent.

Cause called. Stuart B. Esner argued for Cross-Appellant. Kenneth R. Pedroza argued for Cross-Respondent.

Mr. Esner replied.
Cause submitted.

Justice Jennifer R. S. Detjen. departed the bench. The court is now joined at the bench by the Honorable Robert L. Dondero, Associate Justice, Court of Appeal, First Appellate District, Division One.

S209975 The People, Plaintiff and Respondent,
v.
Floyd Lavender et al., Defendants and Appellants.

Cause called. Eric A. Swenson, Office of the Attorney General, argued for Respondent.
Rebecca Jones, Court-appointed Counsel, argued for Appellants.

Mr. Swenson replied.
Cause submitted.

Justice Robert L. Dondero. departed the bench. The court is now joined at the bench by the Honorable Patricia Bamattre-Manoukian, Associate Justice, Court of Appeal, Sixth Appellate District.

S210898 The People, Plaintiff and Respondent,
 v.
 Vince Bryan Smith, Defendant and Appellant.

Cause called. Gregory L. Cannon, Court-appointed Counsel, argued
for Appellant.
Steve Oetting, Office of the Attorney General, argued for Respondent.

Mr. Cannon replied.
Cause submitted.

Court adjourned.

WEDNESDAY, OCTOBER 7, 2014
SPECIAL SESSION SAN FRANCISCO

The Supreme Court of California convened for its special session at its courtroom in the Ronald M. George State Office Complex, Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on Tuesday, October 7, 2014.

Present: Chief Justice Tani Cantil-Sakauye, presiding, and Associate Justices Baxter, Werdegar, Chin, Corrigan, and Liu.

Officers present: Frank A. McGuire, Clerk; Jorge E. Navarrete, Assistant Clerk Administrator; and Gail Gray, Calendar Coordinator.

CHIEF JUSTICE CANTIL-SAKAUYE: Well, good morning. And welcome to this special outreach session of the California Supreme Court.

We regularly hold these sessions because the court is committed to informing Californians about their courts and the world of the judiciary in a democracy. The session this morning is broadcast by CalChannel (California Channel), and we thank them for their spirited coverage and commitment to civics education.

I'd like to begin by introducing my colleagues here on the bench. They're seated in order of seniority, alternating between my right and my left. To my immediate right is Justice Marvin Baxter. Next to Justice Baxter is Justice Ming Chin, and next to him is Justice Goodwin Liu. On my left is Justice Kathryn Werdegar. Next to Justice Werdegar is Justice Carol Corrigan. And, when we start our first case we'll have a pro tem, Justice Fred Woods, of the Second Appellate District, Division Seven, and he'll be entering shortly. "Pro tem," when he sits and when two other pro tems will sit on the second and third cases this morning, means "for the time being" — it's Latin for pro tempore. And because, as you know, we have one current vacancy on the Supreme Court, we rely on justices from the Court of Appeal to participate on our cases until the vacancy is filled by the Governor. Our pro tem justices serve on one oral argument at a time, so you will see different folks for each case this morning, as well as this afternoon for the three cases we will hear.

And, speaking of "for the time being," I want to give special acknowledgement to Justice Baxter, who is set to retire at the end of this year. We on the court will greatly miss his sagacious presence. We will miss his quiet spoken and reflective demeanor, and we will miss his keen intellect. He sits not only on the Supreme Court, but as many of you know, also for the last 18 years he's been Vice Chair of the Judicial Council of California, the policy setting body for the judicial branch. Justice Baxter's service on the Supreme Court and the Judicial Council coincided

with the strengthening of our judicial branch as a coequal branch of government. He's been a longtime proponent of all of our outreach sessions, and sadly this is his last outreach session. Thank you, Justice Baxter.

Continuing with the introductions, you've met today our very able clerk administrator, Frank McGuire, and you've also probably worked closely with Jorge Navarrete, our assistant clerk administrator. And, although this is Justice Baxter's last outreach session, it is the first oral argument and the first outreach session for our new Reporter of Decisions, we fondly call that the "ROD," Reporter of Decisions, that's Mr. Lawrence W. Striley, he's here in the audience. He will be, he is, our 25th Reporter of Decisions for the Supreme Court and Courts of Appeal. Welcome, Mr. Striley.

My colleagues and I pursue these opportunities to engage our communities because we believe that the strength of our democracy depends on the public's recognition and understanding of the interrelationship and independence of our three branches of government. We want to thank those who are watching and listening to the court today because your participation is crucial to the success of our democracy.

In conjunction with the court's special oral argument session, we are joined by several schools. We have students from Amador Valley High School in Pleasanton. Where are you? Welcome. I understand that you're on the competition civics team class, I like the sound of that — competition civics. And I know you're with your teacher, Stacey Sklar. Thank you. We also welcome and recognize business law students from Fresno City College. Where are you? I know that you had a long trip, and it was arduous, and you called ahead of time. Thank you for being here. Also, we welcome back your instructors, Robert Schmalle and also Nancy Holland. We also have students from the advanced legal writing class from the University of Southern California. Where are you? Welcome. And we welcome you back actually, we often see you in Southern California with your professor, James Brecher. Also, welcome back to Mr. Brecher.

So, the justices of our court hope that today's court session will help all of you attain a better understanding of California's judicial system and the rule of law that protects us all, serving as a cornerstone for our democracy. We expect that someday one of you students out there will be at the counsel table advocating for your client. And that someday some of you will also be in our seats. I hope that today's session, and the very backgrounds of those of us here on the bench, will serve as an inspiration to the students to let you know that anything is possible. And on behalf of the entire court, and also the litigants here today, thank you once again for making today's special outreach session possible, and I hope that these proceedings will serve to encourage all of you to learn more about the administration of justice at the state level and the national level. Thank you.

We will begin with questions from our three schools, and we invite the first student with the first question.

MARYAM AWWAL: Hi, my name is Maryam Awwal, I'm from Amador Valley High School, and my question is what is the process by which a person is selected to be on the Supreme Court, and also can you share your personal story on how you became a Supreme Court justice? Thank you.

CHIEF JUSTICE CANTIL-SAKAUYE: Justice Baxter.

JUSTICE BAXTER: Thank you, Maryam. I think I was given that question because I assisted former Governor Deukmejian with that precise responsibility of assisting him in selection of judges.

The process is really set forth in our Constitution and in our statutes, and it varies considerably from the federal process, so I'll touch on that shortly. The process is not always exactly uniform from one administration to another. There are variations as to how various governors approach it. But, generally speaking, it's the Governor of California who selects, ultimately selects, the individual to serve on the Supreme Court. Sometimes that occurs by way of an appointment, which is when a vacancy occurs during the term of office. And other times it takes place by way of nomination, which is the case where a justice serves out his term of office, which is exactly what I'm doing. So, my term ends January 4, and the person Governor Brown has nominated has already been nominated, and will be on the ballot in November.

Some of the people that are selected actually apply, others are asked to apply. If you have a choice, it's better to be asked to apply. The applications are reviewed carefully by the Governor's appointments secretary and also by the Governor — at least this is the process that Governor Deukmejian followed — at which time, a group of finalists, four or five, perhaps six, individuals were selected and submitted for evaluation.

Under California statutory law, the evaluation is conducted by a State Bar commission called the Commission on Judicial Nominees Evaluation, commonly called the JNE Commission, and it consists of approximately 25 individuals selected by the State Bar Board of Trustees. And they do a very in-depth evaluation of the finalists whose names have been submitted by the Governor, and the applicants are rated anywhere from exceptionally well qualified to not qualified — with ratings of well qualified and qualified between these two extremes. The ratings are accompanied with a rather detailed report that is submitted to the Governor and the appointments secretary. There are other groups, county bar groups, California Women Lawyers, a variety of other bar associations that also provide evaluations. So armed with this information, again the Governor and the appointments secretary will sit down and come up with an even shorter list of finalists, and then those individuals are interviewed, and the Governor ultimately makes his selection, again either an appointment or a nomination.

The next step is that the individual goes before the Commission on Judicial Appointments for confirmation, and that commission is composed of the Chief Justice, who chairs that commission, the Attorney General of California, and the Senior Presiding Justice of the Courts of

Appeal. Senior in terms of service, not necessarily age. And that commission hears the evidence and decides whether or not this person is qualified to serve. It basically takes the role of the U.S. Senate in federal judicial appointments. It's not over at that point, even after being confirmed. The individual who is confirmed then goes before the electorate at the next gubernatorial election, and must have at least a majority approval by the electorate, and then takes office at that point. The system is very different from the federal system; under our system there is a 12-year term, at the end of the 12-year term the incumbent can seek reelection in a retention election. It's nonpartisan, no one runs against that individual, it's a yes or no.

In terms of my own personal story, as to how I became a part of the Supreme Court, if I had to use one word it would be fate, and of being at the right place at the right time. As my Fresno colleagues can relate, I was a native of Fresno County, born and raised in the very small agricultural community of Fowler. Always intended to return after law school, set up my practice in Fresno County; got involved in bar activities, was president of the bar association, got involved in setting up evaluation committees to assist the then Governor. Became very active, very actively involved in George Deukmejian's campaigns for attorney general, and later for Governor. He invited me to be his appointments secretary in 1983, which meant that I left private practice at age 43 to take on this position in Sacramento. Did that for six years, and then was appointed to the Court of Appeal in Fresno, where I served for two years, and was then elevated to the California Supreme Court in 1991, so this is my 24th year on the court. So, I guess being in the right place at the right time accounts for, accounts for all that. Thank you very much.

MARYAM AWWAL: Thank you.

CHIEF JUSTICE CANTIL-SAKAUYE: Maryam, you just received the most expert answer you could possibly get on that question. We invite the second question.

ELIZABETH LIRA: Good morning. My name is Elizabeth Lira, and I am from Fresno City College. Your Honors, the majority of the cases taken by the California Supreme Court are discretionary. What is the process by which you as a body reach a decision whether to accept or deny review? What factors are important in this decision-making process? And in this selection process is there any give and take between justices, such as discussions on, persuasion, you know, asking them, one or more of them to take a case?

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you. We'll give this to Justice Corrigan.

JUSTICE CORRIGAN: Good question, Elizabeth. I have to confess that until I got to the Supreme Court, I didn't actually know the answers to those questions.

We only grant about 2 percent of the applications a year. So, how do we figure that out? As you know, every case starts out in the trial court, and the losing party can come to the Court of Appeal, and ask them to review it. And there are about 100 justices on the Courts of Appeal, and they sit all over the State of California. They decide thousands of cases a year. We decide about 110 cases a year. When a Court of Appeal decides a case, they're usually deciding kind of settled rules. But sometimes the rules aren't settled. There's a new statute, or there's new technology involved, or an old rule is applied to a new case. Or, sometimes the Courts of Appeal around the state are deciding cases, same kinds of cases, but deciding them very differently. Or, sometimes somebody comes to us and says, "We know that's the old rule but we think you should create a new rule."

So, once the case is decided in the Court of Appeal, the parties can file a motion here in the Supreme Court and ask us to take the case. And a staff of lawyers reviews each one of those applications and writes a memo on every application for all the justices. Then we meet every week to discuss those petitions. And we review every week somewhere between 150 to 300 cases, so we're kind of busy doing that. Of those 150 to 300, we individually discuss the most important ones, which usually turn out to be 25 to 50. And there is some give and take as we go around the table to vote on these cases, and someone will say, "Well, I don't think we need to take this one," or "I think we absolutely should take that one." And then people will test one another's ideas, "Do you really think this is the right case to take?" Or, "What do you mean we shouldn't take this? We have to take this."

The biggest question usually is whether the law is unclear in some way, whether there's a new statute, or whether the Courts of Appeal are going off in different directions. When the Court of Appeal decides a case, they're usually looking backwards; so, they're looking back to see what happened in the trial court to see if there was a mistake made. When we decide to take a case, we're usually looking forwards, so the next time a case like this comes up, what's the trial court or the Court of Appeal supposed to do? How should the rule be applied?

We also look to see if the case is what we call a good vehicle, are the facts and the procedure by which the case was tried nice and clear, so that we can use this case to make a clear statement about what the law is. We look to see whether or not the briefing is any good. Are these lawyers who are asking us to take review really prepared to help us look at a complicated question and decide it intelligently?

And sometimes if a new issue comes up we won't take the case right away, we'll wait until similar kinds of cases have been decided in the Courts of Appeal, so that we can kind of get the big picture. We can get the benefit of those very smart people who sit on the Court of Appeal, who are looking at the same issue, and maybe we'll get a group of cases that present the issue in kind of different ways. So, those are the things we take a look at, and while we're deciding what we're deciding, we're also spending a part of our week trying to decide what to decide next. Good question.

ELIZABETH LIRA: Thank you.

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you.

SUKHJIT KAUR: Good morning, your Honors. My name is Sukhjit, and I'm from Fresno City College. My question is what types of conflict of interest would require a justice to withdraw from participating in a given case, and when in the process would a conflict be identified and a recusal occur?

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you. We'll ask Justice Liu to respond to this question.

JUSTICE LIU: Thank you, Sukhjit. That's a great question. Obviously it's extremely important for any judge to maintain the reality and the appearance of impartiality, and so all judges have a duty to minimize conflicts of interest.

The most common conflicts of interest I would say are financial interests, possibly, in one or another side of the case. The possibility that you might have personal knowledge of a party or a witness relevant to the case. The possibility you're, especially if you're newly appointed to the bench, that as a lawyer you worked on some aspect of the case or had some other involvement. There are other kinds of conflicts resulting from, for example, if you served as a board member for an organization that is a litigant in the case. These are just some examples, and the rules governing conflicts of interest are set forth by statute, as well as by the California Code of Judicial Ethics, which all judges are, must adhere to.

You asked also when in the process are these conflicts identified. So judges are extremely careful to try to minimize these conflicts, and so each one of us on this court, and I suspect in the other courts as well, has screens that are set up, meaning key word identifiers that help us automatically screen among the thousands and thousands of matters that come before the court, cases that present a particular organization, a person, an entity, that would require each of us to look at the case more closely and determine at the outset before we've read any of the papers, whether we ought to go further or not.

Sometimes it happens that the screens don't catch a particular conflict of interest, and even during the processing or consideration of a case a judge might come to the realization that there is a conflict of interest. A recusal for conflict of interest can occur at any time in the process, before oral argument, even after argument, on rare occasions. It is that important to the impartial administration of justice that at any moment in the case when a judge discovers a conflict of interest, that he or she makes a proper determination of whether to recuse.

SUKHJIT KAUR: Thank you, your Honor.

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you.

NICK NOWELL: Hi, my name is Nick Nowell, and I'm from Fresno City College. My question is: If a justice changes his or her mind about a case after it has been assigned, and that change causes the majority to now be in the minority, how does the Supreme Court deal with that situation? Does it make a difference whether the change of view occurs before or after oral argument?

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you. Justice Werdegar?

JUSTICE WERDEGAR: Yes. Nick, thank you for that question. Because the justices are thinking about a case before argument, during argument, and after argument, it does sometimes happen that a justice that was with the presumed majority changes her mind. Now this is not welcome to the assigned justice. But when that happens and the majority is now a minority, the assigned justice has a choice. She can stay with her original view, and ask the Chief Justice to reassign the case, and then she would write a dissent. Or, she can decide that, well, after thinking about it, maybe the new majority has a better view, I think I see the wisdom of their point of view, and she will keep the case, but she has to write an opinion that goes the other way. Her colleagues that were with her may also decide that they see the view of the new majority, or they may stand firm and write a dissent.

When the change occurs, does make a difference. As you know, the court discusses the cases that we're going to hear today, or any oral argument in advance, so we're all thoroughly familiar with the facts and we all have a tentative idea of where we're going to be going. If before oral argument, a member of the majority changes her mind, again, the assigned justice has this choice but she has time to think about it if oral argument has not been set, so she can reflect, do additional research, consult with her colleagues, and then, again, ask the Chief to reassign the case or decide that she will go with the new majority.

If the change occurs after argument, let me say that after argument today and every argument day, we go into the conference room, and we talk about the cases. We discuss what occurred and we go around the table, and each justice says, in order of seniority, where they are on the case. The assigned justice is apprehensive, she's hoping that everybody will hold firm, will agree with what she has proposed, but a justice can change his mind. And, when that occurs, the assigned justice has the same choice, keep the case and write it opposite to what she had written, or ask the Chief to reassign it.

But here there's a time pressure because once we have oral argument the cause is what we say, submitted. And under the law we have 90 days to file our opinion, and any separate opinions, concurrences and dissents. So there's a bit more time pressure for the assigned justice to decide what to do, she has to decide as quickly as possible so that the process can move smoothly. Be that as it may, every justice has the right to change his or her mind at any time until the opinion is filed. Changes do occur at the postargument conference, and maybe shortly after oral argument, but rarely do they occur as the clock runs and it's getting time to file the opinion. Thank you.

NICK NOWELL: Thank you.

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you, Nick. Welcome.

JENNIFER MARR: Good morning, my name is Jennifer Marr from the University of Southern California. My question is for Justice Chin. How often does Your Honor change his mind during oral argument? What are the most effective techniques for oral advocates? And what are some of the worst?

JUSTICE CHIN: Well, Jennifer, those are three very good questions, and I'm sure that the attorneys who are about to argue would like to know the answer.

The answer to your first question is, sometimes, and I cannot give you a numerical figure. I can tell you that it is unusual to make an about face, in other words, change your entire opinion about the case at oral argument. The briefs in this process are obviously the most important piece, so if you haven't done your work in the brief, don't expect to stand up in oral argument and change everyone's minds. But, I can tell you that it has happened that the court has changed its mind at oral argument and gone completely 180 degrees. Don't count on it. It's highly unusual. It's more unusual for individual justices to change their opinion on pieces of the case.

And you've heard from the answers of Justice Werdegar and Justice Corrigan about the nature of the work of the court. And the nature of our work is that all of the easy cases have been decided, and the hard ones are now before us. There are many moving parts, they are very complicated. But that doesn't mean that oral argument is unimportant. It's very, very important. And one of the reasons it's important is that many pieces of the case do not jump out from the pages, but you can bring that case to life for the judges in oral argument. So the oral argument piece is very, very important.

What about effective techniques in oral argument? I think the most important piece of oral argument is listening. It is really bad not to listen to the judges' questions, and to start answering the questions before we finish them. You don't know where we're going, so wait, patiently.

Now, you in oral argument are trying to manage a conversation with seven people — pretty strong-opinioned people. And many of them will be asking questions at the same time. And it's your job to manage that conversation. I realize it sounds like an impossible task, but it really is a conversation so don't expect to get up at oral argument and give speeches. Or, worse yet, read speeches. Talk to us, engage us in conversation. Bring the case alive for us. When you think about it, recently, one of my colleagues asked one of the attorneys on a very complicated case, "Can you summarize your case in one sentence?" The attorney said, hesitatingly, "I'll try, but it may be a run-on sentence." I will give you at least a paragraph, but you should be able to summarize your case in one paragraph.

Now, as far as some of the best techniques and worse techniques. One of the things you should not do in oral argument is bring attention to yourself in some negative way. I'll give you one example, two examples. I should give you a male and a female example. One time a female lawyer wore a number of bracelets on her hand and kept banging the podium with her hand. Don't do that. Now, just to be nonsexist, a man, you can tell how old the story is, a man wore a tie tack that had to be a four-carat diamond. Don't do it, it'll look like a spotlight. So, don't bring attention to yourselves.

I'll close with one example of outstanding oral argument that I heard before the U.S. Supreme Court. It was Lawrence Tribe, and I just had dinner with him in San Diego, and I reminded him that I attended the U.S. Supreme Court oral argument in the BMW case. And when Lawrence Tribe got up to the podium, he had one folder in front of him. When he opened it, it was the exact size of the podium at the U.S. Supreme Court. You could tell that this man had been there before. And, on this folder, he had bits of information, and I was close enough to the podium that I could read his notes. He had bits of information that looked like a jigsaw puzzle, so when he argued before the court, he had bits of information that he needed to draw for those remarks but he did not have a stack of papers that he was thumbing through while he was talking. That is just one example of an outstanding technique. (Now, if you came to our podium, you would have a giant folder. I don't recommend that, but I just gave you that example because we've heard oral arguments where counsel did nothing but thumb through papers. I suspect we won't see any of that today.) So, thank you for your question.

JENNIFER MARR: Thank you for your time.

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you. We're going to welcome now at this time the next questions, and we also welcome Justice Fred Woods from the Court of Appeal, Second Appellate District, Division Seven. And, Justice Woods, we're going to put you to work right away and you're going to get this question.

JUSTICE WOODS: Very good. And, I suppose what I should convey at the present time is to leave in plenty of time so you'll be to court in time. I do apologize to the entire court.

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you, Justice Woods.

JUSTICE WOODS: But I am here.

CHIEF JUSTICE CANTIL-SAKAUYE: You're here, and we're ready to go.

JUSTICE WOODS: All right.

NICHOLAS SCOTTI: Perfect timing getting here. So, my name is Nick Scotti, and I'm a senior at USC as well. My question is for you, Justice Woods. We know the court has read the briefs before the oral argument, so does this mean that there's little reason for oral advocates to spend much time discussing the facts? And, having been a former appellate judge, how much do the facts matter at the appellate level or do they become dispositive?

JUSTICE WOODS: Well, I would say, counsel, if I could, the north star of appellate advocacy in the Court of Appeal is make sure you know your record, and make sure you know the facts of the case, and then get right to it, and try to present the facts of the case which will be most favorable to your side of the argument.

Now, don't ever assume that the justices are really on top of the record, which I think most of them are. And you've got to realize that sometimes there are factual disputes that need to be presented and argued at the Court of Appeal. So, what you need to do when you get up to argue, make sure that you present the facts that are most favorable to your side as you see them but always arguing from the record. And don't ever assume that the justices will be on top of exactly the arguments that you're going to make from the facts. So, if I were to give you some advice on arguing your case, I would say you should get up and you should discuss the facts honestly, fairly and make sure that you cover all your bases. And you shouldn't assume that the justices have everything committed to memory as far as facts are concerned because maybe in preargument discussions certain problems come up with regard to the facts, and you need to make sure that you draw out the facts that are most favorable to your side.

So, are the facts that are presented at oral argument always dispositive of the case, I would say the answer to that is no because when the justices go back and they have postargument discussions about the facts, and who said what at the time of oral argument, there might be some disagreement among the justices as to what was really said at the time of oral argument. So, if you present the facts, are they always dispositive of your case, probably the answer is no. Sometimes the justices will make, want further argument, and if they do want further argument, what they'll do is sometimes send out a letter through the clerk of the court and ask counsel to address certain things about the facts of the case that did not become clear at the time of oral argument. So, does that help you at all, with my rambling?

NICHOLAS SCOTTI: Yes, it does. Thank you very much.

JUSTICE WOODS: All right, anything else?

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you. We'll invite the last question.

MEGAN GUPTA: Good morning. My name is Megan Gupta, and I'm from Amador Valley High School. My question is what responsibilities do the justices have other than reviewing and deciding cases?

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you, Megan. I'm glad you asked that question.

There are quite a few responsibilities that occupy the justices' time in addition to the lion's share of our time dedicated to hearing and deciding cases. And, so in no particular order of priority, I'll mention a few that may not be particularly obvious to many people, and also that are likely peculiar to the California Supreme Court.

And the first I'll mention is the State Bar. The State Bar of California, that is, the regulatory entity that regulates lawyers, and disciplines lawyers, and oversees admission, as well as protects the public, and not particularly in that order, is an administrative arm of the California Supreme Court. As such, the California Supreme Court, the seven of us, we appoint to the Board of Trustees, we appoint people and judges to the State Bar Court that hears the attorney discipline cases. We are in charge of, and oversee the Rules of Professional Conduct, all the rules that lawyers in this state must follow in order to be in good standing with the State Bar. And we also have, from time to time, different issues, legislative and otherwise, business and otherwise, pertaining to the State Bar. So, one thing to know about the California Supreme Court's interface with the State Bar as our administrative arm, the State Bar is the largest bar in the country, arguably, the largest bar in the world because there are more lawyers in California than anywhere else in the country and in the world.

Another matter that occupies the justices' time was mentioned by Justice Liu, and that is the code of ethics, the Code of Judicial Ethics. Judges, unlike lawyers, unlike our sister branches, we have a code of ethics, the judicial canons, that govern and guide how it is we operate professionally and personally, and these are basically living breathing documents and codes. So, this California Supreme Court has the responsibility, with the aid of our advisory committee on judicial ethics, to oversee those ethics, keep them current, make sure that the canons are understandable.

In conjunction with the canons, if they are violated in some way, or alleged to be violated by a judge on the bench, or off the bench, then there is an independent constitutional body called the Commission on Judicial Performance. And this individual body, constitutional body, operating separately from the court, takes up discipline against judges. And in this way, the Supreme Court acts as a review body for disciplinary proceedings, when asked, for judges who run into trouble with the Commission on Judicial Performance because they are alleged to have violated the canons or the code of ethics.

Another responsibility that occupies our time was mentioned a little bit by Justice Corrigan. And that is, we oversee and manage our three central staffs. We have a civil central staff, a criminal staff and a capital staff. In addition, we oversee actively our clerk's office, which is run ably by Frank McGuire and Jorge Navarrete, and also the Reporter of Decisions Office, which is run ably by Mr. Striley.

We also have an active management of our own internal policies and our public policies, that assist lawyers who bring matters before us in our roles. And also, last but not least I would say, is an understanding that, despite that we carry the name of the judiciary, and we follow the rule of law, we are in fact still a business because the judiciary is funded by the public fisc. So we have budgetary issues, we have policy issues in terms of hiring, in terms of discipline, and each of the justices here, all seven, have a chamber with our attorneys, with our staff, and there's also business operations, every justice is the boss of his or her chamber. We're also collectively the boss of the California Supreme Court. So, we have a lot of administrative responsibilities that actually reach out to other aspects of practice and procedure and pleading in California, and it's not so widely known. So, I do appreciate your question about what we do. Thank you.

MEGAN GUPTA: Thank you so much.

CHIEF JUSTICE CANTIL-SAKAUYE: I'd like to thank all of the students who formulated all these excellent questions. I also want to thank the professors here who brought them here to observe next, now, the true advocacy in action. I also want to make a special thank you to Professors Schmalle and Holland, who I know had an arduous journey to get here. And, finally, to the rest of the Fresno students who filled out our courtroom, thank you for being here, again. Finally, I also would now ask that our new Reporter of Decisions be directed to capture these special proceedings in the minutes so they will be included in the Official Reports of the decisions of this court.