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CASES PENDING BEFORE THE CALIFORNIA SUPREME COURT

By Phyllis W. Cheng

DISCRIMINATION / HARASSMENT / RETALIATION

Bailey v. San Francisco District Attorney’s Office, nonpublished opinion, 2020 WL 5542657 (2020), review granted (Dec. 30, 2020); S265223/A153520

Petition for review after affirmance of judgment. Did the Court of Appeal properly affirm summary judgment in favor of defendants on plaintiff’s claims of hostile work environment based on race, retaliation, and failure to prevent discrimination, harassment and retaliation? Fully briefed.

Lawson v. PPG Architectural Finishes, Inc., 982 F.3d 752 (9th Cir. 2020); S266001/9th Cir. No. 19-55802

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. Does the evidentiary standard set forth in Labor Code section 1102.6 replace the rest of the 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? Fully briefed.

TORT LIABILITY

Sandoval v. Qualcomm Inc., 28 Cal. App. 5th 381 (2018); review granted, 242 Cal. Rptr. 3d 418 (January 16, 2019); S252796/D070431

Petition for review after affirmance of judgment. Can a company that hires an independent contractor be liable in tort for injuries sustained by the contractor’s employee based solely on the company’s negligent failure to undertake safety measures, or is more affirmative action required to implicate *Hooker v. Department of Transportation*, 27 Cal. 4th 198 (2002)? Submitted/opinion due.

WAGE AND HOUR

Grande v. Eisenhower Med. Ctr., 44 Cal. App. 5th 1147 (2020), review granted, 262 Cal. Rptr. 3d 369 (May 13, 2020); S261247/E068730, E068751

Petition for review after affirmance of judgment in a civil action. May a class of workers

bring a wage and hour class action against a staffing agency, settle that lawsuit with a stipulated judgment that releases all of the staffing agency’s agents, and then bring a second class action premised on the same alleged wage and hour violations against the staffing agency’s client? Fully briefed.

Naranjo v. Spectrum Security Servs., Inc., 40 Cal. App. 5th 444 (2019), review granted, 257 Cal. Rptr. 3d 188 (January 2, 2020); S258966/B256232

Petition for review after part affirmance and part reversal of judgment. (1) Does a violation of Labor Code § 226.7, which requires payment of premium wages for meal and rest period violations, give rise to claims under Labor Code §§ 203 and 226 when the employer does not include the premium wages in the employee’s wage statements, but does include the wages earned for meal breaks? (2) What is the applicable prejudgment interest rate for unpaid premium wages owed under Labor Code § 226.7? Fully briefed. ⁴²