



California Supreme Court Alert

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September 2011

Pending California Supreme Court Tort, Employment and Insurance Cases

Our firm is following a number of tort, employment and insurance cases that are pending in the California Supreme Court, the outcome of which may impact our clients. We will issue a Client Alert when the California Supreme Court issues its decisions. Those cases are the following, and the issue presented is that articulated by the California Supreme Court.

Brinker Restaurant Corp. v. Superior Court, S166350. 165 Cal.App.4th 25. This case presents issues concerning the proper interpretation of California's statutes and regulations governing an employer's duty to provide meal and rest breaks to hourly workers.

C.A. v. William S. Hart Union High School Dist., S188982. 189 Cal.App.4th 1166. May a school district be held liable for the negligent hiring, retention or supervision of a school guidance counselor who molests a student, when district employees who hired the counselor knew that the counselor had a history of child molestation?

Coito v. Superior Court, S181712. 182 Cal.App.4th 758. Is the statement of a witness that is taken in writing or otherwise recorded verbatim by an attorney or the attorney's representative entitled to the protection of the California work product privilege?

Ennabe v. Manosa, 5189577. 190 Cal.App.4th 707. Is a person who hosts a party at a residence, and who furnishes alcoholic beverages and charges an admission fee to uninvited guests, a "social host" within the meaning of Civil Code section 1714, subdivision (c), and hence immune from civil liability for furnishing alcoholic beverages?

Harris v. City of Santa Monica, S181004. 181 Cal.App.4th 1094. Does the "mixed-motive" defense apply to employment discrimination claims under the - Fair Employment and Housing Act (Gov. Code, § 12900 et seq.)?

Harris v. Superior Court, S156555. 154 Cal.App.4th 164. Do claims adjusters employed by insurance companies fall within the administrative exemption (Cal. Code Regs, tit. 8, § 11040) to the requirement that employees are entitled to overtime compensation?

Hayes v. County of San Diego, S193997. 9th Cir. No. 09-55644 ___ F.3d ___. Whether under California negligence law, liability can arise from tactical conduct and decisions employed by law enforcement preceding the use of deadly force.

Jankey v. Lee, S180890. 181 Cal.App.4th 1173. Is an award of fees to a prevailing defendant under the California Disabled Persons Act (Civ. Code, § 54 et seq.) inconsistent with, and therefore preempted by, the federal Americans with Disabilities Act (42 U.S.C. § 12101 et seq.)?

Leung v. Verdugo Hills Hospital, 5192768. 193 Cal.App.4th 971. Should the common law rule that a release for consideration of one joint tortfeasor operates as a release of the joint and several liability of all joint tortfeasors be abandoned in light of statutory and case law modifications of the joint and several liability rule?

Nalwa v. Cedar Fair, L.P., S195031. 196 Cal.App.4th 566. (1) Does the existence of a state regulatory scheme for amusement parks preclude application of the doctrine of “primary assumption of risk” with respect to the park’s operation of a bumper car ride?; (2) Does the doctrine apply to bar recovery by a rider of a bumper car ride against the owner of an amusement park or is the doctrine limited to “active sports”?

O’Neil v. Crane Co., S177401. 177 Cal.App.4th 1019. Can the manufacturer of valves and fittings installed on Navy ships, and designed to be used with asbestos packing, gaskets, and insulation, rely on the “component parts” defense or related theories to preclude strict liability for asbestosis injuries years later suffered by seamen on those ships?

State of California v. Continental Ins. Co., S170560. 170 Cal.App.4th 160; Riverside County Superior Court; 239784. (1) When continuous property damage occurs during the periods of several successive liability policies, is each insurer liable for all damage both during and outside its period up to the amount of the insurer’s policy limits?; (2) If so, is the “stacking” of limits — i.e., obtaining the limits of successive policies — permitted?

Zhang v. Superior Court, S178542. 178 Cal.App.4th 1081. Can an insured bring a cause of action against its insurer under the unfair competition law (Bus. & Prof. Code, § 17200) based on allegations that the insurer misrepresents and falsely advertises that it will promptly and properly pay covered claims when it has no intention of doing so?

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