



[Supreme Court of California](#)

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**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

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## Summary of Cases Accepted and Related Actions During Week of November 23, 2015

*[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 statement of the issue or issues in each case set out below does not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]*

**#15-217 Connor v. First Student, Inc., S229428.** (B256075; 239 Cal.App.4th 526; Los Angeles County Superior Court; JCCP4624.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Is the Investigative Consumer Reporting Agencies Act (Civ. Code, § 1786 et seq.) unconstitutionally vague as applied to background checks conducted on a company's employees, because persons and entities subject to both that Act and the Consumer Credit Reporting Agencies Act (Civ. Code, §1785.1 et seq.) cannot determine which statute applies?

**#15-218 McMillin Albany LLC v. Superior Court, S229762.** (F069370; 239 Cal.App.4th 1132; Kern County Superior Court; CV279141DRL.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Does the Right to Repair Act (Civ. Code, § 895 et seq.) preclude a homeowner from bringing common law causes of action for defective conditions that resulted in physical damage to the home?

**#15-219 Scher v. Burke, S230104.** (B235892; 240 Cal.App.4th 381; Los Angeles County Superior Court; BC415646.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: Does Civil Code section 1009 preclude non-recreational use of non-coastal private property from ripening into an implied dedication of a public road?

**#15-220 People v. Brown, S230134.** (E059735; 240 Cal.App.4th 469; San Bernardino County Superior Court; FBA1300085.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. White*, S228049 (#15-173), which presents the following issue: Was defendant properly convicted of both rape of an

intoxicated person and rape of an unconscious person for a single act of sexual intercourse?

**#15-221 *People v. Eberhart, S229864.*** (A132736, A139535; nonpublished opinion; Contra Costa County Superior Court; 50713693.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses and summarily denied a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *People v. Sanchez*, S216681 (#14-47), which presents the following issue: Was defendant's Sixth Amendment right to confrontation violated by the gang expert's reliance on testimonial hearsay (*Crawford v. Washington* (2004) 541 U.S. 36)?

**#15-222 *People v. Virto, S228964.*** (B243201; nonpublished opinion; Los Angeles County Superior Court; A118561.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Franklin*, S217699 (#14-56), which includes the following issues: (1) Is a total term of imprisonment of 50 years to life for murder committed by a 16-year-old offender the functional equivalent of life without possibility of parole by denying the offender a meaningful opportunity for release on parole? (2) If so, does the sentence violate the Eighth Amendment absent consideration of the mitigating factors for juvenile offenders set forth in *Miller v. Alabama* (2012) 567 U.S. \_\_ [132 S.Ct. 2455]? (3) Did Senate Bill 260 (Reg. Sess. 2013-2014), which includes provisions for a parole suitability hearing after a maximum of 25 years for most juvenile offenders serving life sentences, render moot any claim that such a sentence violates the Eighth Amendment?

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*The Supreme Court of California is the state's highest court and its decisions are binding on all other California state courts. The court's primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.*