SUPREME COURT CALENDAR
LOS ANGELES SESSION
APRIL 1 and 2, 2003

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, 3rd Floor, North Tower, Los Angeles, California on April 1 and 2, 2003.

TUESDAY, APRIL 1, 2003—9:00 A.M.

(1) S108099 White v. Davis
(2) S108751 Winter v. DC Comics
(3) S097600 People v. Johnson

2:00 P.M.

(4) S103681 Peracchi v. Superior Court, County of Fresno; People
(Baxter, J., not participating; Perluss, J., assigned Justice Pro Tempore.)
(5) S024599 People v. Michael Lamont Jones ***[Automatic Appeal]***
(6) S015381 People v. Tracey Lavell Carter ***[Automatic Appeal]***

WEDNESDAY, APRIL 2, 2003—9:00 A.M.

(7) S103781 Intel Corporation v. Hamidi
(Baxter and Chin, JJ., not participating; Perren and Mosk, JJ., assigned Justices Pro Tempore.)
(8) S101964 Viner v. Sweet
(Chin, J., not participating; Raye, J., assigned Justice Pro Tempore.)
(9) S104157 Hameid v. National Fire Insurance

1:30 P.M.

(10) S100557 State Department of Rehabilitation v. W.C.A.B.; Lauher
(11) S108308 Rosen v. State Farm General Insurance
(12) S018292 People v. Evan T. Nakahara ***[Automatic Appeal]***

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

SUPREME COURT CALENDAR
LOS ANGELES SESSION
APRIL 1 and 2, 2003

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, APRIL 1, 2003—9:00 A.M.

(1) White v. Davis, S108099

#02-138 White v. Davis, S108099. (B122178, B123992, B124395, B124397, B124398; 98 Cal.App.4th 969.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order issuing a preliminary injunction. This case includes the following issues: (1) If the Legislature fails to enact a budget within the time specified in the state Constitution, is the Controller precluded from paying state employees? (2) Would a failure to pay state employees their regular wages in such circumstances violate the Federal Labor Standards Act or the contract clause or due process rights of the employees under the federal and state Constitutions? (3) May a preliminary injunction issue without balancing the comparative harm to the parties if the trial court finds the plaintiff has a sufficiently strong likelihood of success on the merits?

(2) Winter v. DC Comics, S108751

#02-153 Winter v. DC Comics, S108751. (B121021; 99 Cal.App.4th 458.) 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 issues: (1) Did defendants' comic book series, which included the characters "Edgar and Johnny Autumn," meet the transformative test set forth in *Comedy III Productions, Inc. v.*

Saderup (2001) 25 Cal.4th 387, precluding plaintiffs Edgar and Johnny Winter from pursuing their action for misappropriation of likeness? (2) Does *Comedy III Productions, Inc.* require defendants to establish that their depiction of plaintiffs was a parody before the transformative test can be applied?

(3) People v. Johnson, S097600

#01-81 People v. Johnson, S097600. (A085450; 88 Cal.App.4th 318.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case includes the following issue: Did the trial court, in finding that defendant failed to establish a prima facie case of discriminatory use of peremptory challenges under *People v. Wheeler* (1978) 22 Cal.3d 258, apply its "strong likelihood" standard in a manner more stringent than that permitted under the "reasonable inference" standard of *Batson v. Kentucky* (1986) 476 U.S. 79?

2:00 P.M.

(4) Peracchi v. Superior Court, County of Fresno; People, S103681 (Baxter, J., not participating; Perluss, J., assigned Justice Pro Tempore.)

#02-57 Peracchi v. Superior Court, County of Fresno; People, S103681. (F038251; 94 Cal.App.4th 209.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: May a defendant facing a resentencing hearing following a partial reversal of his underlying convictions disqualify the original trial judge from conducting the resentencing under Code of Civil Procedure section 170.6(2)?

(5) People v. Michael Lamont Jones, S024599 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

(6) People v. Tracey Lavell Carter, S015381 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

WEDNESDAY, APRIL 2, 2003—9:00 A.M.

(7) Intel Corporation v. Hamidi, S103781 (Baxter and Chin, JJ., not participating; Perren and Mosk, JJ., assigned Justices Pro Tempore.)

#02-56 Intel Corporation v. Hamidi, S103781. (C033076; 94 Cal.App.4th 325.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Does sending unsolicited noncommercial e-mail messages into a company's computer network system in disregard of the company's objection constitute an actionable trespass to chattel, supporting injunctive relief, in the absence of any physical disruption to the receiving computer equipment? (2) Does judicial enforcement of an injunction against the sender of such e-mail messages constitute state action under the federal or state Constitutions?

(8) Viner v. Sweet, S101964 (Chin, J., not participating; Raye, J., assigned Justice Pro Tempore.)

#01-166 Viner v. Sweet, S101964. (B138149; 92 Cal.App.4th 730.) Petition for review after the Court of Appeal modified and affirmed the judgment in a civil action. This case includes the following issues: In analyzing the issue of causation in an action for legal malpractice arising out of a business transaction rather than out of litigation, (1) Is the "case within a case" approach applicable? and (2) Must plaintiff establish that it would have obtained a more favorable result but for the defendant's alleged negligence?

(9) Hameid v. National Fire Insurance, S104157

#02-62 Hameid v. National Fire Insurance, S104157. (G026525; 94 Cal.App.4th 1155.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Does an insurer have a duty, under the "advertising injury" coverage of a comprehensive general liability insurance policy, to defend its insured against an action alleging that the insured engaged in unfair competition by obtaining a competitor's customer list and

customer preference information and then soliciting those customers through personal mailings and the placement of an advertisement in a local "Pennysaver" handout?

1:30 P.M.

(10) State Department of Rehabilitation v. W.C.A.B.; Lauher, S100557

#01-140 State Department of Rehabilitation v. W.C.A.B.; Lauher, S100557. (D035665; unpublished opinion.) Petition for review after the Court of Appeal annulled a decision of the board. This case presents the following issues: (1) Is a worker who has been awarded ongoing medical treatment for a work-related injury entitled to receive, under Labor Code section 4600, temporary disability indemnity for the time the employee must take off from work to receive such medical treatment? (2) Does an employer unlawfully discriminate against such an injured employee, in violation of Labor Code section 132a, by requiring the employee to use sick leave or vacation time in order to be compensated for absences attributable to such medical treatment?

(11) Rosen v. State Farm General Insurance, S108308

#02-148 Rosen v. State Farm General Insurance, S108308. (B146516; 98 Cal.App.4th 1322.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: When a homeowner insurance policy expressly limits coverage for "collapse" of a structure to structures that have "actually fallen down or fallen into pieces," does public policy nonetheless preclude the insurer from denying coverage for expenses incurred by the insured to forestall the "imminent collapse" of the structure?

(12) People v. Evan T. Nakahara [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.