SUPREME COURT CALENDAR
SAN FRANCISCO SESSION
SEPTEMBER 3, 2003

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom, located at 350 McAllister Street, Fourth Floor, San Francisco, California, on September 3, 2003.

WEDNESDAY, SEPTEMBER 3, 2003—9:00 A.M.

(1)	S103487	Department of Health Services v. Superior Court, County of Sacramento; McGinnis (R.P.I.)
(2)	S106660	Schifando v. City of Los Angeles
(3)	S111341	People v. Billa

1:30 P.M.

(4)	S108187	People v. Stowell
(5)	S107791	People v. Butler
(6)	S106681	People v. Lopez

_____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
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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.

WEDNESDAY, SEPTEMBER 3, 2003—9:00 A.M.

(1) Department of Health Services v. Superior Court, County of Sacramento; McGinnis (R.P.I.), S103487

#02-24 Department of Health Services v. Superior Court, County of Sacramento; McGinnis (R.P.I.), S103487. (C034163; 94 Cal.App.4th 14.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issue: In an employee's action under the Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.) seeking damages for sexual harassment committed by a supervisor, may the employer assert a defense based upon the employee's failure to promptly use the employer's internal complaint procedures? (*Cf. Burlington Industries v. Ellerth* (1998) 524 U.S. 742; *Faragher v. City of Boca Raton* (1998) 524 U.S. 775.)

(2) Schifando v. City of Los Angeles, S106660

#02-115 Schifando v. City of Los Angeles, S106660. (B142999; 97 Cal.App.4th 312.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Must a city employee exhaust both the administrative remedies under the city charter and the administrative remedies under the Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.) before bringing suit on an employment discrimination claim?

(3) People v. Billa, S111341

#03-11 People v. Billa, S111341. (C037717; 102 Cal.App.4th 822; Placer County Superior Court; R47469.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Does the felony-murder rule apply where an accomplice accidentally kills himself while jointly engaged with the defendant in the perpetration of the underlying felony of arson?

1:30 P.M.

(4) People v. Stowell, S108187

#02-144 People v. Stowell, S108187. (C032839; unpublished opinion.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: When a trial court in a criminal proceeding orders a defendant to undergo HIV testing pursuant to Penal Code section 1201.1, and the defendant challenges the order on appeal based upon the trial court's failure to make the express findings required by Penal Code section 1202.1, subdivision (e)(6), is defendant's claim forfeited by defendant's failure to raise a timely objection on this ground at trial?

(5) People v. Butler, S107791

#02-143 People v. Butler, S107791. (F036844; unpublished opinion.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. This case includes the following issues: (1) When a trial court in a criminal proceeding orders a defendant to undergo HIV testing pursuant to Penal Code section 1201.1, and the defendant challenges the order on appeal on the ground that there is insufficient evidence in the record to establish probable cause to believe that blood, semen, or other bodily fluid capable of transmitting human immunodeficiency virus has been transferred from the defendant to the victim, is defendant's claim forfeited by defendant's failure to raise a timely objection on this ground at trial? (2) If such a claim may be raised

on appeal without a timely objection, what is the appropriate remedy if the appellate court finds insufficient evidence to support a finding of probable cause?

(6) People v. Lopez, S106681

#02-110 People v. Lopez, S106681. (F036242; 97 Cal.App.4th 583.) Petition for review after the Court of Appeal affirmed the judgment of conviction of criminal offenses. The court limited review to the following issue: Does the "felonious taking" element of the crime of carjacking require the asportation, or actual movement, of the motor vehicle? (See Pen. Code, § 215.)