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REAL PROPERTY

• *Alatrisme v. Cesar's Exterior Designs, Inc.*

FACTS: Alatrisme hired Cesar's Exterior Designs to perform landscape construction services at Alatrisme's newly built home. After five months, Cesar's terminated its services when Alatrisme refused to continue to pay for work performed. Alatrisme had paid Cesar's \$57,500 for its five months of work. Alatrisme sued for full reimbursement because Cesar's was unlicensed, in violation of Business and Professions Code § 7031(b) when it began work. Alatrisme moved for summary adjudication. Cesar's opposed the motion, arguing Alatrisme knew Cesar's was unlicensed when Alatrisme hired Cesar, and that this knowledge should preclude or limit his claim for reimbursement. The trial court granted the motion and gave full reimbursement to Alatrisme.

HOLDING: Affirmed. Business and Professions Code § 7031(b) provide a party who hires an unlicensed contractor the right to full reimbursement for any funds expended to the unlicensed contractor, even if the party had knowledge of an unlicensed status.

STUDENT RIGHTS

• In re K.S.

FACTS: Police received a tip that a student possessed ecstasy pills. The police informed the vice principal of the school who then independently chose to search the student's locker. The vice principal never asked the police to perform the search. A police officer was present when the locker was searched, revealing ecstasy pills. The student moved to suppress the pills. The student's motion was denied. The student admitted the offense and appealed that the evidence should be suppressed under the federal T.L.O standard because the police were present at the search. Under the T.L.O standard, searches of students by school officials are justified if reasonable, though no warrant has been obtained and the probable cause required for a police search does not exist.

HOLDING: Affirmed. When a school official independently decides to search a student and then conducts that search, the T.L.O. standard applies even if the police provide information justifying the search and are present when the search occurs.

EVIDENCE/CIVIL PROCEDURE

• Lane v. City of Sacramento

FACTS: Lane was a passenger in a car driven by Montgomery in Sacramento, on J Street near its intersection with 48th Street where there are two westbound lanes. Suddenly, Lane warned Montgomery another car was coming close. Montgomery swerved to the left and hit a 6-inch concrete median, popping the left front tire. Montgomery and Lane sued the city for injuries claiming the concrete median constituted a dangerous condition. The city moved for summary judgment on the grounds that the divider was not dangerous. The city's evidence offered in support of the motion was that at an unspecified time, the city's agent searched the claims database maintained by the city of claims submitted over the past seven years and determined that no other claims were submitted to the city regarding the center median. The trial court granted the city's motion for summary judgment, concluding the lack of other claims relating to the center median was dispositive on the issue of whether the median constituted a dangerous condition.

HOLDING: Reversed. The City failed to provide an evidentiary basis concerning how the claims database was created, maintained, or how the search was conducted. The evidence only established that someone acting on behalf of the city's claims administrators found no other claims regarding the divider. This absence of claims failed to establish an absence of other accidents or injuries because not all injuries are reported.

ARBITRATION/EMPLOYMENT LAW

• Pearson Dental Supplies, Inc. v. The Superior Court of Los Angeles County

FACTS: Plaintiff signed an employment agreement with Pearson containing a one-year contractual deadline to arbitrate disputes arising out of the employment relationship or all claims are waived. Pearson terminated Plaintiff on January 31, 2006. On October 2, 2006, Plaintiff filed a complaint alleging age discrimination. Pearson never mentioned the arbitration provision until March 13, 2007 when it filed a petition to compel arbitration that was granted. On July 24, 2007, Pearson filed a motion for summary judgment with the arbitrator that the claims were time barred by the employment agreement because they had been submitted to arbitration more than one year after Plaintiff's termination. Plaintiff contended the contractual deadline had been tolled by the litigation under Code of Civil Procedure 1281.12. The arbitrator

granted the motion for summary judgment applying the statute of limitations without tolling. The trial court vacated the award because the arbitrator misapplied the tolling statute, committing an error of law. The court of appeal reversed stating the arbitrator's erroneous decision was not a valid basis for vacating the award.

HOLDING: Reversed. The California Supreme Court reversed the Court of Appeal, holding under the particular circumstances of this case, when an arbitrator's clear error of law deprives an employee of a hearing on the merits of an unwaivable statutory employment claim, the arbitration award may be vacated.

CIVIL PROCEDURE

• The Luckman Partnership, Inc. v. Superior Court of Los Angeles County

FACTS: Ramsey was working on telecommunications equipment in the West Hall of the Los Angeles Convention Center. His work took him to a control room elevated fifty feet above the floor accessible only by catwalks. While heading to the control room, he dropped a roll of tape onto a suspended ceiling. Ramsey contends the suspended ceiling was designed to look like a plywood floor. When he stepped through the catwalk guardrails onto the suspended ceiling, he fell through the ceiling fifty-feet to the ground. The Luckman Partnership was the original architect of the convention center. Ramsey sued Luckman for negligence stating he believed the suspended ceiling was a floor. In 1994, following the North Ridge earthquake, a different firm, Gruen, removed, redesigned, and rebuilt the suspended ceiling. Luckman filed for summary judgment arguing the replacement and redesign of the ceiling was an independent intervening cause. The trial court denied the motion for summary judgment and Luckman filed a petition for writ of mandate to grant its motion for summary judgment.

HOLDING: Petition for writ of mandate granted, entry of summary judgment for the Luckman Partnership Inc. The redesign of the ceiling, for which Luckman was not responsible, was determined to be an independent intervening cause.