

## **APPELLATE UPDATE**

JULY 2024

### **Arbitration**

In this decision, the First District Court of Appeal joins other jurisdictions in holding that the party seeking to enforce an arbitration agreement must timely pay the arbitrator's fees or the arbitration will be dismissed and the case returned to the Superior Court. Here, the Court held that defendant Tesla materially breached the arbitration agreement by failing to timely pay the arbitrator's fee. Further, the Court held that the arbitration agreement did not clearly delegate to the arbitrator the issue of arbitrability of causes of action; consequently, the Superior Court had jurisdiction to determine arbitrability.

### ***Keeton v. Tesla***

First District Court of Appeal, case no. A166690  
June 26, 2024

### **U.S. Supreme Court overturns deference to administrative agency decisions**

For decades it has been the rule that judges defer to the greater expertise of administrative agencies in the areas they regulate, such as aviation safety, clean water, clean air, and the safety of children's toys and clothing. In this decision, the U.S. Supreme Court overturned this longstanding rule, holding that judges, who have no expertise in any given regulatory area, need not defer to the agency's understanding of the rules the agency enforces. This decision will place federal judges in the position of overruling the experts' opinions on multiple matters affecting the public's health and safety. At this point it is not clear whether this decision will change the rules regarding the State of California's regulatory agencies, but it seems unlikely. In another decision, the Supreme Court ruled that there is no statute of limitations on challenging a regulatory agency's actions, thereby opening the door to multiple, ongoing challenges to all regulatory decisions.

### ***Loper Bright Enterprises v. Raimondo***

United States Supreme Court, Case. No. 22-451, 603  
June 28, 2024

### ***Corner Post, Inc. v. Board of Governors of the Federal Reserve System*, Case No. 22-1008**

July 1, 2024

### **U.S. Supreme Court rules the president is above the law**

In this case, the Supreme Court ruled that the president enjoys fully immunity from criminal prosecution for all acts conducted pursuant to the president's constitutional powers. The courts and Congress may not review the president's official acts and evidence of official acts may not be used to prosecute a president for crimes committed during nonofficial acts. With this decision, the president is no longer subject to checks and balances provided by the judicial branch and Congress.

### ***Trump v. U.S.***

United States Supreme Court  
July 1, 2024