

The Supreme Court - April 30, 2018

Today the Supreme Court granted certiorari in three cases:

Frank v. Gaos, No. 17-961: Whether, or in what circumstances, a *cy pres* award of class action proceeds that provides no direct relief to class members supports class certification and comports with the requirement that a settlement binding class members must be “fair, reasonable, and adequate.”

Lamps Plus, Inc. v. Varela, No. 17-988: Whether the Federal Arbitration Act forecloses a state-law interpretation of an arbitration agreement that would authorize class arbitration based solely on general language commonly used in arbitration agreements.

Bucklew v. Precythe, No. 17-8151: The Petition raised the following three issues: (1) Should a court evaluating an as-applied challenge to a state’s method of execution based on an inmate’s rare and severe medical condition assume that medical personnel are competent to manage his condition and that the procedure will go as intended? (2) Must evidence comparing a state’s proposed method of execution with an alternative proposed by an inmate be offered via a single witness, or should a court at summary judgment look to the record as a whole to determine whether a factfinder could conclude that the two methods significantly differ in the risks they pose to the inmate? (3) Does the Eighth Amendment require an inmate to prove an adequate alternative method of execution when raising an as-applied challenge to the state’s proposed method of execution based on his rare and severe medical condition? The Court also directed the parties to address the following question: Whether petitioner met his burden under *Glossip v. Gross*, 576 U. S. ____ (2015), to prove what procedures would be used to administer his proposed alternative method of execution, the severity and duration of pain likely to be produced, and how they compare to the State’s method of execution.

Related Capabilities

- Appellate
- Class Action Litigation
- Commercial Litigation