

# WASHINGTON STATE COURT OF APPEALS DIVISION THREE

## CASE SUMMARIES FOR ORAL ARGUMENT

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The following summaries are drawn from briefs and lower court judgments. The summaries have not been reviewed for accuracy by the judges and are intended to provide a general idea of facts and issues presented in the cases. The summaries should not be considered official court documents. Facts and issues presented in these summaries should be checked for accuracy against records and briefs, available from the Court, which provide more specific information.

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**Date of Hearing: Thursday, March 12, 2020**  
**Location: Spokane, 500 North Cedar**

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**9:00 a.m.**

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**1) No.: 36754-1-III**

**Case Name: Felix W. Schuck v. Gordon Beck, et al.**

**County: Spokane**

**Case Summary:** Felix Schuck suffered lasting injuries from chlorine gas poisoning. Mr. Schuck was exposed to the gas from an old tank being crushed at his employment as a scrap metal recycler. Mr. Schuck sued the tank's former owner and the third party scrap haulers who brought the tank in for recycling. Finding no duty as a matter of law and that strict liability did not apply, the trial court dismissed the claims against the tank's former owner. Mr. Schuck appeals that decision.

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**2) No.: 36621-9-III, cons'd with 36623-5-III and 36622-7-III**

**Case Name: In re Dependency of A.L.K.**

**County: Douglas**

**Case Summary:** The superior court found Lisa K.'s children dependent. On appeal, Ms. K. raises several issues relating to the Department's and the trial court's

duties under the federal Indian Child Welfare Act, 25 U.S.C. §§ 1911-23, and Washington's Indian Child Welfare Act, chapter 13.38, RCW.

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**10:30 a.m.**

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**3) No.: 36792-4-III**

**Case Name: David Terry Investments, LLC v. Headwaters Dev't Grp.**

**County: Spokane**

**Case Summary:** David Terry Investments, LLC, sued its former business partner Headwaters Development Group and its subsidiaries for breach of contract and tort. Headwaters moved to compel arbitration. The superior court granted arbitration of the contract claims, but excluded arbitration of the tort claims and the claims involving Headwaters's subsidiaries. Headwaters appeals.

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**11:00 a.m.**

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**5) No.: 36393-7-III**

**Case Name: In re Marriage of Seigny**

**County: Yakima**

**Case Summary:** After a 33-year marriage, Beverly and Michael Seigny divorced. The trial court awarded substantial assets to both sides and maintenance to Beverly. The trial court also ordered Michael to make an equalizing transfer payment to Beverly, representing a 60/40 split of community assets, and imposed a 4% interest rate on the judgment. On Appeal, Michael challenges the characterization of his interest in a business as community property, the fairness of the distribution of assets, and the maintenance award. Beverly cross-appeals the 4% interest rate on the judgment.

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11:30 a.m.

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6) **No.: 36677-4-III**

**Case Name: Noche Vista, LLC v. Bandera at Bear Mtn. Ranch Homeowners  
Ass'n**

**County: Chelan**

**Case Summary:** Bandera at Bear Mountain is a multiphase planned residential development with a homeowners association and restrictive covenants. Facing foreclosure, the developer relinquished his interest in phase III, which was purchased from the bank by Noche Vista, LLC. Several years later, Noche Vista sought declaratory judgment that phase III was not subject to the homeowners association and the restrictive covenants. The trial court granted summary judgment in favor of the homeowners association. Noche Vista appeals the underlying decision, the award of attorneys' fees, and the court's refusal to consider new evidence on reconsideration.

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