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Supreme Court Opens Oral Argument Session in Los Angeles Today

San Francisco—The California Supreme Court will hold its last oral argument session of the year today and tomorrow, December 8-9, 2009, in the Supreme Court Courtroom, Ronald Reagan State Office Building, 300 South Spring Street, North Tower, Los Angeles.

The Supreme Court's calendar is on the California Courts Web site at this link: www.courtinfo.ca.gov/courts/calendars/documents/SDECA09.PDF . Briefs in the cases to be argued are posted at this link: www.courtinfo.ca.gov/courts/supreme/oralarg-briefs.htm .

A closed circuit broadcast of the Los Angeles oral arguments will be provided for Bay Area news media in the Judicial Council Conference Center, Hiram Johnson State Office Building, Tahoe Room, Third Floor, 455 Golden Gate Avenue, San Francisco.

Following are the cases to be argued with official case summaries:

SUPREME COURT OF CALIFORNIA ORAL ARGUMENT CALENDAR LOS ANGELES SESSION DECEMBER 8 and 9, 2009

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.

(more)

TUESDAY, DECEMBER 8, 2009—9:00 A.M.

(1) Committee for Green Foothills v. Santa Clara Co. Bd. of Supervisors et al. (Board of Trustees of the Leland Standord Junior University et al., Real Parties in Interest), S163680

#08-116 Committee for Green Foothills v. Santa Clara Co. Bd. of Supervisors et al., (Board of Trustees of the Leland Standord Junior University et al., Real Parties in Interest), S163680. (H030986; 161 Cal.App.4th 1204; Superior Court of Santa Clara County; CV065186.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issue: What statute of limitations under Public Resources Code section 21167 applies after a public agency files a notice of determination stating that an entire project will not have a significant impact on the environment?

(2) Goodman et al. v. Lozano et al., S162655

#08-97 Goodman et al. v. Lozano et al., S162655. (G036774, G037091; 159 Cal.App.4th 1313; Superior Court of Orange County; 01CC02874.) Petition for review after the Court of Appeal affirmed an award of attorney fees in a civil action. This case presents the following issue: When a plaintiff settles with one tortfeasor and goes to trial against another but obtains no additional recovery because the amount of damages awarded is less than the setoff amount based on the pretrial settlement, is that plaintiff nevertheless a prevailing party as a matter of law for purposes of an award of fees and costs under Code of Civil Procedure section 1032?

(3) People v. Superior Court of Yuba County (Dustin William Sparks, Real Party in Interest), S164614

#08-145 People v. Superior Court of Yuba County (Dustin William Sparks, Real Party in Interest), S164614. (C057766; nonpublished opinion; Superior Court of Yuba County; CFR0600126.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Did principles of collateral estoppel, as applied in *People v. Taylor* (1974) 12 Cal.3d 686, preclude the prosecution from trying defendant for murder on a felony-murder theory after the actual killer had been acquitted of murder on such a theory? (2) Is *Taylor* still good law, or should that decision be overruled or disapproved?

2:00 P.M.

(4) Steinhart v. County of Los Angeles, S158007

#07-464 Steinhart v. County of Los Angeles, S158007. (B190957; 155 Cal.App.4th 1082; Superior Court of Los Angeles County; LC073339.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Is the vesting of a life estate a “change in ownership” under Revenue and Taxation Code section 60 that triggers reassessment? (2) Was the taxpayer, under these circumstances, required to exhaust her administrative remedies by pursuing her claim with the Assessment Appeals Board before filing suit? (3) Was the taxpayer’s declaratory relief action barred by the prohibition in Revenue and Taxation Code section 4807 on actions to “prevent or enjoin the collection of property taxes”?

(5) *People v. Soria (Marcos), S164796*

#08-139 *People v. Soria (Marcos), S164796*. (H031237; 163 Cal.App.4th 247; Superior Court of Santa Clara County; CC506587, CC507417, CC508203.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. This case presents the following issue: Can a restitution fine of up to \$10,000 be imposed in each nonconsolidated case resolved by a package plea agreement, or is the total restitution fine for the cases as a whole limited to \$10,000?

(6) *People v. Mills (Jeffrey Jon), S059653 [Automatic Appeal]*

This matter is an automatic appeal from a judgment of death.

WEDNESDAY, DECEMBER 9, 2009—9:00 A.M.

(7) *McCarther et al. v. Pacific Telesis Group et al. (Werdegart, J., not participating; O'Rourke, J., assigned justice pro tempore), S164692*

#08-135 *McCarther v. Pacific Telesis Group et al., S164692*. (A115223; 163 Cal.App.4th 176; Superior Court of Alameda County; RG05219163.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Does Labor Code section 233, which mandates that employees be allowed to use a portion of “accrued and available sick leave” to care for sick family members, apply to employer plans in which employees do not periodically accrue a certain number of paid sick days but are paid for qualifying absences due to illness? (2) Does Labor Code section 234, which prohibits employers from disciplining employees for using sick leave to care for sick family members, prohibit an employer from disciplining an employee who takes such “kin care” leave if the employer would have the right to discipline the employee for taking time off for the employee’s own illness or injury?

(8) *People v. Lara (David Alan), S155481*

#07-411 *People v. Lara (David Alan), S155481*. (H028895; nonpublished opinion; Superior Court of Santa Clara County; C9803113.) This case presents the following issues: (1) Does Penal Code section 1026.5 authorize the confinement of a defendant pending a recommitment hearing when the prosecution files a recommitment petition, without good cause, so late that the defense is unable to prepare for trial before the commitment expires? (2) Do the facts of this case allow this court to reach question No. 1? (3) In the absence of a time waiver, does a trial court have jurisdiction to continue an NGI recommitment hearing beyond the expiration date of the defendant’s current commitment? (4) If the court loses jurisdiction to hold a committee once the NGI commitment expires, is there any other authority for the court to order a committee held for the protection of the committee or others?

(9) *People v. Cobb, Jr. (Roy), S159410*

#08-50 *People v. Cobb, Jr. (Roy), S159410*. (E040848; 157 Cal.App.4th 393; Superior Court of Riverside County; RIF091750.) This case presents the following issues: (1) Does Penal Code section 2972 authorize the continued confinement of a person previously found to be a Mentally Disordered Offender when the trial on the continuation petition has not commenced before the person was otherwise to have been released, the person has not waived time, and good cause for the delay has not been shown? (2) Do the facts in this case allow this court to reach question No. 1?

(3) In the absence of a time waiver or good cause for a continuance, does a trial court have jurisdiction to continue an MDO continuation hearing beyond the expiration date of the defendant's current commitment? (4) If the court loses jurisdiction to hold a committee once the MDO commitment expires, is there any other authority for the court to order a committee held for the protection of the committee or others?

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