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NEWS RELEASE

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Summary of Cases Accepted During the Week of January 2, 2006

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The statement of the issue or issues in each case set out below does not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#06-01 *Castaneda v. Olsher*, S138104. (D043383; 132 Cal.App.4th 627; Imperial County Superior Court; 94275.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: May the proprietor of a mobile home park be required to provide security guards or take other security measures to prevent gang-related violence on the premises?

#06-02 *People v. Giordano*, S138382. (E036325; 132 Cal.App.4th 958; Riverside County Superior Court; INF046495.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Under Article I, section 28, of the California Constitution and Penal Code section 1202.4, is a surviving spouse of a homicide victim entitled to direct restitution in the form of the decedent's future earnings? (2) If so, is the measure of that award the decedent's full, gross, pre-tax future earnings, without consideration of the surviving spouse's actual economic losses or other limitations applicable in a civil wrongful death action?

#06-03 *Grosset v. Wenaas*, S139285. (D043684; 133 Cal.App.4th 710; San Diego County Superior Court; GIC775153.) Petition for review after the Court of Appeal dismissed an appeal in a civil action. This case presents the following issues: (1) Does the question of standing to bring a shareholder's derivative action based on share ownership involve the "internal affairs" of a corporation and thus invoke the internal affairs doctrine, under which matters regulating the internal affairs of a

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corporation are governed by the law of the state of incorporation, here the state of Delaware? (2) If not, did plaintiff retain standing under California law to prosecute a shareholder's derivative action even though he lost his shares in the corporation while the action was pending or does California, like Delaware, require stock ownership throughout the litigation?

#06-04 *Johnson v. American Standard, Inc.*, S139184. (B179206; 133 Cal.App.4th 496; Los Angeles County Superior Court; BC287442.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issues: (1) Does the "sophisticated user" doctrine, which precludes a manufacturer's liability for failure to warn of a product risk that a sophisticated user should have recognized, apply in California? (2) If the doctrine applies, does it apply to strict liability causes of action and is a certified HVAC (heating, ventilation and air conditioning) technician a "sophisticated user" who should have known that noxious gas is created during maintenance and repair of air conditioning systems?

#06-05 *Miklosy v. Regents of University of California*, S139133. (A107711; unpublished opinion; Alameda County Superior Court; RG04140484.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issue: Does the requirement of the Whistleblower Protection Act (Gov. Code, §§ 8547-8547.12) that an employee of the University of California have "filed a complaint with the [designated] university officer" and that the university have "failed to reach a decision regarding that complaint within [specified] time limits" before an action for damages can be brought (§ 8547.10, subd. (c)) merely require the exhaustion of the internal remedy as a condition of bringing the action, or does it bar an action for damages if the university timely renders *any* decision on the complaint?

DISPOSITION

Review in the following case was dismissed in light of the 2005 amendments to Public Resources Code section 6307 (Stats. 2005, ch. 585):

#05-185 *California Earth Corps v. California State Lands Com.*, S134300.

Review in the following case was dismissed in light of *John L. v. Superior Court* (2004) 33 Cal.4th 158:

#02-194 *In re Oscar R.*, S110830.