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415-865-7740

Lynn Holton  
Public Information Officer

# NEWS RELEASE

Release Number: **S.C. 08/06**

Release Date: **February 28, 2006**

## Summary of Cases Accepted During the Week of February 20, 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.]*

**#06-20 *Gattuso v. Harte-Hanks Shoppers, Inc.*, S139555.** (B172647; 133 Cal.App.4th 985; Los Angeles County Superior Court; BC147419.) Petition for review after the Court of Appeal affirmed orders in a civil action denying class certification. This case includes the following issue: May an employer comply with its duty under Labor Code section 2802 to indemnify its employees for expenses they necessarily incur in the discharge of their duties by paying the employees increased wages or commissions instead of reimbursing them for their actual expenses?

**#06-21 *Murphy v. Kenneth Cole Productions, Inc.*, S140308.** (A107219, A108346; 134 Cal.App.4th 728; San Francisco County Superior Court; GCG-03-423260.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issues: (1) Is a claim under Labor Code section 226.7 for the required payment of "one additional hour of pay at the employee's regular rate of compensation" for each day that an employer fails to provide mandatory meal or rest periods to an employee (see Cal. Code Regs., tit. 8, § 11010, subds. (11)(D), 12(B)) governed by the three-year statute of limitations for a claim for compensation (Code Civ. Proc., § 338) or the one-year statute of limitations for a claim for payment of a penalty (Code Civ. Proc., § 340)? (2) When an employee obtains an award on such a wage claim in administrative proceedings and the employer seeks de novo review in superior court, can the employee pursue additional wage claims not presented in the administrative proceedings?

(over)

**#06-22 *Bivens v. Gallery Corp.*, S140396.** (D045557; 134 Cal.App.4th 847; San Diego County Superior Court; GIC832910.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Californians for Disability Rights v. Mervyn's*, S131798 (#05-93), and *Branick v. Downey Savings & Loan Assn.*, S132433 (#05-94), which present the following issues: (1) Do the provisions of Proposition 64 (Gen. Elec. (Nov. 2, 2004)) that limit standing to bring an action under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) to “any person who has suffered injury in fact and has lost money or property as a result of such unfair competition” (Bus. & Prof. Code, § 17204, as amended) apply to actions pending when the provisions of the proposition became effective on November 3, 2004? (2) If the standing limitations of Proposition 64 apply to actions under the Unfair Competition Law that were pending on November 3, 2004, may a plaintiff amend his or her complaint to substitute in or add a party that satisfies the standing requirements of Business and Professions Code section 17204, as amended, and does such an amended complaint relate back to the initial complaint for statute of limitations purposes?

**#06-23 *In re William R.*, S139281.** (B177152; 133 Cal.App.4th 1004; Los Angeles County Superior Court; FJ28427.) Petition for review after the Court of Appeal modified and affirmed orders in a wardship proceeding. The court ordered briefing deferred pending decision in (1) *In re Jaime P.*, S135263 (#05-188), which concerns whether the decision in *In re Tyrell J.* (1994) 8 Cal.4th 68, which held that the search of a juvenile may be justified by a probation search condition even if the officer conducting the search was not aware that the juvenile was subject to such a search condition, remains viable in light of the reasoning and holding of this court’s subsequent decision in *People v. Sanders* (2003) 31 Cal.4th 318; and (2) *In re Sheena K.*, S123980 (#04-60), which concerns whether a challenge to a condition of juvenile probation as unconstitutionally vague or overbroad is waived or forfeited by the failure to object to the condition at the time of the dispositional hearing in juvenile court.

**#06-24 *In re Jose S.*, S139601.** (G034984; unpublished opinion; Orange County Superior Court; DL018504.) Petition for review after the Court of Appeal reversed orders in a wardship proceeding. The court ordered briefing deferred pending decision in *In re Jaime P.*, S135263 (#05-188), which concerns whether the decision in *In re Tyrell J.* (1994) 8 Cal.4th 68, which held that the search of a juvenile may be justified by a probation search condition even if the officer conducting the search was not aware that the juvenile was subject to such a search condition, remains viable in light of the reasoning and holding of this court’s subsequent decision in *People v. Sanders* (2003) 31 Cal.4th 318.

**#06-25 *People v. Wurtz*, S139968.** (H028217; unpublished opinion; Santa Cruz County Superior Court; F10216.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in

*People v. Crandell*, S134883 (#05-186), which presents the following issue: Does the imposition of a restitution fine under Penal Code section 1202.4, subdivision (b), violate a defendant's plea agreement if the fine was not an express term of the agreement?

## **DISPOSITIONS**

Review in the following case was dismissed in light of *People v. Shelton* (2006) 37 Cal.4th 759:

**#05-16 *People v. Kendrick*, S129294.**

The following case was transferred to the Court of Appeal for reconsideration in light of *People v. Shelton* (2006) 37 Cal.4th 759:

**#05-86 *People v. Cuevas*, S132016.**

## **STATUS**

**#05-151 *Pilimai v. Farmers Ins. Exchange Co.*, S133850.** The court directed the parties to file supplemental briefs addressing the following issue: If arbitration costs are recoverable pursuant to Code of Civil Procedure section 998, subdivision (d), did the Court of Appeal err in awarding such costs because apparently they were not requested in Pilimai's memorandum of costs? (See Cal. Rules of Court, rule 870(a); see also *Jones v. John Crane, Inc.* (2005) 132 Cal.App.4th 990, 1012.)

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