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NEWS RELEASE

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Summary Of Cases Accepted During the Week of February 28, 2005

[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 description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#05-50 *Philadelphia Indemnity Ins. Co. v. Montes-Harris*, S130717. (9th Cir. Nos. 03-56651, 03-56652; 395 F.3d 1046; Central District of California; CV 02-3616-RSWL.) Request under California Rules of Court, rule 29.8, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: “Does the duty of an insurer to investigate the insurability of an insured, as recognized by the California Supreme Court in *Barrera v. State Farm Mut. Auto. Ins. Co.* [(1969)] 71 Cal.2d 659 [parallel citations omitted], apply to an automobile liability insurer that issues an excess liability insurance contract in the context of a rental car transaction?”

#05-51 *People v. Jones*, S130725. (B171070; unpublished opinion; Los Angeles County Superior Court; TA069481.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Black*, S126182 (#04-83) and *People v. Towne*, S125677 (#04-75), which include the following issues: (1) Does *Blakely v. Washington* (2004) 542 U.S. ___, 124 S.Ct. 2531, preclude a trial court from making findings on aggravating factors in support of an upper term sentence? (2) What effect does *Blakely* have on a trial court’s imposition of consecutive sentences?

#05-52 *People v. Oliver*, S130542. (A105042; 124 Cal.App.4th 624; Sonoma County Superior Court; SCR-33225.) 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. Hudson*, S122816 (#04-43), which presents the following issues:

(over)

- (1) What circumstances properly should be considered in determining whether a peace officer's motor vehicle is "distinctively marked" within the meaning of section 2800.1, subdivision (a)(3), of the Vehicle Code?
- (2) Does the trial court have *a sua sponte* duty to instruct the jury regarding the meaning of the term "distinctively marked" as used in that section, and if so, how should that term be defined?

DISPOSITIONS

The following cases were transferred to the Court of Appeal for reconsideration in light of *People v. Lopez* (2005) 34 Cal.4th 1002:

#03-144 *People v. Vo*, S119234.

#04-103 *People v. Santana*, S126119.

The following cases were dismissed in light of *People v. Lopez* (2005) 34 Cal.4th 1002:

#04-61 *People v. Lopez*, S123684.

#04-107 *People v. Miranda*, S126607.

#04-109 *People v. Narro*, S126892.

#04-117 *People v. Pok*, S127007.

#04-125 *People v. Velez*, S128081.

STATUS

#04-73 *Snowney v. Harrah's Entertainment, Inc.*, S124286. The court limited the issues to be argued to the following issue: In an action alleging false advertising and unfair business practices, are Nevada hotels subject to personal jurisdiction in California based on advertising in the state, maintaining a toll-free telephone number for accepting reservations from within the state, and maintaining an Internet Web site capable of processing online reservations of California residents?

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