



JUDICIAL COUNCIL OF
CALIFORNIA
ADMINISTRATIVE OFFICE
OF THE COURTS
Public Information Office
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courtinfo.ca.gov

415-865-7740

Lynn Holton
Public Information Officer

NEWS RELEASE

Release Number: **S.C. 20/09**

Release Date: **May 22, 2009**

Summary of Cases Accepted During the Week of May 18, 2009

[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.]

#09-26 *People v. Herrera, S171895.* (G039028; nonpublished opinion; Orange County Superior Court; 05CF3817.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Did the trial court err in determining that a prosecution witness, who had been deported and could not be extradited to the United States, was unavailable within the meaning of Evidence Code section 240, or was the prosecution required to show further due diligence to establish the unavailability of the witness before introducing the witness's prior testimony from the preliminary hearing?

#09-27 *Pooshs v. Phillip Morris USA, Inc., S172023.* (9th Cir. No. 08-16338; 561 F.3d 964; Northern District of California; 3:04-cv-01221-PJH.) Request under California Rules of Court, rule 8.548, 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. As restated by the court, the question presented is: "When multiple distinct personal injuries allegedly arise from smoking tobacco, does the earliest injury trigger the statute of limitations for all claims, including those based on a later injury?"

#09-28 *People v. Torres, S171429.* (H032441; nonpublished opinion; Santa Clara County Superior Court; CC591335.) Petition for review after the Court of Appeal modified and affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Soria*, S164796 (#08-139), which presents the following

issue: Can a restitution fine of up to \$10,000 be imposed in each non-consolidated case resolved by a package plea agreement, or is the total restitution fine for the cases as a whole limited to \$10,000?

DISPOSITIONS

The court ordered review in the following cases dismissed in light of *Vasquez v. State of California* (2009) 45 Cal.4th 243:

#07-367 *Vasquez v. State of California, S153813.*

#07-453 *Vasquez v. State of California, S156793.*

The court ordered review in the following cases dismissed in light of *Conroy v. Regents of University of California* (2009) 45 Cal.4th 1244:

#07-441 *Perryman v. County of Los Angeles, S156334.*

#08-08 *Vasquez v. County of Los Angeles, S157933.*

The court ordered the following case transferred for reconsideration in light of *Conroy v. Regents of University of California* (2009) 45 Cal.4th 1244:

#08-151 *Cohen v. NuVasive, Inc., S166020.*

#