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NEWS RELEASE

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Summary of Cases Accepted During the Week of July 7, 2008

[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.]

#08-107 *People v. McKee, S162823.* (D050554; 160 Cal.App.4th 1517; San Diego County Superior Court; MH97752.) Petition for review after the Court of Appeal affirmed an order of commitment as a sexually violent predator. This case includes the following issues: (1) Was defendant denied due process when he was committed under the Sexually Violent Predator Act, as amended by Proposition 83 in 2006, because the amended Act permits commitments for an indeterminate term and, in hearings subsequent to the initial commitment hearing, places the burden on the defendant to prove he is no longer a danger to society? (2) Did defendant's commitment under the amended Act violate the prohibition against ex post facto laws? (3) Did the commitment violate defendant's right to equal protection?

#08-108 *People v. Correa, S163273.* (C054365; 161 Cal.App.4th 980; Sacramento County Superior Court; 06F1135.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Was defendant properly sentenced on multiple counts of being a felon in possession of a firearm where he was discovered in a closet with a cache of weapons?

#08-109 *Buell-Wilson v. Ford Motor Co., S163102.* (D045154, D045579; 160 Cal.App.4th 1107, mod. 161 Cal.App.4th 372d; San Diego County Superior Court; GIC800.) Petition for review after the Court of Appeal affirmed in part, modified in part, and conditionally reversed in part the judgment in a civil action. This case presents the following

issues: (1) What procedural protections are required by *Philip Morris USA v. Williams* (2007) 549 U.S. ___, 127 S.Ct. 1057, which held that due process requires that a jury not award punitive damages to punish for harm to third parties; and under what circumstances can those constitutional rights be deemed forfeited? (2) Are punitive damages prohibited in product liability cases where the manufacturer's design conforms to governmental safety standards and industry standards and custom, and there is a "genuine debate" about what the law requires? (2) Is the amount of the punitive damage award in this case unconstitutionally excessive and arbitrary? The court ordered briefing deferred pending the decision of the United States Supreme Court in *Philip Morris USA, Inc. v. Williams*, No. 07-1216, cert. granted June 9, 2008, ___ U.S. ___ [2008 WL 791949], or further order of this court.

#08-110 *In re Burdan*, S163311. (C056099; 161 Cal.App.4th 14; Sacramento County Superior Court; 06F05496 .) Petition for review after the Court of Appeal granted a petition for writ of habeas corpus.

#08-111 *In re Singler*, S163264. (C054634; 161 Cal.App.4th 281. mod. 161 Cal.App.4th 988c; Placer County Superior Court; 64078.) Petition for review after the Court of Appeal granted a petition for writ of habeas corpus.

The court ordered briefing in *Burdan* and *Singler* deferred pending decision in *In re Lawrence*, S154018 (#07-399), *In re Shaputis*, S155872 (#07-428), and *In re Jacobson*, S156416 (#07-461), which include the following issue: In making parole suitability determinations for life prisoners, to what extent should the Board of Parole Hearings, under Penal Code section 3041, and the Governor, under Article V, section 8(b) of the California Constitution and Penal Code section 3041.2, consider the prisoner's current dangerousness, and at what point, if ever, is the gravity of the commitment offense and prior criminality insufficient to deny parole when the prisoner otherwise appears rehabilitated?

#08-112 *O'Brien v. Camisasca Automotive Manufacturing, Inc.*, S163207. (B195641: 161 Cal.App.4th 388; Los Angeles County Superior Court; BC328487.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *In re Tobacco Cases II*, S147345 (#06-120), and *Meyer v. Sprint Spectrum, L.P.*, S153846 (#07-366). *Tobacco Cases II* includes the following issues: (1) In order to bring a class action under Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.), as amended by Proposition 64 (Gen. Elec. (Nov. 2, 2004)), must every member of the proposed class have suffered "injury in fact," or is it sufficient that the class representative comply with that requirement? (2) In a class action based on a manufacturer's alleged misrepresentation of a product, must every member of the class have actually relied on the manufacturer's representations? *Meyer v. Sprint Spectrum* presents the following issues: (1) Has a person suffered "damage" within the meaning of the

Consumer Legal Remedies Act (Civil Code, § 1780, subd. (a)), such as to allow that person to bring an action under the Act if that person is a party to an agreement containing an unconscionable term (see Civil Code, § 1770, subd. (a)(19)), even though no effort has been made to enforce the unconscionable term? (2) Did plaintiffs have standing to seek declaratory relief?

DISPOSITION

#07-188 *Travis v. County of Santa Cruz*, S150695. Review was dismissed, and the cause was transferred for reconsideration in light of Santa Cruz County ordinance number 4921, which amends sections 13.10, 13.20, and 16.50 of the Santa Cruz County Code.

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