



# NEWS RELEASE

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## Summary of Cases Accepted During the Week of July 18, 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 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.]*

**#05-162 *People v. Gonzalez, S133274.*** (B171456; unpublished opinion; Los Angeles County Superior Court; BA222996.) Petition for review after the Court of Appeal remanded for resentencing, and otherwise affirmed judgments of conviction of criminal offenses.

**#05-163 *People v. Hernandez, S134160.*** (B174486; unpublished opinion; Los Angeles County Superior Court; YA042302.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

The court ordered briefing in *Gonzalez* and *Hernandez* deferred pending finality of *People v. Black* (2005) 35 Cal.4th 1238 regarding the effect of *Blakely v. Washington* (2004) 542 U.S. \_\_\_, 124 S.Ct. 2531, and *United States v. Booker* (2005) 543 U.S. \_\_\_, 125 S.Ct. 738, on California law.

**#05-164 *San Diego Metropolitan Transit Development Bd. v. RV Communities, S133786.*** (D042545; 127 Cal.App.4th 1201; San Diego County Superior Court; GIC774602-1.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Mt. San Jacinto Community College Dist. v. Superior Court, S132251* (#05-111), which presents the following issue: In a “quick take” eminent domain proceeding (Code Civ. Proc., § 1263.110 et seq.), in which the condemnor deposits “probable compensation” for the property and has a right to take possession before

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any issues are tried, as of what date should the value of the property be determined when the owner of the property does not exercise its right to withdraw the funds and instead litigates the condemnor's right to take the property?

**#05-165 *Thornton v. Career Training Center, Inc., S133938.*** (D044598; 128 Cal.App.4th 116; San Diego County Superior Court; GIC790815.) Petition for review after the Court of Appeal affirmed an order denying a motion to compel arbitration in a civil action and remanded with directions. 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?

**#05-166 *People v. Yin, S134050.*** (B171170; unpublished opinion; Los Angeles County Superior Court; NA053759.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Shabazz*, S131048 (#05-57), which includes the following issue: When a defendant is convicted of an offense that is punishable by a sentence of imprisonment for life without the possibility of parole, is the defendant also subject to a sentence enhancement of 25 years to life under Penal Code section 12022.53, subdivision (d), for personally discharging a firearm and causing death, or does Penal Code section 12022.53, subdivision (j), preclude the imposition of that enhancement when the punishment for the defendant's underlying felony is imprisonment for life without the possibility of parole?

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