NEWS RELEASE

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Summary of Cases Accepted
During the Week of July 21, 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.]

#08-116 Committee for Green Foothills v. Santa Clara County Bd. of Supervisors, S163680. (H030986; 161 Cal.App.4th 1204; Santa Clara County Superior Court; CV065186.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issue: What statute of limitations under Public Resources Code section 21167 applies after a public agency files a notice of determination stating that an entire project will not have a significant impact on the environment?

#08-117 County of Santa Clara v. Superior Court, S163681. (H031540; 161 Cal.App.4th 1140; Santa Clara County Superior Court; CV788657.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: May a public entity retain private counsel to prosecute a public nuisance abatement action under a contingent fee agreement?

#08-118 Harvey v. Sybase, Inc., S163888. (A109300, A111450; 161 Cal.App.4th 1547; Alameda County Superior Court; RG03107881.) 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) Must the plaintiff in a discriminatory termination case under the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) present stronger evidence of bias if the person responsible for the termination had previously treated the plaintiff favorably? (2) On review of an order granting a motion for judgment notwithstanding the verdict with respect to an award of punitive damages, must the appellate court

determine whether the record contains substantial evidence to support the award by clear and convincing evidence, or is the clear and convincing standard only applicable at the trial court level?

#08-119 People v. Lessie, S163453. (D050019; 161 Cal.App.4th 1085; San Diego County Superior Court; SCN200740.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Is a minor's request during police interrogation to speak to a parent an invocation of the privilege against self-incrimination that renders statements made after the request inadmissible?

#08-120 In re Viray, S163774. (D050934; 161 Cal.App.4th 1405; San Diego County Superior Court; HC18801.) Petition for review after the Court of Appeal granted a petition for writ of habeas corpus. The court ordered briefing 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?

DISPOSITION

Review in the following case was dismissed in light of *People v. Nelson* (2008) 43 Cal.4th 1242:

#07-423 People v. Boysen, S155417. The opinion of the Court of Appeal, originally published at 152 Cal.App.4th 1409, was ordered republished.

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