



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. 32/05**

Release Date: **August 16, 2005**

Summary of Cases Accepted During the Week of August 8, 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.]

#05-178 *Auerbach v. Assessment Appeals Bd. No. 1 for the County of Los Angeles, S134920.* (B173649; 129 Cal.App.4th 240; Los Angeles County Superior Court; BS084737.) 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: Where land is leased for less than 35 years and the lease provides that, for the term of the lease, the lessee is the owner of improvements it constructed on the land, does a transfer of ownership of the land effect a change of ownership of the land only, or of both the land and improvements, for the purpose of determining what property is subject to reassessment in calculating the new property tax?

#05-179 *Costa v. Superior Court, S136294.* (C050297; __ Cal.App.4th __ [2005 WL 1891281]; Sacramento County Superior Court; 05CS00998.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case includes the following issues: (1) Did the trial court and Court of Appeal correctly determine that the discrepancies between the version of Proposition 77 that was submitted to the Attorney General and the version that was circulated for signature warranted removing the initiative measure from the November 8, 2005 special election ballot? (2) If Proposition 77 is adopted by the voters at the November 8, 2005 election, do the discrepancies between the version that was submitted to the Attorney General and the version that was circulated for signature invalidate the measure?

#05-180 *People v. Dolly, S134505.* (B169971; 128 Cal.App.4th 1354; Los Angeles County Superior Court; YA046623.) Petition for review

after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Can an anonymous tip to police that a specific suspect possesses a gun provide reasonable suspicion for a felony stop, where the police corroborate the innocent details of the tip, but do not corroborate the assertion of illegality?

#05-181 *Grisham v. Philip Morris U.S.A.*, S132772. (9th Cir. Nos. 03-55780, 03-56018; 403 F.3d 631; Central District of California; CV-02-7930-SVW(RCX).) Request under California Rules of Court, rule 29.8, that this court decide questions 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 questions presented are: “(1) For the purpose of the statute of limitations period applicable under California law to a personal injury action alleging injury arising from smoking tobacco, are persons presumed to have been aware by 1988 that smoking causes addiction and other health problems? If California recognizes such a presumption, under what circumstances is it rebuttable? (2) Under California law, if a plaintiff seeks damages resulting from an addiction to tobacco, does addiction constitute an injury causing all related claims to accrue at the time the plaintiff recognizes that he or she is addicted to tobacco, even if the plaintiff has not yet been diagnosed with an illness stemming from tobacco use?”

#05-182 *Schulz v. Neovi Data Corp.*, S134073. (G033879; 129 Cal.App.4th 1; Orange County Superior Court; 03CC00185.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. 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?

#