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NEWS RELEASE

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Summary of Cases Accepted During the Week of August 9, 2010

[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.]

#10-93 *Maldonado v. Superior Court, S183961.* (A126236; 184 Cal.App.4th 739; San Mateo County Superior Court; SC065313.) Petition for review after the Court of Appeal granted in part and denied in part a peremptory petition for writ of mandate or prohibition. This case includes the following issues: (1) Was the order compelling a mental examination of petitioner under Penal Code section 1054.3, subdivision (b), reviewable by pretrial writ? (2) Should the prosecution be permitted to attend the examination? (3) Should the results of the mental examination be disclosed to the prosecution before trial, or only after the defendant presents mental state evidence at trial? (4) Should the trial court review the results of the mental examination in camera and on the motion of the defense to determine if they contain privileged material?

#10-94 *Rossa v. D. L. Falk Constr., Inc., S183523.* (A125567; 184 Cal.App.4th 438; San Mateo County Superior Court; 442294.) Petition for review after the Court of Appeal affirmed a post-judgment order in a civil action. This case presents the following issue: Does California Rules of Court, rule 8.278(d)(1)(F), which permits a successful appellant to recover “the cost to obtain a letter of credit as collateral,” allow the recovery of interest paid on sums borrowed to fund a letter of credit used to secure a surety bond?

#10-95 *People v. Chikosi, S184190.* (C041014; 185 Cal.App.4th 238; Orange County Superior Court; 08CF1709.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in

People v. Dungo, S176886 (#09-77), *People v. Gutierrez*, S176620 (#09-78), *People v. Lopez*, S177046 (#09-79), and *People v. Rutterschmidt*, S176213 (#09-80), which present issues concerning the right of confrontation under the Sixth Amendment when the results of forensic tests performed by a criminalist who does not testify at trial are admitted into evidence and how the decision of the United States Supreme Court in *Melendez-Diaz v. Massachusetts* (2009) 557 U.S. ___, 129 S.Ct. 2527, 174 L.Ed.2d 314, affects this court's decision in *People v. Geier* (2007) 41 Cal.4th 555.

#10-96 *People v. Henry*, S183964. (A125270; 184 Cal.App.4th 1313, mod. 185 Cal.App.4th 865a; Contra Costa County Superior Court; 050812172.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Branner*, S179730 (#10-23), which presents the following issues: (1) Did this court's opinion in *People v. McGaughran* (1979) 25 Cal.3d 577 survive the passage of Proposition 8? (2) Is defendant entitled to the retroactive application of *Arizona v. Gant* (2009) 556 U.S. __ [129 S.Ct. 1710], in which the high court limited vehicle searches incident to the arrest of a recent occupant after the arrestee has been secured and cannot access the interior of the vehicle? (3) If so, did the Court of Appeal err by applying the good faith exception to the exclusionary rule?

#10-97 *People v. Norton*, S183260. (A123659; 184 Cal.App.4th 408; Solano County Superior Court; FCR259410.) Petition for review after the Court of Appeal ordered the abstract of judgment corrected and otherwise affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Brown*, S181963 (#10-64), which presents the following issue: Does Penal Code section 4019, as amended to increase presentence custody credits for certain offenders, apply retroactively?

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