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NEWS RELEASE

Release Number: **S.C. 33/09**

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Summary of Cases Accepted During the Week of August 17, 2009

[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.]

#09-45 *Dicon Fiberoptics v. Franchise Tax Bd.*, S173860. (173 Cal.App.4th 1082; Los Angeles County Superior Court; BC367885.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) When an employer claims an income tax credit under Revenue and Taxation Code section 23622.7 for wages allegedly paid to a “qualified employee” in an enterprise zone, does the certifying voucher obtained from a designated public agency constitute conclusive proof the employer is entitled to the tax credit? (2) If not, does the voucher constitute prima facie evidence that the employer is entitled to the credit and shift to the Franchise Tax Board the burden of proving that the employee was not a “qualified employee”?

#09-46 *State Building & Construction Trades Council of California v. City of Vista*, S173586. (D052181; 173 Cal.App.4th 567; San Diego County Superior Court; 37-2007-00054316-CU-WM-NC.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents the following issue: Does California’s prevailing wage law (Lab. Code, § 1720 et seq.) apply to a charter city when it contracts to construct public works projects with municipal funds?

#09-47 *People v. Zambia*, S173490. (B207812; 173 Cal.App.4th 1221; Los Angeles County Superior Court; LA055997.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal

offense. This case presents the following issue: (1) Does the offense of pandering require the specific intent to encourage another person to become a prostitute? (2) Can a defendant be convicted of pandering for offering to act as a pimp for a woman who appears to be already working as a prostitute?

#09-48 *People v. Aldana*, S174836. (G040320; 174 Cal.App.4th 1025; Riverside County Superior Court; RIF111207.) Review on the court's own motion after the Court of Appeal reversed judgments of conviction of a criminal offense. The court ordered briefing deferred pending decision in *Stark v. Superior Court*, S145337 (#06-104), which includes the question whether the offense of misappropriation of public funds by a public officer or employee in violation of Penal Code section 424 requires intentional violation of a known legal duty or is a general intent crime.

DISPOSITIONS

The following cases were transferred for reconsideration in light of *In re Tobacco II Cases* (2009) 46 Cal.4th 298:

#06-122 *Pfizer, Inc. v. Superior Court*, S145775.

#07-403 *McAdams v. Monier*, S154088.

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