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NEWS RELEASE

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Summary of Cases Accepted During the Week of October 8, 2007

[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.]

#07-412 *Arias v. Superior Court, S155965.* (C054185; 153 Cal.App.4th 777; San Joaquin County Superior Court; CV028612.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Must an employee who is suing an employer for labor law violations on behalf of himself and others under the Unfair Competition Law (Bus. & Prof. Code, § 17203) bring his representative claims as a class action? (2) Must an employee who is pursuing such claims under the Private Attorneys General Act (Lab. Code, § 2699) bring them as a class action?

#07-413 *Goldstein v. Superior Court, S155944.* (B199147; 154 Cal.App.4th 482; Los Angeles County Superior Court; BH004311.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issue: Did the Court of Appeal err in permitting disclosure of grand jury materials “to avoid a possible injustice” (*Douglas Oil Co. v. Petrol Stops Northwest* (1979) 441 U.S. 211, 222) although the disclosure was without “express legislative authorization” (*Daily Journal Corp. v. Superior Court* (1999) 20 Cal.4th 1117, 1125)?

#07-414 *In re Phoenix H., S155556.* (D050304; 152 Cal.App.4th 1576; San Diego County Superior Court; SJ11392.) Petition for review after the Court of Appeal dismissed an appeal from an order terminating parental rights. This case presents the following issue: When appointed counsel for a parent whose custody rights have been adversely affected by state-initiated action files a brief in the Court of Appeal that presents

(over)

no arguable claim of error, does the parent, acting in propria persona, have the right to submit a supplemental brief?

#07-415 *Musaelian v. Adams*, S156045. (A112906; 153 Cal.App.4th 882, mod. 154 Cal.App.4th 481a; Sonoma County Superior Court; SCV236208.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court limited review to the following issue: Was defendant, an attorney representing himself in a civil action, entitled to an award of attorney fees as a sanction against the plaintiff under Code of Civil Procedure section 128.7 for engaging in frivolous litigation?

#07-416 *People v. Nguyen*, S154847. (H028798; 152 Cal.App.4th 1205; Santa Clara County Superior Court; CC476520.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Can a prior juvenile adjudication of a criminal offense in California constitutionally subject a defendant to the provisions of the three strikes law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12) although there is no right to a jury trial in juvenile wardship proceedings in this state?

#07-417 *Sheehan v. San Francisco 49ers*, S155742. (A114945; 153 Cal.App.4th 369; San Francisco County Superior Court; CGC05447679.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Did ticket holders of the San Francisco 49ers football team impliedly consent to the team's policy of conditioning admission to its stadium on submission to a patdown search when they purchased season tickets with knowledge of that policy? (2) If so, did that consent extinguish any reasonable expectation of privacy with respect to the searches as matter of law, such that the trial court was not required to consider the justifications in support of the policy or balance plaintiffs' privacy interests against the team's countervailing interests?

#07-418 *People v. Azam*, S156008. (A108492; nonpublished opinion; Alameda County Superior Court; CH35692.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-419 *People v. Macias*, S156127. (B191006; nonpublished opinion; nonpublished opinion; Los Angeles County Superior Court; VA090686.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#07-420 *People v. Zuniga*, S156327. (C053605; nonpublished opinion; Butte County Superior Court; CM021865.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Azam*, *Macias*, and *Zuniga* deferred pending decision in *People v. Towne*, S125677 (#04-75), which includes the following issue: Do *Cunningham v. California* (2007) 549 U.S. ___, 127 S.Ct. 856, and *Almendarez-Torres v. United States* (1998) 523 U.S. 224, 239-247, permit the trial judge to sentence defendant to the upper term based on any or all of the following aggravating factors, without submitting them to a jury: the defendant has served a prior prison term; the defendant was on parole when the crime was committed; the defendant's prior performance on probation or parole was unsatisfactory (California Rules of Court, Rule 4.421, subds. (b)(2) – (b(5)))?

#07-421 *People v. Gurrola*, S155957. (E041043; nonpublished opinion; San Bernardino County Superior Court; FSB056588.) 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. Lopez*, S149364 (#07-107), and *People v. Olguin*, S149303 (#07-108), which present the following issue: May a trial court impose a condition of probation requiring a probationer to obtain permission from his or her probation officer in order to own any pet?

DISPOSITIONS

Review in the following cases was dismissed in light of *Davis v. Washington* (2006) 547 U.S. ___, 126 S.Ct. 2266, and *People v. Cage* (2007) 40 Cal.4th 965:

#04-110 *People v. Adams*, S127373.
#05-03 *People v. Caudillo*, S129212.
#05-17 *People v. Kilday*, S129567.
#05-18 *People v. Ruiz*, S129498.
#05-67 *People v. Lee*, S130570.
#05-74 *People v. Wang*, S130916.
#05-88 *People v. Rivas*, S131315.
#05-175 *People v. Herring*, S134398.
#05-199 *People v. Wahlert*, S135805.
#05-208 *In re T.W.*, S136916.
#06-62 *In re Fernando R.*, S142296.
#06-85 *People v. Sanchez*, S143771.

Review in the following cases was dismissed in light of *Davis v. Washington* (2006) 547 U.S. ___, 126 S.Ct. 2266, *People v. Cage* (2007) 40 Cal.4th 965, and *People v. Black* (2007) 41 Cal.4th 799:

#04-132 *People v. Ochoa*, S128417.

Review in the following cases was dismissed in light of *People v. Palacios* (2007) 41 Cal.4th 720:

#06-110 *People v. Manila*, S144885.

#06-112 *People v. German*, S144746.

#07-134 *People v. Banchon*, S149634.

The following case was transferred for reconsideration in light of *People v. Licas* (2007) 41 Cal.4th 362:

#07-37 *People v. Darling*, S148460.

STATUS

#06-116 *In re Smith*, S145959. The court requested the parties to file supplemental letter briefs discussing the significance to petitioner's equal protection claim, if any, of *Jackson v. Indiana* (1972) 406 U.S. 715, *Conservatorship of Hofferber* (1980) 28 Cal.3d 161, and any related case deemed appropriate.

#06-120 *In re Tobacco II Cases*, S147345. The court requested the parties to file supplemental letter briefs addressing the impact of this court's recent opinion in *In re Tobacco II* (2007) 41 Cal.4th 1257 on the issues presented in this case, and particularly the court's conclusion that certain claims advanced under the Unfair Competition Law regarding advertising by tobacco companies to minors were preempted by federal law.

#07-209 *Jones v. Lodge at Torrey Pines Partnership*, S151022. The court requested the parties to file supplemental letter briefs addressing the relevance, if any, of the legislative history behind Assembly Bill No. 1167 (1987-1988 Reg. Sess.), the bill that added the word "person" to what is now Government Code section 12940, subdivision (h).