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NEWS RELEASE

Release Number: **S.C. 44/06**

Release Date: **November 3, 2006**

Summary of Cases Accepted During the Week of October 30, 2006

[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.]

#06-118 *People v. Chance*, S145458. (C048825; 141 Cal.App.4th 618; El Dorado County Superior Court; P03CRF0664.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court limited review to the following issue: Could defendant be convicted of assault with a firearm on a peace officer when his gun was pointing in the opposite direction from the officer and there was no bullet in the firing chamber, or, on such facts, would a battery not have “immediately” resulted from his conduct and did he lack the “present ability to inflict injury” within the meaning of Penal Code section 240?

#06-119 *People v. Lamas*, S145231. (G035001; 141 Cal.App.4th 604; Orange County Superior Court; 04NF3521.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Can the offense of active participation in a criminal street gang, which requires among other things that the defendant have “willfully promote[d], further[ed], or assist[ed] in any felonious criminal conduct by members of that gang” (Pen. Code, § 186.22, subd. (a)), be based on committing the offense of carrying a loaded firearm in a public place, which is generally a misdemeanor but is a felony if the defendant “is an active participant in a criminal street gang, as defined in subdivision (a) of [s]ection 186.22” (Pen. Code, § 12031, subd. (a)(2)(C))?

(over)

#06-120 *In re Tobacco II Cases*, S147345. (D046435; 142 Cal.App.4th 891; San Diego County Superior Court; JCCP 4042.) Petition for review after the Court of Appeal affirmed orders decertifying a class in a civil action. This case includes the following issues: (1) In order to bring a class action under Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.), as amended by Proposition 64 (Gen. Elec. (Nov. 2, 2004)), must every member of the proposed class have suffered “injury in fact,” or is it sufficient that the class representative comply with that requirement? (2) In a class action based on a manufacturer’s alleged misrepresentation of a product, must every member of the class have actually relied on the manufacturer’s representations?

#06-121 *People v. Baez*, S146832. (H029224; unpublished opinion; Santa Clara County Superior Court; CC331753.) 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. Crandell*, S134883 (#05-186), which presents the following issue: Does the imposition of a restitution fine under Penal Code section 1202.4, subdivision (b), violate a defendant’s plea agreement if the fine was not an express term of the agreement?

#06-122 *Pfizer, Inc. v. Superior Court*, S145775. (B188106; 141 Cal.App.4th 290; Los Angeles County Superior Court; BC327144.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. The court ordered briefing deferred pending decision in *In re Tobacco Cases II*, S147345 (#06-120), which includes the following issues: (1) In order to bring a class action under Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.), as amended by Proposition 64 (Gen. Elec. (Nov. 2, 2004)), must every member of the proposed class have suffered “injury in fact,” or is it sufficient that the class representative comply with that requirement? (2) In a class action based on a manufacturer’s alleged misrepresentation of a product, must every member of the class have actually relied on the manufacturer’s representations?

DISPOSITIONS

The following case was transferred for reconsideration in light of *Claremont Police Officers Assn. v. City of Claremont* (2006) 39 Cal.4th 623:

#04-81 *Sacramento Police Officers Assn. v. City of Sacramento*, S124395.

The following case was transferred for reconsideration in light of *People v. Moore* (2006) 39 Cal.4th 168:

#05-194 *People v. Miller*, S135231.