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NEWS RELEASE

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Summary of Cases Accepted During the Week of November 30, 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.]

#09-76 *Cortez v. Abich*, S177075. (B210628; 177 Cal.App.4th 261; Los Angeles County Superior Court; GC038444.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issue: Did the Court of Appeal err in holding that the defendant home owner's remodeling project, which added a new master bedroom, a new master bath, a new garage in place of a carport, and a new roof, fit within the household domestic service exception to the California Occupational Safety and Health Act (Labor Code section 6300 et seq.)?

#09-77 *People v. Dungo*, S176886. (C055923; 176 Cal.App.4th 1388; San Joaquin County Superior Court; SF100023A.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Was defendant denied his right of confrontation under the Sixth Amendment when one forensic pathologist testified to the manner and cause of death in a murder case based upon an autopsy report prepared by another pathologist? (2) How does 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, affect this court's decision in *People v. Geier* (2007) 41 Cal.4th 555?

#09-78 *People v. Gutierrez*, S176620. (B211622; 177 Cal.App.4th 654; Los Angeles County Superior Court; BA315483.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) Was defendant denied his right of confrontation under the Sixth Amendment

when (a) one nurse practitioner testified as to the results of a sexual assault examination and the report prepared by another nurse practitioner, and (b) a supervising criminalist testified as to the result of DNA tests and the report prepared by another criminalist? (2) How does 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, affect this court's decision in *People v. Geier* (2007) 41 Cal.4th 555?

#09-79 *People v. Lopez*, S177046. (D052885; 177 Cal.App.4th 202; San Diego County Superior Court; SCE274145.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Was defendant denied his right of confrontation under the Sixth Amendment when the trial court admitted into evidence the results of blood-alcohol level tests and a report prepared by a criminalist who did not testify at trial? (2) Was the error prejudicial in light of the testimony of a supervising criminalist about testing procedures at the lab? (3) How does 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, affect this court's decision in *People v. Geier* (2007) 41 Cal.4th 555?

#09-80 *People v. Rutterschmidt*, S176213. (B209568; 176 Cal.App.4th 1047; Los Angeles County Superior Court; BA615654.) Petition for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. The court limited review to the following issues: (1) Was defendant denied her right of confrontation under the Sixth Amendment when a supervising criminalist testified as to the result of drug tests and the report prepared by another criminalist? (2) How does 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, affect this court's decision in *People v. Geier* (2007) 41 Cal.4th 555?

#09-81 *People v. Ingram*, S176983. (E047015; nonpublished opinion; Riverside County Superior Court; RIF125429.) Petition for review after the Court of Appeal affirmed an order of dismissal of a criminal proceeding. This case includes the following issues: (1) Did the trial court err in dismissing this case for violation of defendant's statutory right to a speedy trial on the ground no criminal courtroom was available? (2) Should criminal cases facing dismissal on speedy trial grounds be given precedence over civil cases pursuant to Penal Code section 1050, subdivision (a), either as a matter of law or under the circumstances of this case?

#09-82 *Franchise Tax Bd. v. Superior Court*, S176943. (A122723; 177 Cal.App.4th 36; San Francisco County Superior Court; 06454297.) Petition for review after the Court of Appeal granted in part and denied in part a petition for peremptory writ of mandate. This case presents the following issue: Does article I, section 16, of the California Constitution

accord a taxpayer a constitutional right to a jury trial in an action for a refund of taxes under Revenue and Taxation Code section 19382?

#09-83 *People v. Tran*, S176923. (G036560; 177 Cal.App.4th 138, mod. 177 Cal.App.4th 1366a; Orange County Superior Court; 01WF0544.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court limited review to the following issue: Did the trial court abuse its discretion in allowing the prosecution to introduce evidence of defendant's own uncharged criminal acts in order to prove a pattern of criminal activity for purposes of Penal Code section 186.22, subdivisions (a) and (e)?

#09-84 *People v. Villalobos*, S176574. (F056729; 177 Cal.App.4th 82; Tulare County Superior Court; VCF189886A.) 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: Did the imposition of a restitution fine and a parole revocation restitution fine violate defendant's plea agreement in light of the circumstance that he was told he might be required to pay restitution but no mention was made of restitution fines?

DISPOSITIONS

The following case was transferred for reconsideration in light of *People v. Jones* (2009) 47 Cal.4th 566:

#07-213 *People v. Cruz*, S152272.

The following cases were transferred for reconsideration in light of *Delgado v. Interinsurance Exchange of Automobile Club of Southern California* (2009) 47 Cal.4th 302:

#07-465 *Jafari v. EMC Ins. Companies*, S157924.

#08-141 *Sutton v. Intersurance Exchange*, S165269.

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