



Supreme Court of California  
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**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

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## Summary of Cases Accepted and Related Actions for Week of May 18, 2015

*[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.]*

**#15-67 *Gerard v. Orange Coast Memorial Medical Center, S225205.*** (G048039; 234 Cal.App.4th 285; Orange County Superior Court; 30-2008-00096591.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Is the health care industry meal period waiver provision in section 11(D) of Industrial Wage Commission Order No. 5-2001 invalid under Labor Code section 512, subdivision (a)? (2) Should the decision of the Court of Appeal partially invalidating the Wage Order be applied retroactively?

**#15-68 *People v. Superior Court (Smith), S225562.*** (G050827; nonpublished opinion; Orange County Superior Court; M-9531.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. The court limited review to the following issues: (1) Is an expert retained by the prosecution in a proceeding under the Sexually Violent Predator Act entitled to review otherwise confidential treatment information under Welfare and Institutions Code section 5328? (2) Is the district attorney entitled to review medical and psychological treatment records or is access limited to confidential treatment information contained in an updated mental evaluation conducted under Welfare and Institutions Code section 6603, subdivision (c)(1)?

### DISPOSITIONS

Review in the following case, which was granted and held for *People ex rel. Harris v. PAC Anchor Transportation, Inc.* (2015) 59 Cal.4th 772, was dismissed:

**#13-109 *Rodriguez v. RWA Trucking Company, Inc., S214150.***

The following case was transferred for reconsideration in light of *People ex rel. Harris v. PAC Anchor Transportation, Inc.* (2015) 59 Cal.4th 772:

**#14-91 *Grupp v. DHL Express (USA), Inc.*, S218754.**

Review in the following cases, which were granted and held for *Johnson v. Department of Justice* (2015) 60 Cal.4th 871, was dismissed:

**#14-122 *People v. Shapiro*, S220891**

**#15-04 *People v. Fields*, S222445**

The following case was transferred for reconsideration in light of *Johnson v. Department of Justice* (2015) 60 Cal.4th 871:

**#14-99 *People v. Tirey*, S219050**

Review in the following case, which was granted and held for *People v. Mosley* (2015) 60 Cal.4th 1044, was dismissed:

**#11-08 *In re S.W.*, S187897**

The following cases were transferred for reconsideration in light of *People v. Mosley* (2015) 60 Cal.4th 1044:

**#11-21 *In re J.L.*, S189721**

**#12-27 *People v. Hass*, S199833**

## STATUS

*People v. Jackson*, S139103. The court directed the parties to file supplemental letter briefs addressing the following issue in this automatic appeal: What is the significance, if any, of *People v. Story* (2009) 45 Cal.4th 1282 and CALJIC No. 14.50 with respect to the cross-admissibility under Penal Code section 1108 of evidence of the sexual assault on Myrna Mason? The court noted that the parties might wish to address the following questions in connection with this issue: (1) In light of the amended information (CT 713-714) and the jury instruction given in this case on the elements of burglary (CALJIC No. 14.50; CT 4138), was defendant accused of a sexual offense against Geraldine Myers within the meaning of Evidence Code section 1108 and *People v. Story* (2009) 45 Cal.4th 1282, 1294? (2) What evidence, other than the Mason sexual offenses, would support a jury finding that defendant entered Myers's home with the intent to commit a sexual offense? (See *People v. Falsetta* (1999) 21 Cal.4th 903, 920, 923.) (3) Assuming defendant was accused of a sexual offense against Myers, would the trial court have been

required to exclude evidence of the Mason sexual offenses under Evidence Code section 352 in a separate trial of the Myers charges? (*Falsetta, supra*, 21 Cal.4th at pp. 916-919.) (4) Do the provisions of Evidence Code section 1108 provide a basis to uphold the trial court's denial of defendant's motion to sever the Mason charges from the Myers charges?

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*The Supreme Court of California is the state's highest court and its decisions are binding on all other California state courts. The court's primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.*