



NEWS RELEASE

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Summary of Cases Accepted During the Week of August 29, 2011

[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.]

#11-107 *Nalwa v. Cedar Fair, L.P., S195031.* (H034535; 196 Cal.App.4th 566; Santa Clara County Superior Court; CV089189.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Does the existence of a state regulatory scheme for amusement parks preclude application of the doctrine of “primary assumption of risk” with respect to the park’s operation of a bumper car ride? (2) Does the doctrine apply to bar recovery by a rider of a bumper car ride against the owner of an amusement park or is the doctrine limited to “active sports”? (3) Are owners of amusement parks subject to a special version of the doctrine that imposes upon them a duty to take steps to eliminate or decrease any risks inherent in their rides?

#11-108 *People v. James, S195512.* (D057527; 196 Cal.App.4th 1102, mod. 197 Cal.App.4th 187c; San Diego County Superior Court; SCD225061.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#11-109 *People v. Voravongsa, S195672.* (A130098; 197 Cal.App.4th 657; Sonoma County Superior Court; SCR585540.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *James* and *Voravongsa* deferred pending decision in *People v. Lara, S192784* (#11-53), which presents the

following issue: Does a trial court have discretion to dismiss or strike a prior serious felony conviction under Penal Code section 1385 in order to award the defendant additional presentence credits under Penal Code section 4019?

#11-110 *People v. Tauch*, S194385. (G042555; nonpublished opinion; Orange County Superior Court; 08WF0755.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses and remanded for resentencing. The court ordered briefing deferred pending decision in *People v. Mesa*, S185688 (#10-125), which presents the following issue: Does Penal Code section 654 bar the imposition of separate sentences for the offense of active participation in a criminal street gang in violation of Penal Code section 186.22, subdivision (a), and for the crimes used to prove one element of that offense — that the defendant have promoted, furthered, and assisted felonious criminal conduct by members of the gang?

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