



**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

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## Summary of Cases Accepted and Related Actions for Week of September 9, 2013

*[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.]*

**#13-77 *California Building Industry Assn. v. City of San Jose, S212072.*** (H038563; 216 Cal.App.4th 1373; Santa Clara County Superior Court; 1-10-CV167289.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: What standard of judicial review applies to a facial constitutional challenge to inclusionary housing ordinances that require set asides or in-lieu fees as a condition of approving a development permit? (See *San Remo Hotel L.P. v. City & County of San Francisco* (2002) 27 Cal.4th 643, 670.)

**#13-78 *People v. Loper, S211840.*** (D062693; 216 Cal.App.4th 969; San Diego County Superior Court; SCD225263.) Petition for review after the Court of Appeal dismissed an appeal from the denial of a request for recall of sentence under Penal Code section 1170, subdivision (e). The court directed the parties to brief the following issues: (1) Is a trial court's order denying the recall of a sentence under Penal Code section 1170, subdivision (e) appealable? (2) Assuming such an order is appealable, what is the proper standard of review on appeal? (3) Was the trial court's order denying the recall of defendant's sentence correct in this case?

**#13-79 *Brown v. Superior Court, S211962.*** (H037271; 216 Cal.App.4th 1302; Santa Clara County Superior Court; 110-CV178451.) Petition for review after the Court of Appeal granted a petition for writ of mandate. The court ordered briefing deferred pending decision in *Iskanian v. CLS Transportation Los Angeles, LLC, S204032* (#12-97), which includes the following issue: Did *AT&T Mobility LLC v. Concepcion* (2011) 563 U.S. \_\_ [131 S. Ct. 1740, 179 L.Ed.2d 742] impliedly overrule *Gentry v. Superior Court* (2007) 42 Cal.4th 443 with respect to contractual class action waivers in the context of non-waivable labor law rights?

**#13-80 *Leos v. Darden Restaurant, Inc., S212511.*** (B24163; 217 Cal.App.4th 473; Los Angeles County Superior Court; BC473673.) Petition for review after the Court of Appeal reversed an order denying a motion to compel arbitration. The court ordered briefing deferred pending decision in *Baltazar v. Forever 21, Inc., S208345* (#13-31), which presents the following issue: Is an employment arbitration agreement unconscionable for lack of mutuality if it contains a clause providing that either party may seek provisional injunctive relief in the courts and the employer is more likely to seek such relief?

## DISPOSITIONS

Review in the following cases was dismissed in light of *Zhang v. Superior Court* (2013) 57 Cal.4th 364:

**#11-118 *Hughes v. Progressive Direct Ins. Co., S195069.***

**#13-10 *Henderson v. Farmers Group, Inc., S207068.***

## STATUS

**#13-71 *People v. Lewis, S211494.*** In this case in which review was previously granted, the court ordered briefing deferred pending decision in *People v. Conley, S211275* (#13-70), which presents the following issue: Does the Three Strikes Reform Act of 2012 (Pen. Code, §§ 667, subd. (e)(2)(C), 1170.12, subd. (c)(2)(C)), which reduces punishment for certain non-violent third-strike offenders, apply retroactively to a defendant who was sentenced before the Act's effective date but whose judgment was not final until after that date?

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