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NEWS RELEASE

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Summary of Cases Accepted During the Week of January 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.]

#06-09 *City of Stockton v. Superior Court, S139237.* (C048162; 133 Cal.App.4th 1052; Sacramento County Superior Court; 03AS00193.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case includes the following issue: Must a claim be presented under the Government Claims Act (Gov. Code, § 810 et seq.) in order to bring an action against a public entity for breach of contract?

#06-10 *Elkins v. Superior Court, S139073.* (A111923; no opinion; Contra Costa County Superior Court; MSD01-05226.) Petition for review after the Court of Appeal summarily denied a petition for peremptory writ of mandate or prohibition. The court issued an order to show cause directed at the following issue: Are Contra Costa County Superior Court Local Rule 12.5(b)(3) and the trial scheduling order in the present case, which limited, among other matters, the form of testimony and the presentation of evidence in this family law proceeding, consistent with constitutional principles and with statutes governing trial court procedures and the adoption of local court rules?

#06-11 *Fireside Bank v. Superior Court, S139171.* (H027976; 133 Cal.App.4th 742; Santa Clara County Superior Court; CV817959.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case includes the following issue: Can a trial court ever depart from the preferred practice of deciding whether to certify a class action before adjudicating any class claims on the merits,

(over)

or is the rule against such “one-way intervention” in class actions a firm prohibition applicable in all circumstances?

#06-12 *Yount v. City of Sacramento*, S139762. (C046869; 133 Cal.App.4th 1424, mod. 134 Cal.App.4th 576c; 01AS04272.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Must a defendant who entered a plea of no contest to a charge of obstructing police officers in the course of their duties (Pen. Code, § 148) and who had engaged in a continuous course of conduct involving multiple acts of obstruction, any one of which would have supported the conviction, have the conviction invalidated in order to bring a civil rights claim (42 U.S.C. § 1983) alleging the use of excessive force by the officers in the course of taking him into custody? (See *Heck v. Humphrey* (1994) 512 U.S. 477.)

#06-13 *People v. Rodriguez*, S139081. (H027362; unpublished opinion; Santa Clara County Superior Court; CC254542.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Modiri*, S120238 (#03-159), which includes the following issue: Is the so-called “group beating exception” (see *People v. Corona* (1989) 213 Cal.App.3d 589), as embodied in CALJIC No. 17.20, to the requirement of a finding of *personal* infliction of great bodily injury for purposes of imposing an enhancement under Penal Code section 12022.7, inconsistent with *People v. Cole* (1982) 31 Cal.3d 568?

DISPOSITION

Review in the following case was dismissed in light of the settlement of the action:

#04-41 *Hicks v. Superior Court*, S123054.

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