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NEWS RELEASE

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Summary of Cases Accepted During Week Of February 14, 2005

[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 description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#05-28 *Action Apartment Assn., Inc. v. City of Santa Monica, S129448.* (B165082; 123 Cal.App.4th 47; Los Angeles County Superior Court; SC274036.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Is a local ordinance prohibiting a landlord from maliciously taking action to terminate a tenancy “based upon facts which the landlord has no reasonable cause to believe to be true or upon a legal theory which is untenable under the facts known to the landlord” preempted by the statewide litigation privilege of Civil Code section 47, subdivision (b), because the ordinance applies to communicative acts?

#05-29 *People v. Calhoun, S129896.* (D042645; 123 Cal.App.4th 1031; San Diego County Superior Court; SCD170791, SCD170276.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case includes the following issue: Was defendant subject to an enhancement under Vehicle Code section 2001, subdivision (c), for fleeing the scene after “committing” the offense of gross vehicular manslaughter although he was convicted of that crime as an aider and abettor?

#05-30 *People v. Thompson, S130174.* (B176808; 124 Cal.App.4th 96; Santa Barbara County Superior Court; 1106282.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issue: Was suppression of blood-alcohol evidence warranted when police, responding to a citizen’s fresh complaint of drunk driving, entered defendant’s house without a warrant to effect a misdemeanor arrest?

#05-31 *In re Tobacco Cases II*, S129522. (D041356; 123 Cal.App.4th 617; San Diego County Superior Court; 719446.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does the Federal Cigarette Labeling and Advertising Act (15 U.S.C. § 1331 et seq.) preempt claims under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) for advertising that allegedly targeted minors?

#05-32 *People v. Wilson*, S130157. (A101459; 124 Cal.App.4th 38; Solano County Superior Court; FCR182521.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case presents the following issue: May a DNA expert testify to a match between the perpetrator's and defendant's genetic profiles based on different racial databases if the prosecution has not first provided independent evidence of the perpetrator's race?

#05-33 *People v. Aguilar*, S130510. (B171870; unpublished opinion; Los Angeles County Superior Court; BA251556.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#05-34 *People v. Croteau*, S130148. (D042779; unpublished opinion; San Diego County Superior Court; 157199, 160730.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#05-35 *People v. Dalby*, S129810. (C041880; 123 Cal.App.4th 1083; Yolo County Superior Court; CRF993920.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#05-36 *People v. Guevara*, S129869. (A101011, A105127; unpublished opinion; San Mateo County Superior Court; SC051622A.) Petition for review after the Court of Appeal remanded for resentencing, otherwise affirmed a judgment of conviction of criminal offenses, and denied petition for writ of habeas corpus.

#05-37 *People v. Mello*, S130507. (D043073; unpublished opinion; San Diego County Superior Court; SCE225670.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#05-38 *People v. Perry*, S130593. (A104398; unpublished opinion; Lake County Superior Court; CR033930.) Petition for review after the Court

of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of a criminal offense.

#05-39 *People v. Vu*, S130656. (G033583; 124 Cal.App.4th 1060; Orange County Superior Court; 03WF2265.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#05-40 *People v. Wilkerson*, S130349. (D042017; unpublished opinion; San Diego County Superior Court; SCD159400, SCD160878.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses.

#05-41 *People v. Wilson*, S130199. (A102205; unpublished opinion; Napa County Superior Court; CR109693.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Aguilar*, *Croteau*, *Dalby*, *Guevara*, *Mello*, *Perry*, *Vu*, *Wilkerson*, and *Wilson* deferred pending decision in *People v. Black*, S126182 (#04-83) and *People v. Towne*, S125677 (#04-75), which include the following issues: (1) Does *Blakely v. Washington* (2004) 542 U.S. ___, 124 S.Ct. 2531, preclude a trial court from making findings on aggravating factors in support of an upper term sentence? (2) What effect does *Blakely* have on a trial court's imposition of consecutive sentences?

#05-42 *People v. Trujillo*, S130080. (H026000; unpublished opinion; Santa Clara County Superior Court; CC125830.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Samples*, S112201 (#03-30), which includes the following issue: May the People appeal a finding that a prior conviction was not a serious felony within the meaning of the three strikes law? (See Pen. Code, § 1238, subds. (a) & (d).)

DISPOSITIONS

#03-151 *Stanley v. California State Lottery Com.*, S120121, was dismissed in light of *Graham v. DaimlerChrysler Corp.*, S112862 (2004) 34 Cal.4th 553, and *Tipton-Whittingham v. City of Los Angeles* (2004) 34 Cal.4th 604.

#04-101 *People v. Martinez*, S126653, was dismissed in light of *People v. Briceno* (2004) 34 Cal.4th 451.