



# NEWS RELEASE

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JUDICIAL COUNCIL OF  
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455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
[www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)

415-865-7740

Lynn Holton  
Public Information Officer

## Summary of Cases Accepted During The Week of March 21, 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.]

### **#05-68 *Hartford Casualty Ins. Co. v. Superior Court*, S131554.**

(B176439; 125 Cal.App.4th 250; Los Angeles County Superior Court; BC288501.) Review on the court's own motion after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Under section 170.1, subdivision (a)(8), of the Code of Civil Procedure, which provides that in a case involving issues relating to the appointment or use of a dispute resolution neutral, a judge shall be disqualified if he or she "has a current arrangement concerning prospective employment or other compensated service as a dispute resolution neutral or is participating in, or, within the last two years has participated in, *discussions regarding such prospective employment or service*" (italics added), is a judge disqualified whenever an alternative dispute resolution provider has made even a casual, informal, and unsolicited inquiry to the judge concerning the judge's potential interest in serving as a dispute resolution neutral sometime in the future, or does the statute apply only when the judge has participated in more formal and serious discussions regarding prospective employment or service as a dispute resolution neutral? (2) If a judge is disqualified under section 170.1, subdivision (a)(8), must any rulings made by the judge after one of the parties requested appointment of a mediator or raised other issues with regard to alternative dispute resolution, but before the judge recused himself or herself, be vacated?

**#05-69 *People v. Brown*, S131405.** (H025981, H026927; unpublished opinion; Monterey County Superior Court; SS020847.) Petition for review after the Court of Appeal remanded for resentencing, and otherwise affirmed judgment and denied petition for writ of habeas corpus.

**#05-70 *People v. Harless, S131011.*** (H026885; 125 Cal.App.4th 70; Monterey County Superior Court; SS022393.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

**#05-71 *People v. Shea, S131442.*** (A105299; unpublished opinion; Marin County Superior Court; SC130642.) Petition for review after the Court of Appeal remanded for resentencing, and otherwise affirmed a judgment of conviction of criminal offenses.

**#05-72 *People v. White, S130777.*** (B166502; unpublished opinion; Los Angeles County Superior Court; VA0272175.) Petition for review after the Court of Appeal remanded for resentencing, and otherwise affirmed a judgment of conviction of criminal offenses. The court ordered briefing in *Brown, Harless, Shea, and White* 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?

**#05-73 *State Farm Mut. Auto Ins. Co. v. Wier, S131445.*** (A101791; unpublished opinion; Mendocino County Superior Court; SCUKEVG00-82819.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court ordered briefing deferred pending decision in *Dore v. Arnold Worldwide, Inc.*, S124494 (04-77), which includes the following issue: Is an employment contract that states that "your employment with [the employer] is at will" but also states that "[t]his simply means that [the employer] has the right to terminate your employment at any time" reasonably susceptible of the interpretation either that employment may be terminated at any time *without* cause or that employment may be terminated at any time but only *with* cause, permitting the introduction of extrinsic evidence on the issue of the proper interpretation of the contract?

**#05-74 *People v. Wang, S130916.*** (B164939; unpublished opinion; Los Angeles County Superior Court; BA218607.) 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. Cage*, S127344 (#04-111), which includes the following issue: Are *all* statements made by an ostensible crime victim to a police officer in response to general investigative questioning "testimonial hearsay" within the meaning of *Crawford v. Washington* (2004) 541 U.S. \_\_\_, 124 S.Ct. 1354 and inadmissible in the absence of an opportunity to cross-examine the declarant, or does "testimonial hearsay" include only statements made in response to a formal interview at a police station?

## **STATUS**

***People v. Davis, S012945.*** The court directed the parties to file supplemental letter briefs addressing the following questions in this automatic appeal: (1) What effect does the trial court's failure to give a unanimity instruction with regard to the taking of victim Brian

Harris's car from victim Michelle Boyd or the taking of Boyd's rings from Boyd have on the verdicts finding defendant guilty of the robbery of Boyd and the robbery-murder special circumstance with respect to Boyd? (2) Can the robbery-murder special circumstance with respect to Boyd be upheld based on the taking of Harris's car from Harris?

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