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NEWS RELEASE

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Summary of Cases Accepted During the Week of April 16, 2007

[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.]

#07-145 *People v. Galland*, S149890. (G034189; 146 Cal.App.4th 277; Orange County Superior Court; 01CF2350.) Petition for review after the Court of Appeal reversed and remanded a judgment of conviction of criminal offenses. This case includes the following issues: (1) Must confidential information in a sealed search warrant affidavit, which was reviewed by the trial court pursuant to *People v. Hobbs* (1994) 7 Cal.4th 948, be retained by the court rather than law enforcement in order to provide an adequate record for appeal? (2) Did the Court of Appeal properly invoke the exclusionary rule and suppress evidence obtained in execution of the search warrant as a sanction for the trial court's failure to retain the sealed affidavit although there was no evidence of police misconduct in obtaining or executing the warrant?

#07-146 *Roby v. McKesson Corp.*, S149752. (C047617; 146 Cal.App.4th 63; Yolo County Superior Court; CV01573.) Petition for review after the Court of Appeal reversed in part and modified and affirmed in part the judgment in a civil action. This case presents the following issues: (1) In an action for employment discrimination and harassment by hostile work environment, does *Reno v. Baird* (1998) 18 Cal.4th 640 require that the claim for harassment be established entirely by reference to a supervisor's acts that have no connection with matters of business and personnel management, or may such management-related acts be considered as part of the totality of the circumstances allegedly creating a hostile work environment? (2) May an appellate court determine the maximum constitutionally permissible award of punitive

(over)

damages when it has reduced the accompanying award of compensatory damages, or should the court remand for a new determination of punitive damages in light of the reduced award of compensatory damages?

#07-147 *Smith v. Workers' Comp. Appeals Bd., S150528.* (B190054; 146 Cal.App.4th 1032.) Petition for review after the Court of Appeal annulled decisions of the Board. This case presents the following issue: Does Labor Code section 4607, which authorizes the Board to award attorney fees to an applicant who successfully resists a proceeding instituted by his or her employer to terminate a prior award for medical treatment, authorize the Board to award attorney fees to an applicant whose employer has not instituted proceedings to terminate medical care but has refused to authorize medical treatment, thereby requiring the applicant to institute proceedings to obtain that treatment?

#07-148 *State of California v. Underwriters at Lloyd's London, S149988.* (E037627; 146 Cal.App.4th 851; Riverside County Superior Court; CIV239784, RIC381555.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issues: (1) Does application of the pollution exclusion clause of the comprehensive general liability excess insurance policies at issue in this case turn on when waste material was discharged *from* the Stringfellow Acid Pits waste disposal site or when the waste was initially deposited *into* the site? (2) If pollution is caused by both uncovered intentional actions and covered accidents, does the insured have the burden at trial to prove that all of the damages it seeks to recover were caused by a covered event, or is there a duty to indemnify when two concurrent causes are responsible for an injury even if one of the causes is an uncovered act?

In the following cases, which present issues relating to the effect of *Cunningham v. California* (2007) 549 U.S. ___, 127 S.Ct. 856, on California sentencing law, the court ordered briefing deferred pending further order of the court:

#07-149 *People v. Brown, S149977.* (B187599; nonpublished opinion; Los Angeles County Superior Court; NA057904.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

#07-150 *People v. Dissinger, S151034.* (C050329; nonpublished opinion; Shasta County Superior Court; 05F1154.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-151 *People v. Hernandez, S150725.* (F050800; nonpublished opinion; Kings County Superior Court; 05CM4447.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#07-152 *People v. Niece*, S150415. (E037328; nonpublished opinion; Riverside County Superior Court; SWF007270.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-153 *People v. Pineda*, S150516. (F049498; nonpublished opinion; Madera County Superior Court; MCR018755.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-154 *People v. Segade*, S149843. (E039208; nonpublished opinion; Riverside County Superior Court; RIF 119978.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-155 *People v. Wilson*, S150303. (B183372; nonpublished opinion; Los Angeles County Superior Court; TA071802.) Petition for review after the Court of Appeal remanded for resentencing in part and otherwise affirmed judgments of conviction of criminal offenses.

STATUS

The court ordered *In re Hardy*, S022153, and *In re Hardy*, S093694, consolidated for purposes of oral argument and opinion, and directed the parties to confine their arguments to the following issues raised by the allegations in *In re Hardy*, S093694: (1) Is petitioner entitled to reversal of his guilt judgment because he is innocent of the capital crimes of which he was convicted, in that a third party named Calvin Boyd committed the murders; (2) Did petitioner's trial counsel render constitutionally ineffective assistance of counsel by failing to present evidence demonstrating possible third party culpability and, if so, does such ineffective assistance require reversal of either the guilt or penalty phase judgments?