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# NEWS RELEASE

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## Summary of Cases Accepted During the Week of May 12, 2008

*[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.]*

**#08-78 *Chavez v. City of Los Angeles*, S162313.** (B192375; 160 Cal.App.4th 410; Los Angeles County Superior Court; BC324514.)  
Petition for review after the Court of Appeal reversed an order denying attorney fees in a civil action. This case presents the following issue: Does Code of Civil Procedure section 1033 permit a trial court to deny Government Code section 12965 attorney fees to the prevailing plaintiff in an action under the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) if the judgment obtained in a court with jurisdiction over “unlimited” civil cases (see Code Civ. Proc., § 88) could have been rendered in a court with jurisdiction over “limited” civil cases (see Code Civ. Proc., § 85, subd. (a))?

**#08-79 *Schachter v. Citigroup, Inc.*, S161385.** (B193713; 159 Cal.App.4th 10; Los Angeles County Superior Court; BC191447.)  
Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does the forfeiture provision of a voluntary incentive compensation plan, which gives employees the option of using a portion of their earnings to purchase shares in the company’s stock below market price but provides that employees forfeit both the stock and the money used to purchase it if they resign or are terminated for cause within a two-year period, violate Labor Code sections 201 or 202?

**#08-80 *People v. Wyatt*, S161545.** (A114612; nonpublished opinion; Alameda County Superior Court; 147107.) Petition for review after the Court of Appeal reversed in part and affirmed in part a judgment of

conviction of criminal offenses. The court limited review to the following issue: Did substantial evidence support defendant's conviction for a caregiver's assault on a child by means of force likely to produce great bodily injury causing death (Pen. Code, § 273ab)? Specifically, was there evidence that defendant was "aware of the facts that would lead a reasonable person to realize that a battery would directly, naturally and probably result from his conduct" (*People v. Williams* (2001) 26 Cal.4th 779, 788)?

**#08-81 *People v. Anderson*, S161576.** (B189211; nonpublished opinion; Los Angeles County Superior Court; TA075280.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

**#08-82 *People v. Maxey*, S161553;** E040818; nonpublished opinion; San Bernardino County Superior Court; FSB043741) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Anderson* and *Maxey* deferred pending decision in *People v. Towne*, S125677 (#04-75), which presents issues concerning the use as aggravating sentencing of such factors as being on probation or parole when a crime was committed and prior unsatisfactory performance on probation or parole.

**#08-83 *Brand v. Regents of University of California*, S162019.** (D049350; 159 Cal.App.4th 1349; San Diego County Superior Court; GIC848844.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court ordered briefing deferred pending decision in *State Bd. of Chiropractic Examiners v. Superior Court*, S151705 (#07-258), which presents issues concerning whether, under the Whistleblower Protection Act (Gov. Code §8547 et seq.), a state employee may bring a civil action after suffering an adverse decision by the State Personnel Board without successfully seeking a writ of administrative mandate to set aside that decision.

**#08-84 *In re Marcos H.*, S161392.** (D050829; nonpublished opinion; Imperial County Superior Court; JJJ23673.) Petition for review after the Court of Appeal affirmed orders in a juvenile wardship proceeding. The court ordered briefing deferred pending decision in *In re Jose C.*, S158043 (#08-12), which presents the following issue: Can a juvenile wardship proceeding under Welfare and Institutions Code section 602 be predicated entirely on the violation of a federal statute?

**#08-85 *People v. Moore*, S161216.** (B190732; nonpublished opinion; Los Angeles County Superior Court; BA280698.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Rodriguez*, S159497 (#08-51), which includes the question

whether Penal Code section 654 applies to sentence enhancements that derive from the nature of the offense, including enhancements under Penal Code section 186.22, subdivision (b), for committing a crime for the benefit of a criminal street gang, and for *People v. Gonzalez*, S149898 (#07-86), which presents the following issue: When separate firearm enhancements under Penal Code section 12022.5 and subdivisions (b), (c), and/or (d) of section 12022.53 are found true and the longest enhancement is imposed, should the lesser enhancements be stricken, stayed or simply not imposed at all?

**#08-86 *In re Rozzo*, S161469.** (D049704; 159 Cal.App.4th 1089; San Diego County Superior Court; CRN6465.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus. The court ordered briefing deferred pending decision in *In re Lawrence*, S154018 (#07-399), *In re Shaputis*, S155872 (#07-428), and *In re Jacobson*, S156416 (#07-461), which include the following issue: In making parole suitability determinations for life prisoners, to what extent should the Board of Parole Hearings, under Penal Code section 3041, and the Governor, under Article V, section 8(b) of the California Constitution and Penal Code section 3041.2, consider the prisoner's current dangerousness, and at what point, if ever, is the gravity of the commitment offense and prior criminality insufficient to deny parole when the prisoner otherwise appears rehabilitated?

## **DISPOSITION**

The court ordered review in the following matter dismissed in light of *People v. Lopez* (2008) 42 Cal.4th 960:

**#06-100 *People v. Shazier*, S144419.**