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NEWS RELEASE

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Summary of Cases Accepted During the Week of September 15, 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.]

#08-142 *Barnett v. Superior Court, S165522.* (C051311; 164 Cal.App.4th 18; Butte County Superior Court; 91850.) Petition for review after the Court of Appeal granted in part a petition for peremptory writ of mandate. This case, which is related to the automatic appeal in *People v. Barnett* (1998) 17 Cal.4th 1044 (see also *In re Barnett* (2003) 31 Cal.4th 466), presents the following issues: (1) Is an out-of-state law enforcement agency part of the prosecution team for purposes of the disclosure obligations under *Brady v. Maryland* (1963) 373 U.S. 83, if the agency's involvement is limited to providing the prosecution with previously existing records regarding a defendant's prior crimes? (2) Is a prisoner seeking post-conviction discovery under Penal Code section 1054.9 required to produce evidence indicating the actual existence of the discovery material he or she is requesting? (3) Is a prisoner seeking post-conviction discovery under section 1054.9 required to plead a theory indicating the materiality of the materials requested if the basis for discovery is the prosecutor's *Brady* obligation to disclose exculpatory materials? (4) Is section 1054.9 unconstitutional as an unauthorized legislative amendment to the criminal discovery scheme established by Proposition 115?

#08-143 *Haworth v. Superior Court, S165906.* (B204534; 164 Cal.App.4th 930, mod. 164 Cal.App.4th 1605a; Los Angeles County Superior Court; SC082441.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issues: (1) What is the scope of a neutral arbitrator's required

disclosures under Code of Civil Procedure section 1281.9? (2) What is the proper standard of review of an order vacating an arbitration award based on an arbitrator's purported failure to disclose grounds for disqualification?

#08-144 *Los Angeles Unified School Dist. v. Great American Ins. Co.*, S165113.

(B189133; 163 Cal.App.4th 944; Los Angeles County Superior Court; BC247848.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Must a contractor bringing a contract claim against a public agency based on the theory of breach of implied warranty prove intentional concealment of material facts?

#08-145 *People v. Superior Court (Sparks)*, S164614. (C057766; nonpublished opinion; Yuba County Superior Court; CFR0600126.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Did principles of collateral estoppel, as applied in *People v. Taylor* (1974) 12 Cal.3d 686, preclude the prosecution from trying defendant for murder on a felony-murder theory after the actual killer had been acquitted of murder on such a theory? (2) Is *Taylor* still good law, or should that decision be overruled or disapproved?

#08-146 *Steiner v. Thexton*, S164928. (C054605; 163 Cal.App.4th 359; Sacramento County Superior Court; 04AS04230.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) When a contract contemplates the sale of real property but provides that the buyer may revoke the contract at any time and for any reason before its efforts to obtain county approvals and permits are completed, is the agreement an option agreement that is unenforceable (and may thus be revoked by the seller) because there is no consideration for the option, or does the implied covenant of good faith and fair dealing sufficiently eliminate the buyer's discretion to revoke so that the agreement is, in fact, a purchase agreement that may be enforced against the seller? (2) Did the trial court and the Court of Appeal err in declining to apply the doctrine of promissory estoppel where the buyer purportedly changed its position to its detriment in reliance on the seller's promise to sell, or would it be inequitable to find an implied promise by the seller not to revoke the agreement?

#08-147 *In re Smith*, S165264. (G039301; nonpublished opinion; Orange County Superior Court; M-11470.) Petition for review after the Court of Appeal granted a petition for writ of habeas corpus. The court ordered briefing deferred pending finality of the decision in *In re Lawrence* (Aug. 21, 2008, S154018) __ Cal.4th __ [190 P.3d 535, 82 Cal.Rptr.3d 169, 2008 WL 3863606], which concerns parole suitability determinations for life prisoners.

DISPOSITION

The following case was transferred for reconsideration in light of *Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431:

#06-75 Dahms v. Downtown Pomona Property & Business Improvement Dist., S143165.

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