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# NEWS RELEASE

Release Number: **S.C. 39/10**

Release Date: **October 1, 2010**

## Summary of Cases Accepted During the Week of September 27, 2010

*[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.]*

**#10-115 American Nurses Assn. v. O'Connell, S184583.** (C061150; 185 Cal.App.4th 393; Sacramento County Superior Court; 07AS04631.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case includes the following issues: (1) Under California law, are designated school personnel who are not licensed nurses allowed to administer insulin to diabetic students pursuant to treating physicians' orders under a Section 504 Plan (29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq.) or an Individualized Education Program (20 U.S.C. § 1414(d))? (2) If not, is California law preempted by federal law?

**#10-116 Ralphs Grocery Co. v. United Food & Commercial Workers Union Local 8, S185544.** (C060413; 186 Cal.App.4th 1078; Sacramento County Superior Court; 34-2008-00008682-CU-OR-GD.) Petition for review after the Court of Appeal reversed an order denying a preliminary injunction in a civil action. This case presents the following issues: (1) Did the Court of Appeal err in concluding that the parking area and walkway in front of the entrance to plaintiff's retail store, which is part of a larger shopping center, do not constitute a public forum under *Robins v. Pruneyard Shopping Center* (1979) 23 Cal.3d 899 and its progeny? (2) Do the Moscone Act (Code Civ. Proc. § 527.3) and Labor Code section 1138.1, which limit the availability of injunctive relief in labor disputes, violate the First and Fourteenth Amendments of the United States Constitution because they afford preferential treatment to speech concerning labor disputes over speech about other issues?

**#10-117 *People v. Mil*, S184665.** (F056605; nonpublished opinion; Kern County Superior Court; BF116677B.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case includes the following issue: Is harmless error analysis appropriate when the trial court omits multiple elements from a jury instruction on special circumstance murder, and if so, was the error harmless in this case?

**#10-118 *Carson v. Michael Stores*, S185496.** (D055477; nonpublished opinion; San Diego County Superior Court; 37-2008-00089773-CU-BT-CTL.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Pineda v. Williams-Sonoma Stores, Inc.*, S178241 (#10-15), which presents the following issue: Does a retailer violate the Song-Beverly Credit Card Act of 1971 (Civ. Code, § 1747 et seq.), which prohibits retailers from recording a customer's "personal identification information" when the customer uses a credit card in a transaction, by recording a customer's zip code for the purpose of later using it and the customer's name to obtain the customer's address through a reverse search database?

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