



JUDICIAL COUNCIL OF  
CALIFORNIA  
ADMINISTRATIVE OFFICE  
OF THE COURTS  
Public Information Office  
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

# NEWS RELEASE

Release Number: **S.C. 41/10**

Release Date: **October 15, 2010**

## **Summary of Cases Accepted During the Week of October 11, 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.]*

**#10-119 *People v. Thomas*, S185305.** (F056337; nonpublished opinion; Madera County Superior Court; MCR10473.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issues: (1) Did Penal Code section 781 permit the prosecution of defendant for possession of cocaine in Madera County, where defendant lived and arranged his drug sales, even though he stored the contraband in adjacent Fresno County? (2) If not, should the Court of Appeal have considered whether defendant was prejudiced by the trial court's denial of his motion to dismiss for improper venue?

**#10-120 *People v. Bacon*, S184782.** (B214314; 186 Cal.App.4th 333; Los Angeles County Superior Court; MA043109.) Review on the court's own motion after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Brown*, S181963 (#10-64), which presents the following issue: Does Penal Code section 4019, as amended to increase presentence custody credits for certain offenders, apply retroactively?

**#10-121 *Faulkinbury v. Boyd & Associates, Inc.*, S184995.** (G041702; 185 Cal.App.4th 1363; Orange County Superior Court; 05CC00107.) Petition for review after the Court of Appeal affirmed in part and reversed in part an order denying class certification in a civil action. The court ordered briefing deferred pending decision in *Brinker Restaurant Corp. v. Superior Court*, S166350 (#08-157), which presents issues

concerning the proper interpretation of California’s statutes and regulations governing an employer’s duty to provide meal and rest breaks to hourly workers.

**#10-122 *King v. Wilmett*, S186151.** (C059236; 187 Cal.App.4th 313; Sacramento County Superior Court; 06AS02165.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court ordered briefing deferred pending decision in *Howell v. Hamilton Meats & Provisions, Inc.*, S179115 (#10-25), which presents the following issues: (1) Is the “negotiated rate differential” — the difference between the full billed rate for medical care and the actual amount paid as negotiated between a medical provider and an insurer — a collateral source benefit under the collateral source rule, which allows plaintiff to collect that amount as economic damages, or is the plaintiff limited in economic damages to the amount the medical provider accepts as payment? (2) Did the trial court err in this case when it permitted plaintiff to present the full billed amount of medical charges to the jury but then reduced the jury’s award of damages by the negotiated rate differential?

## **DISPOSITION**

Review in the following case was dismissed in light of *Reid v. Google, Inc.* (2010) 50 Cal.4th 512:

**#09-13 *Heggnes v. Risley*, S170374.**

## **STATUS**

**#08-108 *People v. Correa*, S163273.** The court invited the parties to file supplemental letter briefs as follows: In *Neal v. State of California* (1960) 55 Cal.2d 11, 18, footnote 1, this court said: “Although section 654 does not expressly preclude double punishment when an act gives rise to *more than one violation of the same Penal Code section* or to multiple violations of the criminal provisions of other codes, it is settled that *the basic principle it enunciates precludes double punishment in such cases also*. (*People v. Brown*, 49 Cal.2d 577, 591; see *People v. Roberts*, 40 Cal.2d 483, 491; *People v. Clemett*, 208 Cal. 142, 144; *People v. Nor Woods*, 37 Cal.2d 584, 586.)” (Italics added.) (1) Does the authority cited in this footnote support the italicized language? (2) In light of the language and purpose of Penal Code section 654, does it make sense to apply it to multiple convictions of the same provision of law? (3) Should this court reconsider what it said in *Neal v. State of California*, *supra*, 55 Cal.2d at page 18, footnote 1, and instead conclude that Penal Code section 654 does not govern multiple convictions of the same provision of law? (See *People v. Harrison* (1989) 48 Cal.3d 321, 340 (conc. opn. of Mosk, J.).)