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NEWS RELEASE

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Summary of Cases Accepted During the Week of November 8, 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.]

#10-126 *In re Coley*, S185303. (B224400; 187 Cal.App.4th 138.)

Petition for review after the Court of Appeal denied relief on a petition for writ of habeas corpus. This case presents the following issue: Does defendant's sentence of 25 years to life under the three strikes law for failing to update his sex offender registration within five days of his birthday constitute cruel and unusual punishment?

#10-127 *Pinnacle Museum Tower Assn. v. Pinnacle Market*

***Development (US), LLC*, S186149.** (D055442; 187 Cal.App.4th 24; San Diego County Superior Court; 37-2008-00096678-CU-CD-CTL.)

Petition for review after the Court of Appeal affirmed an order denying a motion to compel arbitration in a civil action. This case presents the following issues: (1) Is a homeowners association bound by an arbitration provision contained in the covenants, conditions and restrictions for a common interest development that were executed and recorded prior to the time the association came into existence? (2) Did the Court of Appeal err by applying the state law doctrine of unconscionability only to the arbitration provision, and not to other provisions in the covenants, conditions and restrictions, in light of federal law prohibiting the application of state law to treat arbitration provisions differently from other provisions of the same agreement? (See *Allied-Bruce Terminix Cos. v. Dobson* (1995) 513 U.S. 265.)

#10-128 *People v. Stanley*, S185961. (C063661; 187 Cal.App.4th 120; Yolo County Superior Court; 093110.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This

case presents the following issue: Did the trial court err in awarding the victim restitution for the costs of repairing her damaged truck, when the estimated cost of the repairs was over three times the purchase price she paid 18 months earlier?

#10-129 *California Teachers Assn. v. Governing Bd. of Salinas City Elementary School Dist.*, S185651. (H033788; 187 Cal.App.4th 91; Monterey County Superior Court; M91905.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *United Teachers Los Angeles v. Los Angeles Unified School Dist.*, S177403 (#09-86), which presents the following issue: Can a school district be required to arbitrate disputes over the granting of a charter school petition under the terms of a collective bargaining agreement, or does Education Code section 47611.5, subdivision (e), preclude referring such a dispute to arbitration?

#10-130 *Clarendon America Ins. Co. v. Starnet Ins. Co.*, S186079. (G042353; 186 Cal.App.4th 1397; Orange County Superior Court; 30-2007-00100172.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Ameron Internat. Corp. v. Insurance Co. of the State of Pennsylvania*, S153852 (#07-363), which presents the following issue: Does a proceeding before the United States Department of the Interior Board of Contract Appeals constitute a “suit” such as to trigger insurance coverage under a commercial general liability policy?

#10-131 *People v. Miller*, S186758. (E049206; 187 Cal.App.4th 902; Riverside County Superior Court; RIF145937.) Petition for review after the Court of Appeal reversed an order granting a motion for new trial in a criminal case. The court ordered briefing deferred pending decision in *People v. Dungo*, S176886 (#09-77), *People v. Gutierrez*, S176620 (#09-78), *People v. Lopez*, S177046 (#09-79), and *People v. Rutterschmidt*, S176213 (#09-80), which present issues concerning the right of confrontation under the Sixth Amendment when the results of forensic tests performed by a criminalist who does not testify at trial are admitted into evidence and how the decision of the United States Supreme Court in *Melendez-Diaz v. Massachusetts* (2009) 557 U.S. ___, 129 S.Ct. 2527, 174 L.Ed.2d 314, affects this court’s decision in *People v. Geier* (2007) 41 Cal.4th 555.

DISPOSITIONS

The following cases were transferred for reconsideration in light of *In re Prather* (2010) 50 Cal.4th 238:

#10-37 *In re Ledbetter*, S179932.

#10-49 *In re Mathewson*, S180914.

The following case was transferred for reconsideration in light of *People v. Lynch* (2010) 50 Cal.4th 693:

#10-44 *People v. Faultry*, S179910.

The following cases were transferred for reconsideration in light of *Professional Engineers in California Government v. Schwarzenegger* (2010) 50 Cal.4th 989:

#10-61 *California Attorneys, Administrative Law Judges and Hearing Officers in State Employment v. Schwarzenegger*, S182581.

#10-111 *Service Employees Internat. Union, Local 1000 v. Schwarzenegger*, S184629.

STATUS

#10-87 *People v. Dowl*, S182621. The court ordered the issues to be briefed and argued limited to the following issue: whether the People, when confronted with a medical marijuana defense, must call an expert with experience distinguishing lawful, medical possession from unlawful possession to establish that defendant possessed marijuana for sale.

#10-13 *Gomez v. Superior Court*, S179176. The court invited the California Court Commissioners Association and respondent Superior Court of Lassen County to file letter briefs in this case. The court directed the parties to file supplemental letter briefs addressing the following questions: (1) As a matter of statutory interpretation, does a decision whether to summarily deny a petition for a writ of habeas corpus or to issue an order to show cause constitute an “ex parte” matter within the meaning of Code of Civil Procedure, section 259, subdivision (a)? If not, to what matters does the statute apply? (2) Assuming that section 259, subdivision (a), grants commissioners the authority to summarily deny a habeas corpus petition or to issue an order to show cause, did commissioners actually exercise such authority prior to the adoption of article VII, section 22, of the California Constitution in 1966? (3) If commissioners did have the authority to summarily deny habeas corpus petitions prior to 1966, can it still be argued in light of *Rooney v. Vermont Investment Corp.* (1973) 10 Cal.3d 351 that such authority does not constitute a subordinate judicial duty within the meaning of article VI, section 22, of the California Constitution? (4) Have the legal consequences of a summary denial of a habeas corpus petition, or the legal determinations involved, changed since the adoption of article VI, section 22, in such a manner as to support a conclusion that a summary denial of a habeas corpus petition no longer constitutes a subordinate judicial duty?