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NEWS RELEASE

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Summary of Cases Accepted During the Week of December 12, 2005

[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.]

#05-221 *Corder v. Corder*, S138666. (G033608; 132 Cal.App.4th 1261, mod. 133 Cal.App.4th 544d; Orange County Superior Court; 01CC00182, 01CC10590.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Does the trial court in a wrongful death action have jurisdiction to apportion among the plaintiffs *the proceeds of a settlement*, or is the court's authority limited to apportioning *an award of damages* in such an action? (2) Was evidence that the decedent intended to divorce his wife admissible in an action to apportion a settlement in a wrongful death action, in the absence of any showing that such evidence was introduced in the wrongful death action itself or otherwise was considered in arriving at the amount of the settlement? (3) Did the evidence at the apportionment proceeding support the trial court's allocation of 90 percent of the settlement to the decedent's adult daughter and 10 percent to the decedent's wife?

#05-222 *Adoption of Joshua S.*, S138169. (D045067; 132 Cal.App.4th 561; San Diego County Superior Court; JA46053.) Petition for review after the Court of Appeal reversed an order awarding attorney fees in a civil action. This case presents the following issue: Was the plaintiff in a civil action that was brought to confirm the validity of a so-called second parent adoption (see *Sharon S. v. Superior Court* (2003) 31 Cal.4th 417) entitled to attorney fees under Code of Civil Procedure section 1021.5 for enforcing an important right affecting the public interest, when the plaintiff had a strong and significant, but non-pecuniary, individual private interest in pursuing the litigation?

(over)

#05-223 *Schwartz v. Visa Internat. Service Assn.*, S138751. (A105222; 132 Cal.App.4th 1452; Alameda County Superior Court; 822404-4.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court ordered briefing deferred pending decision in *Californians for Disability Rights v. Mervyn's*, S131798 (#05-93), and *Branick v. Downey Savings & Loan Assn.*, S132433 (#05-94), which present the following issues: (1) Do the provisions of Proposition 64 (Gen. Elec. (Nov. 2, 2004)) that limit standing to bring an action under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) to “any person who has suffered injury in fact and has lost money or property as a result of such unfair competition” (Bus. & Prof. Code, § 17204, as amended) apply to actions pending when the provisions of the proposition became effective on November 3, 2004? (2) If the standing limitations of Proposition 64 apply to actions under the Unfair Competition Law that were pending on November 3, 2004, may a plaintiff amend his or her complaint to substitute in or add a party that satisfies the standing requirements of Business and Professions Code section 17204, as amended, and does such an amended complaint relate back to the initial complaint for statute of limitations purposes?

DISPOSITION

People v. Quartermain, S074429, an automatic appeal, was abated upon the death of the appellant.

STATUS

People v. Boyer, S029476. The court requested the parties to brief the following issue in this automatic appeal as to defendant’s claim that various items of evidence should have been suppressed as the “tainted fruit” of the illegal police conduct toward defendant described in *People v. Boyer* (1989) 48 Cal.3d 247: Separate and apart from whether any particular item of challenged evidence would “inevitably” have been obtained (*Nix v. Williams* (1984) 467 U.S. 431), does the current record permit a determination that such evidence was otherwise procured by means sufficiently attenuated from the primary illegality to dissipate the taint? (E.g., *Brown v. Illinois* (1975) 422 U.S. 590, 603-604; *Wong Sun v. United States* (1963) 371 U.S. 471, 477-478.) The court also requested the Attorney General to address the merits of the arguments set out at pages 147 to 171 of the Appellant’s Opening Brief.

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