



NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions for Week of January 14, 2013

[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.]

#13-05 *The Gillette Co. v. Franchise Tax Bd., S206587.* (A130803; 209 Cal.App.4th 938; San Francisco County Superior Court; CGC-10-495911.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Were multistate taxpayers required to apportion business income according to the formula set forth in Revenue and Taxation Code section 25128 as amended in 1993 or could they elect to apportion income according to the formula set forth in former Revenue and Taxation Code section 38006 pursuant to the adoption of the Multistate Tax Compact in 1974?

#13-06 *People v. Infante, S206084.* (G046177; 209 Cal.App.4th 987; Orange County Superior Court; 10NF1137.) Petition for review after the Court of Appeal reversed an order granting a motion to set aside two counts in an information. The court limited review to the following issue: Did the Court of Appeal correctly determine that defendant committed independent felonious conduct that elevated his otherwise misdemeanor firearm possession to a felony and supported the charge of being an active participant in a criminal street gang in violation of Penal Code section 186.22, subdivision (a)?

#13-07 *Kandy Kiss of California, Inc. v. Tex-Ellent, Inc., S206354.* (B234541; 209 Cal.App.4th 604; Los Angeles County Superior Court; BC422116.) Petition for review after the Court of Appeal affirmed an award of attorney fees in a civil action. This case presents the following issue: Is a party who obtains the dismissal of a contract action entirely on procedural grounds entitled to an award of attorney fees under Civil Code section 1717 as the prevailing party in an action on a contract?

#13-08 *Riverside County Sheriff's Dept. v. Stiglitz*, S206350. (E052729, E052807; 209 Cal.App.4th 883; Riverside County Superior Court; RIC10004998). Petition for review after the Court of Appeal reversed an order granting a petition for writ of administrative mandate. The court limited review to the following issue: Does the hearing officer in an administrative appeal of the dismissal of a correctional officer employed by a county sheriff's department have the authority to grant a motion under *Pitchess v. Superior Court* (1974) 11 Cal.3d 531?

#13-09 *Verdugo v. Target Corp.*, S207313. (9th Cir. No. 10-57008; __ F.3d __, 2012 WL 6199193; Central District of California; 2:10-cv-06930-ODW-AJW.) Request under California Rules of Court, rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The question presented is: "In what circumstances, if ever, does the common law duty of a commercial property owner to provide emergency first aid to invitees require the availability of an Automatic External Defibrillator ('AED') for cases of sudden cardiac arrest?"

#13-10 *Henderson v. Farmers Group, Inc.*, S207068. (B236259; 210 Cal.App.4th 459; Los Angeles County Superior Court; BC443849.) Petition for review after the Court of Appeal affirmed in part and reversed in part the summary judgment in a civil action. The court ordered briefing deferred pending decision in *Zhang v. Superior Court*, S178542 (#10-16), which presents the following issues: (1) Can an insured bring a cause of action against its insurer under the unfair competition law (Bus. & Prof. Code, § 17200) based on allegations that the insurer misrepresents and falsely advertises that it will promptly and properly pay covered claims when it has no intention of doing so? (2) Does *Moradi-Shalal v. Fireman's Fund Ins. Companies* (1988) 46 Cal.3d 287 bar such an action?

DISPOSITION

Review in the following case was dismissed in light of *People v. Schmitz* (2012) 55 Cal.4th 909:

#11-116 *People v. Butler*, S195003.

STATUS

#11-124 *People v. Buza*, S196200. The court ordered further proceedings deferred pending the decision of the United States Supreme Court decision in *Maryland v. King* (Md. 2012) 42 A.3d 549, cert. granted Nov. 9, 2012 [No. 12-207], __ U.S. __ [133 S.Ct. 594].

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