



NEWS RELEASE

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Summary of Cases Accepted During the Week of January 23, 2011

[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.]

#12-12 *Promenade at Playa Vista Homeowners Assn. v. Western Pacific Housing, Inc., S198722.* (B225086; 200 Cal.App.4th 849; Los Angeles County Superior Court; BC424950.) Petition for review after the Court of Appeal affirmed an order denying a motion to compel arbitration in a civil action. The court ordered briefing deferred pending decision in *Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US), LLC, S186149* (#10-127), which 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.)

#12-13 *People v. Reese, S198269.* (F060355; nonpublished opinion; Kern County Superior Court; MF008239B.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. 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.

STATUS

#11-144 *People v. Le*, S197493. In this case in which review was previously granted, the court ordered briefing deferred pending decision in *People v. Davis*, S198434 (#12-01), which presents the following issue: Did substantial evidence support defendant's convictions for possession and sale of a controlled substance even though MDMA/Ecstasy is not expressly listed as a controlled substance subject to Health and Safety Code sections 11377 and 11379, and the prosecution did not present expert testimony that MDMA/Ecstasy contains a controlled substance or is an analog of a controlled substance?

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