



NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions for Week of February 11, 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.]

#13-16 *People v. Biane, S207250.* (E054422, E054735, E054737, E054738; nonpublished opinion; San Bernardino County Superior Court; FSB1102102.) Petition for review after the Court of Appeal affirmed in part and reversed in part orders in a criminal proceeding and granted in part petitions for peremptory writ of mandate. This case includes the following issue: Can a defendant be charged with both offering a bribe to another person and aiding and abetting the receipt of the bribe by that person?

#13-17 *People v. Chandler, S207542.* (E054154; 211 Cal.App.4th 114; Riverside County Superior Court; SWF027980.) 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 by failing to instruct the jury that the crime of attempting to make criminal threat — like the completed crime of making a criminal threat (Pen. Code, § 422) — requires that it be reasonable under the circumstances for the victim to have been in sustained fear?

#13-18 *Hartford Casualty Ins. Co. v. Swift Distribution, Inc., S207172.* (B234234; 210 Cal.App.4th 915; Los Angeles County Superior Court; BC442537.) Petition for review after the Court of Appeal affirmed the summary judgment in a civil action. This case presents the following issue: Did the allegations of the complaint constitute disparagement for purposes of insurance coverage or the duty to defend under the “advertising injury” provision of defendant’s insurance policy?

#13-19 *Luis M. v. Superior Court, S207314.* (B238460; 210 Cal.App.4th 982; MJ20593.) Petition for review after the Court of Appeal vacated an order in a juvenile wardship proceeding. This case presents the following issue: Could the restitution order in this case of felony vandalism for acts of graffiti be based on the victim city’s average

cost of removing, cleaning, and repairing incidents of graffiti on an annual basis, or was proof of the actual costs of mitigating the graffiti at issue in this case required?

#13-20 Richey v. Autonation, Inc., S207536. (B234711; 210 Cal.App.4th 1516, mod. 211 Cal.App.4th 701b; Los Angeles County Superior Court; BC408319.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Is an employer's honest belief that an employee was violating company policy or abusing medical leave a complete defense to the employee's claim that the employer violated the Moore-Brown-Roberti Family Rights Act (Gov. Code §§ 12945.1, 12945.2)? (2) Was the decision below to vacate the arbitration award in the employer's favor consistent with the limited judicial review of arbitration awards?

#13-21 Tuolumne Jobs & Small Business Alliance v. Superior Court, S207173. (F063849; 210 Cal.App.4th 1006; Tuolumne County Superior Court; CV56309.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Must a city comply with the California Environmental Quality Act [CEQA] (Pub. Resources Code, § 21000 et seq.) before adopting an ordinance enacting a voter-sponsored initiative pursuant to Elections Code section 9214, subdivision (a)? (2) Is the adoption of an ordinance enacting a voter-sponsored initiative under Elections Code section 9214, subdivision (a), a "ministerial project" exempt from CEQA pursuant to Public Resources Code section 21080, subdivision (b)(1)?

#13-22 Franco v. Arakelian Enterprises, Inc., S207760. (B232583; 211 Cal.App.4th 314; Los Angeles County Superior Court; BC369201.) Petition for review after the Court of Appeal affirmed an order denying a petition to compel arbitration in a civil action. The court ordered briefing deferred pending decision in *Iskanian v. CLS Transportation Los Angeles, LLC*, S204032 (#12-97), which includes the following issue: Did *AT&T Mobility LLC v. Concepcion* (2011) 563 U.S. __ [131 S. Ct. 1740, 179 L.Ed.2d 742] impliedly overrule *Gentry v. Superior Court* (2007) 42 Cal.4th 443 with respect to contractual class action waivers in the context of non-waivable labor law rights?

#13-23 Monarrez v. Automobile Club of Southern California, S207726. (B233512; 211 Cal.App.4th 177, mod. 211 Cal.App.4th 701a; Los Angeles County Superior Court; VC055461.) Petition for review after the Court of Appeal reversed the summary judgment in a civil action. The court ordered briefing deferred pending decision in *Patterson v. Domino's Pizza, LLC*, S204543 (#12-103), which concerns whether the defendant franchisor was entitled to summary judgment on plaintiff's claim that it was vicariously liable for tortious conduct by a supervising employee of a franchisee.

DISPOSITION

Review in the following case was dismissed in light of *Ralphs Grocery Co. v. United Food & Commercial Workers Union Local 8* (2012) 55 Cal.4th 1083:

#12-82 *Ralphs Grocery Co. v. Missionary Church of the Disciples of Jesus Christ*, S203026.

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