



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions During Week of November 25, 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.]

#13-100 *People v. Aguilar*, S213571. (A135516; 219 Cal.App.4th 1094; Contra Costa County Superior Court; 51202696.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Does the failure to object to an order for payment of attorney fees, an order for payment of a criminal justice administration fee, and/or an order for payment of probation supervision fees forfeit a claim that the trial court erred in failing to make a finding of the defendant's ability to pay the amount in question? (See also *People v. Trujillo*, S213687.)

#13-101 *Barry v. State Bar of California*, S214058. (B242054; 218 Cal.App.4th 1435; Los Angeles County Superior Court; BC452239.) Petition for review after the Court of Appeal reversed an order awarding attorney fees in a civil action. This case presents the following issue: If the trial court grants a special motion to strike under Code of Civil Procedure section 425.16 on the ground that the plaintiff has no probability of prevailing on the merits because the court lacks subject matter jurisdiction over the underlying dispute, does the court have the authority to award the prevailing party the attorney fees mandated by section 425.16, subdivision (c)?

#13-102 *Bauchamp v. City of Long Beach*, S213420. (9th Cir. No. 11-55780; 730 F.3d 986; Central District of California; 2:10-cv-01270-RGK-JC.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: "Does the phrase 'each offense' [in Civil Code section 54.3, subdivision (a), specifying penalties for violation of the California Disabled Persons Act,] refer to each occasion when a plaintiff encounters a barrier that denies the plaintiff full and equal access to a public facility, or should a trial court construe 'each offense' more narrowly, particularly in situations where a plaintiff repeatedly encounters the same barrier? If the phrase 'each offense' is not susceptible to a

narrower construction, under what circumstances would the penalty scheme in section 54.3 violate the due process clause of the state Constitution?”

#13-103 California Building Industry Assn. v. Bay Area Air Quality Management Dist., S213478. (A135335, A136212; 218 Cal.App.4th 1171; Alameda County Superior Court; RG10548693.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. The court limited review to the following issue: Under what circumstances, if any, does the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) require an analysis of how existing environmental conditions will impact future residents or users (receptors) of a proposed project?

#13-104 People v. Trujillo, S213687. (H038316; nonpublished opinion; Santa Clara County Superior Court; C1199870.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense and remanded with directions. This case presents the following issue: Does the failure to object to an order for payment of a presentence investigation fee and/or an order for payment of probation supervision fees forfeit a claim that the trial court erred in failing to make a finding of the defendant’s ability to pay the amount in question? (See also *People v. Aguilar*, S213571.)

#13-105 Gonzales v. Metro Nissan of Redlands, S214121. (E056160; nonpublished opinion; San Bernardino County Superior Court; CIVDS1105056.) Petition for review after the Court of Appeal reversed an order denying a petition to compel arbitration in a civil action. The court ordered briefing deferred pending decision in *Sanchez v. Valencia Holding Co. LLC*, S199119 (#12-33), which includes the following issue: Does the Federal Arbitration Act (9 U.S.C. § 2), as interpreted in *AT&T Mobility LLC v. Concepcion* (2011) 563 U. S. __ [131 S.Ct. 1740], preempt state law rules invalidating mandatory arbitration provisions in a consumer contract as procedurally and substantively unconscionable?

#13-106 People v. Nguyen, S213703. (E048880; 218 Cal.App.4th 1363; Riverside County Superior Court; RIC329441.) Petition for review after the Court of Appeal affirmed an order of commitment as a sexually violent predator. The court ordered briefing deferred pending decision in *People v. Blackburn*, S211078 (#13-66), and *People v. Tran*, S211329 (#13-69), which present the following issues: (1) Did the trial court prejudicially err by failing to advise defendant of his right to jury trial and obtain a personal waiver of that right? (2) Does the Court of Appeal have authority to declare a rule of procedure for the trial courts?

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The Supreme Court of California is the state’s highest court and its decisions are binding on all other California state courts. The court’s primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.