



JUDICIAL COUNCIL OF  
CALIFORNIA  
ADMINISTRATIVE OFFICE  
OF THE COURTS  
Public Information Office  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
[www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)

415-865-7740

Lynn Holton  
Public Information Officer

# NEWS RELEASE

Release Number: **S.C. 10/10**

Release Date: **March 12, 2010**

## Summary of Cases Accepted During the Week of March 8, 2010

*[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.]*

**#10-23 *People v. Branner, S179730.*** (C059288; 180 Cal.App.4th 308; Riverside County Superior Court; RIF138338.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Did this court's opinion in *People v. McGaughan* (1979) 25 Cal.3d 577 survive the passage of Proposition 8? (2) Is defendant entitled to the retroactive application of *Arizona v. Gant* (2009) 556 U.S. \_\_ [129 S.Ct. 1710], in which the high court limited vehicle searches incident to the arrest of a recent occupant after the arrestee has been secured and cannot access the interior of the vehicle? (3) If so, did the Court of Appeal err by applying the good faith exception to the exclusionary rule?

**#10-24 *Century National Ins. Co. v. Garcia, S179252.*** (B209616; nonpublished opinion; Los Angeles County Superior Court; BC379522.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: May an insurer enforce an exclusion clause in a fire insurance policy that denies coverage to innocent insureds for damages from a fire intentionally caused by a coinsured, or does such a clause impermissibly reduce coverage that is statutorily mandated?

**#10-25 *Howell v. Hamilton Meats & Provisions, Inc., S179115.*** (D053620; 179 Cal.App.4th 686; San Diego County Superior Court; GIN053925.) Petition for review after the Court of Appeal reversed a post-verdict order in a civil action. This case presents the following issues: (1) Is the "negotiated rate differential" — the difference between

the full billed rate for medical care and the actual amount paid as negotiated between a medical provider and an insurer — a collateral source benefit under the collateral source rule, which allows plaintiff to collect that amount as economic damages, or is the plaintiff limited in economic damages to the amount the medical provider accepts as payment?  
(2) Did the trial court err in this case when it permitted plaintiff to present the full billed amount of medical charges to the jury but then reduced the jury's award of damages by the negotiated rate differential?

**#10-26 *In re Enforcement Against Dana Point Safe Harbor Collective of City of Dana Point City Council Subpoena, S180365.*** (G042878; nonpublished order; Orange County Superior Court; 30-2009-00298200.) Petition for review after the Court of Appeal deemed notice of appeal to be a petition for extraordinary writ.

**#10-27 *In re Enforcement Against The Point Alternative Care, Inc., of City of Dana Point City Council Subpoena, S180468.*** (G042893; nonpublished order; Orange County Superior Court; 30-2009-00298187.) Petition for review after the Court of Appeal deemed notice of appeal to be a petition for extraordinary writ.

**#10-28 *In re Enforcement Against Holistic Health of City of Dana Point City Council Subpoena, S180560.*** (G042883; nonpublished order; Orange County Superior Court; 30-2009-00298196.) Petition for review after the Court of Appeal deemed notice of appeal to be a petition for extraordinary writ.

**#10-29 *In re Enforcement Against Beach Cities Collective of City of Dana Point City Council Subpoena, S180749.*** (G042880; nonpublished order; Orange County Superior Court; 30-2009-00298208.) Petition for review after the Court of Appeal deemed notice of appeal to be a petition for extraordinary writ.

**#10-30 *In re Enforcement Against Dana Point Beach Collective of City of Dana Point City Council Subpoena, S180803.*** (G042889; nonpublished order; Orange County Superior Court; 30-2009-00298206.) Petition for review after the Court of Appeal deemed notice of appeal to be a petition for extraordinary writ.

The court limited review in *Dana Point Safe Harbor Collective*, *The Point Alternative Care*, *Holistic Health*, *Beach Cities Collective*, and *Dana Point Beach Collective* to the following issue: Is an order compelling compliance with a legislative subpoena issued under Government Code section 37104 appealable as a final judgment?

**#10-31 *People v. Saleem*, S179660.** (B204646; 180 Cal.App.4th 254; Los Angeles County Superior Court; NA073164.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: Is Penal Code section 12370, which makes it unlawful for a person previously convicted of a violent felony to possess body armor, void for vagueness on the ground that it fails to provide fair notice of what items cannot legally be possessed?

## **DISPOSITIONS**

The following case was dismissed in light of *People v. Gonzalez* (2008) 43 Cal.4th 1118 and *People v. Rodriguez* (2010) 47 Cal.4th 501:

**#08-85 *People v. Moore*, S161216.**

The following case was dismissed in light of *People v. Kelly* (2010) 47 Cal.4th 1008:

**#08-162 *People v. Phomphakdy*, S166565.**

The following case was transferred for reconsideration in light of *People v. Kelly* (2010) 47 Cal.4th 1008:

**#08-134 *People v. Wood*, S164211.**

#