



NEWS RELEASE

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Summary of Cases Accepted During the Week of March 12, 2007

[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.]

#07-84 *Bouton v. USAA Casualty Ins. Co., S149851.* (D048522; 145 Cal.App.4th 1441; San Diego County Superior Court; GIN048502.) Petition for review after the Court of Appeal reversed an order denying a petition to compel arbitration. This case presents the following issue: Does the arbitrator or the court decide whether a claimant is an insured under an underinsured motorist insurance policy when both the policy and Insurance Code section 11580.2, subdivision (f), require arbitration of the questions (a) whether the insured is entitled to collect damages from the driver of the underinsured vehicle and (b) if so, the amount?

#07-85 *O'Hanesian v. State Farm Mutual Automobile Ins. Co., S149847.* (E038114; 145 Cal.App.4th 1305; Riverside County Superior Court; INC45408.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does the arbitrator or the trial court decide whether a prior default judgment against the driver of an underinsured vehicle resolves the two questions — (a) whether the insured under an underinsured motorist insurance policy is entitled to collect damages from the driver and (b) if so, the amount — that the policy and Insurance Code section 11580.2, subdivision (f), otherwise leave to the arbitrator?

#07-86 *People v. Gonzalez, S149898.* (C045935; 146 Cal.App.4th 327; El Dorado County Superior Court; P00CRF0406.) Petition for review after the Court of Appeal modified and affirmed judgments of conviction of criminal offenses. This case presents the following issue: When

(over)

separate firearm enhancements under Penal Code section 12022.5 and subdivisions (b), (c), and/or (d) of section 12022.53 are found true and the longest enhancement is imposed, should the lesser enhancements be stricken, stayed or simply not imposed at all?

#07-87 *Mays v. City of Los Angeles, S149455.* (B188527; 145 Cal.App.4th 932; Los Angeles County Superior Court; BS090169.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issue: Does the Public Safety Officers' Procedural Bill of Rights Act (Gov. Code, § 3300 et seq.) require that an officer facing discipline be provided with notice of both the alleged offense of which he or she is accused *and* the potential punishment within one year of discovery of the alleged misconduct?

#07-88 *Prince v. Pacific Gas & Electric Co., S149344.* (H028957; 145 Cal.App.4th 289; Santa Clara County Superior Court; 1-02-CV-810390.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: Does the principle that there can be no indemnity without liability apply to claims for implied contractual indemnity as it does to claims for comparative equitable indemnity?

#07-89 *People v. Dunn, S149332.* (B181660; nonpublished opinion; Los Angeles County Superior Court; NA061859.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Scott*, S136498 (#05-215), which presents the following issue: Did the trial court err in instructing the jury that all employees have constructive possession of their employer's property during a robbery, and, if so, what is the proper standard for determining whether an employee has constructive possession of the employer's property during a robbery?

In the following cases, which present issues relating to the effect of *Cunningham v. California* (2007) 549 U.S. ___, 127 S.Ct. 856, on California sentencing law, the court ordered briefing deferred pending further order of the court:

#07-90 *People v. Bacon, S149595.* (B189950; nonpublished opinion; Los Angeles County Superior Court; TA080607.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-91 *People v. Beswetherick, S149804.* (H029404; nonpublished opinion; Santa Clara County Superior Court; CC320853.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-92 *People v. Carter, S150090.* (F048285; nonpublished opinion; Kern County Superior Court; BF106054C.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-93 *People v. Castillo, S149348.* (E039686; nonpublished opinion; Riverside County Superior Court; RIF118575.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-94 *People v. Corona, S150057.* (A113511; nonpublished opinion; Mendocino County Superior Court; 06-6980504.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-95 *People v. Duong, S149837.* (G035340; nonpublished opinion; Orange County Superior Court; 03WF0215.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-96 *People v. Herrell, S149379.* (C050610; nonpublished opinion; Butte County Superior Court; CM023003.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-97 *People v. Lara, S149966.* (B186598; nonpublished opinion; Los Angeles County Superior Court; VA081428.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

#07-98 *People v. Mandarino, S150041.* (B188473; nonpublished opinion; Los Angeles County Superior Court; GA058400.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

#07-99 *People v. Martin, S149539.* (E038962; nonpublished opinion; Riverside County Superior Court; RIF116345.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-100 *People v. Pack, S149564.* (B187954; nonpublished opinion; Los Angeles County Superior Court; LA049451.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#07-101 *People v. Ramirez, S149964.* (B188379; nonpublished opinion; Santa Barbara County Superior Court; 1191457.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-102 *People v. Shchirskiy, S150129.* (C050796; nonpublished opinion' Sacramento County Superior Court; 04F03507.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#07-103 *People v. Verduzco, S149223.* (B184336; nonpublished opinion; Los Angeles County Superior Court; KA069032.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

#07-104 *People v. Waller, S150121.* (E038456; nonpublished opinion; San Bernardino County Superior Court; FVA017512.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

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