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NEWS RELEASE

Release Number: **S.C. 13/08**

Release Date: **March 28, 2008**

Summary of Cases Accepted During the Week of March 24, 2008

[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.]

#08-62 *Village Northridge Homeowners Assn. v. State Farm Fire & Casualty Co.*, S161008. (B188718; 157 Cal.App.4th 1416, mod. 158 Cal.App.4th 1241a; Los Angeles County Superior Court; BC265328.)

Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: After settling a first party claim by accepting money from and executing a release of the insurer, may an insured sue the insurer for fraud in inducing the settlement and seek to avoid the release without returning the money the insurer paid?

#08-63 *People v. Espino*, S160067. (H029708; nonpublished opinion; Santa Clara County Superior Court; CC467194.) 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. Towne*, S125677 (#04-75), which presents issues concerning the use as aggravating sentencing of such factors as being on probation or parole when a crime was committed and prior unsatisfactory performance on probation or parole.

#08-64 *People v. Jones*, S159867. (B189056; 157 Cal.App.4th 580; Los Angeles County Superior Court; NA060696.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Chun*, S157601 (#07-469), which presents the following issue: Does the offense of discharging a firearm at an occupied vehicle in violation of Penal Code section 246 merge with a resulting homicide

under *People v. Ireland* (1969) 70 Cal.2d 522, if there is no admissible evidence of an independent and collateral criminal purpose other than to commit an assault?

STATUS

#07-08 *People v. Lenix*, S148029. The court requested the parties to file simultaneous letter briefs addressing the significance of the United States Supreme Court's opinion in *Snyder v. Louisiana* (March 19, 2008, 06-10119) __U.S.__ [2008 WL 723750]) on the issue of whether an appellate court must perform a comparative juror analysis for the first time on appeal to evaluate the genuineness of the prosecutor's reasons for peremptorily challenging prospective jurors.

#07-36 *People v. Segura*, S148536. The court requested the parties to file simultaneous letter briefs addressing the following issues: (1) Is the underlying order in this case an appealable order? (See Pen. Code, § 1237; *People v. Gallardo* (2000) 77 Cal.App.4th 971.) (2) If not, is the order subject to discretionary writ review and, if so, by what kind of writ? (3) If the order is not appealable but is reviewable by a discretionary writ, may and should this court treat the purported appeal as the appropriate writ and exercise its discretion to decide the merits of the issue that has been briefed?

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