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NEWS RELEASE

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Summary of Cases Accepted During the Week of March 29, 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.]

#10-38 *People v. Lowery*, S179422. (E047614; 180 Cal.App.4th 630; Riverside County Superior Court; INF062558.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Is Penal Code section 140, subdivision (a), which makes it a crime to threaten a victim or witness who provided assistance to law enforcement, unconstitutionally overbroad, because it fails to require either the specific intent to retaliate against the victim with the present ability to do so or the specific intent that the threat be communicated to the potential victim?

#10-39 *Ohton v. Board of Trustees of California State University*, S180389. (D053738; 180 Cal.App.4th 1402; San Diego County Superior Court; GIC825574.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court ordered briefing deferred pending decision in *Runyon v. Board of Trustees of California State University*, S168950 (#09-04), which presents the following issues: (1) Must an employee of the California State University exhaust administrative and judicial remedies with respect to a challenged administrative decision in order to bring a claim under the California Whistleblower Protection Act (Gov. Code, § 8547 et seq.)? (2) What standard governs the determination whether the employee's internal complaint has been "satisfactorily addressed" (§ 8547.12, subd. (c)) by the California State University?

#10-40 *People v. Schwarz*, S180445. (C059021; nonpublished opinion; Sacramento County Superior Court; 07F07920.) Petition for review after

the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Dungo*, S176886 (#09-77), *People v. Gutierrez*, S176620 (#09-78), *People v. Lopez*, S177046 (#09-79), and *People v. Rutterschmidt*, S176213 (#09-80), which present issues concerning the right of confrontation under the Sixth Amendment when the results of forensic tests performed by a criminalist who does not testify at trial are admitted into evidence and how the decision of the United States Supreme Court in *Melendez-Diaz v. Massachusetts* (2009) 557 U.S. ___, 129 S.Ct. 2527, 174 L.Ed.2d 314, affects this court's decision in *People v. Geier* (2007) 41 Cal.4th 555.

STATUS

#08-62 *Village Northridge Homeowners Assn. v. State Farm Fire & Casualty Co.*, S161008. The court requested the parties to file supplemental letter briefs addressing the following issue: Should the court overrule *Garcia v. California Truck Co.* (1920) 183 Cal. 767, 773, and *Taylor v. Hopper* (1929) 207 Cal. 102, 105?

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