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NEWS RELEASE

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Summary of Cases Accepted During the Week of July 10, 2006

[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.]

#06-71 *City of Dinuba v. County of Tulare, S143326.* (F046252; 137 Cal.App.4th 1387; Tulare County Superior Court; 03-205854.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Does Government Code section 860.2 accord a county immunity for its allegedly improper calculation of property taxes and improper distribution of tax revenue owed to local taxing entities?

#06-72 *Hernandez v. City of Hanford, S143287.* (F047536; 137 Cal.App.4th 1397; Kings County Superior Court; 03C0296.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Did an amendment to a commercial zoning ordinance prohibiting a small store from selling furniture, while allowing large “box-stores” in the same commercial zone to sell furniture in a limited part of the store, constitute a violation of the small store retailer’s equal protection rights? Did the Court of Appeal accord sufficient deference to legislative findings in ruling that the small store retailer’s equal protection rights were violated?

#06-73 *Zengen, Inc. v. Comerica Bank, S142947.* (B179022; 137 Cal.App.4th 861; Los Angeles County Superior Court; BC290637.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Under Division 11 of the Uniform Commercial Code (Cal. U. Comm. Code, § 11101 et seq.), does an accountholder’s notification to a bank that wire transfers

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were “unauthorized” satisfy the statutory requirement that an accountholder “object to the payment” for purposes of allocating loss between the accountholder and the bank when a fraudulent wire transfer is made? (2) Are an accountholder’s common law tort and contract claims against a bank arising out of fraudulent payment orders for wire transfers preempted by the provisions of Division 11?

#06-74 *County of Riverside v. Superior Court*, S143492. (E039689; unpublished opinion; Riverside County Superior Court; RIC371287.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. The court ordered briefing deferred pending decision in *Mt. San Jacinto Community College Dist. v. Superior Court*, S132251 (#05-111), which presents the following issue: In a “quick take” eminent domain proceeding (Code Civ. Proc., § 1263.110 et seq.), in which the condemnor deposits “probable compensation” for the property and has a right to take possession before any issues are tried, as of what date should the value of the property be determined when the owner of the property does not exercise its right to withdraw the funds and instead litigates the condemnor’s right to take the property?

#06-75 *Dahms v. Downtown Pomona Property & Business Improvement Dist.*, S143165. (B183545; 138 Cal.App.4th 115; Los Angeles County Superior Court; BS092125.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Silicon Valley Taxpayers’ Assn., Inc. v. Santa Clara County Open Space Authority*, S136468 (#05-200), which includes the following issue: In a legal action contesting the validity of an assessment under article XIII D of the California Constitution, what standard of review should a court apply in reviewing the determination of the agency proposing to levy the assessment that the properties on which the assessment is to be imposed will “receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question,” as required by the applicable constitutional provision? (See Cal. Const., art. XIII D, § 4, subd. (f).)

DISPOSITION

Review in the following case was dismissed:

#05-55 *In re Olivia J.*, S130457.