



# NEWS RELEASE

Release Number: **S.C. 38/06**

Release Date: **September 22, 2006**

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## Summary of Cases Accepted During the Week of September 18, 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.]*

**#06-107 *Marathon Entertainment, Inc. v. Blasi, S145428.*** (B179819; 140 Cal.App.4th 1001; Los Angeles County Superior Court; BC290839.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Are the licensing requirements of the Talent Agencies Act (Lab. Code § 1700 et seq.) applicable to personal business managers as well as talent agents? (2) Is the doctrine of severability of contracts applicable to violations of the Act, or does any act of unlicensed procurement of entertainment employment for an actor by an unlicensed personal business manager in violation of the Act void a contract for personal management services in its entirety?

**#06-108 *Metcalf v. County of San Joaquin, S144831.*** (C047734; 139 Cal.App.4th 969; San Joaquin County Superior Court; CV018106.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Is a public entity liable under the Tort Claims Act (Gov. Code, § 810 et seq.) for an injury caused by a dangerous condition on the public entity's property only if it acted negligently or wrongfully (see § 835, subd. (a)), or is it sufficient that the public entity created the dangerous condition (see § 835, subd. (b))? (2) Is the reasonableness of the public entity's conduct in creating the allegedly dangerous condition an element of the plaintiff's claim on which the plaintiff bears the burden of proof, or is it an affirmative defense on which the public entity bears the burden of proof?

(over)

**#06-109 *WFS Financial, Inc. v. Superior Court, S145304.*** (C051414; 140 Cal.App.4th 637; San Joaquin County Superior Court; CV024031.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case includes the following issue: Are the provisions of the Rees-Levering Automobile Sales Finance Act (Civ. Code, § 2981 et seq.) that require a creditor to include certain disclosures in a notice of intent to dispose of a vehicle after it has been repossessed and that condition the creditor's right to seek a deficiency judgment on compliance with these requirements (Civ. Code, § 2983.2), preempted by the federal Home Owners' Loan Act (12 U.S.C. § 1461 et seq.) when the creditor is a federally chartered savings institution?

**#06-110 *People v. Manila, S144885.*** (F046611; 139 Cal.App.4th 589; Tulare County Superior Court; 122031.) 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. Palacios*, S132144 (#05-104), which presents the following issue: Does the multiple punishment bar of Penal Code section 654 apply to sentence enhancements generally and, in particular, to the enhancement under Penal Code section 12022.53, subdivision (d), for the personal and intentional discharge of a firearm resulting in death or great bodily injury?

## **DISPOSITIONS**

The following case was transferred for reconsideration in light of *Kibler v. Northern Inyo County Local Hospital Dist.* (2006) 39 Cal.4th 192:

**#05-96 *O'Meara v. Palomar-Pomerado Health System, S131874.***

Review in the following case was dismissed in light of the settlement of the action:

**#06-31 *Frame v. PricewaterhouseCoopers, LLP, S139410.***