



NEWS RELEASE

Release Number: S.C. 19/11

Release Date: May 13, 2011

JUDICIAL COUNCIL OF
CALIFORNIA
ADMINISTRATIVE OFFICE
OF THE COURTS
Public Information Office
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courts.ca.gov

415-865-7740

Lynn Holton
Public Information Officer

Summary of Cases Accepted During the Week of May 9, 2011

[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.]

#11-48 *People v. Sanders, S191341.* (F059287; nonpublished opinion; Kern County Superior Court; BF126309A.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court limited review to the following issues: (1) Is possession of a firearm after conviction of a specified violent offense (Pen. Code, § 12021.1, subd. (a)) a necessarily included offense of possession of a firearm after conviction of a felony (Pen. Code, § 12021, subd. (a)(1))? (2) Was defendant properly sentenced to concurrent terms for his simultaneous possession of two firearms in violation of Penal Code section 12021, subdivision (a)(1)?

#11-49 *People v. Wilkins, S190713.* (G040716; 191 Cal.App.4th 780; Orange County Superior Court; 06NF2339.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court limited review to the following issue: Should the trial court have instructed the jury, as requested, with CALCRIM No. 3261, on the theory that a homicide and an underlying felony do not constitute one continuous transaction for purposes of the felony-murder rule if the killer has escaped to a place of temporary safety before the homicide takes place?

#11-50 *Felix v. Aronson, S191874.* (B218160; nonpublished opinion; Los Angeles County Superior Court; LC071321.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Howell v. Hamilton Meats & Provisions, Inc.*, S179115 (#10-25), which presents the

following issues: (1) Is the “negotiated rate differential” — the difference between the full billed rate for medical care and the actual amount paid as negotiated between a medical provider and an insurer — a collateral source benefit under the collateral source rule, which allows plaintiff to collect that amount as economic damages, or is the plaintiff limited in economic damages to the amount the medical provider accepts as payment? (2) Did the trial court err in this case when it permitted plaintiff to present the full billed amount of medical charges to the jury but then reduced the jury’s award of damages by the negotiated rate differential?

#11-51 *Hodge v. Aon Ins. Services, S191415.* (B217156; 192 Cal.App.4th 1361; Los Angeles County Superior Court; BC265725.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in *Harris v. Superior Court, S156555* (#07-443), which presents the following issue: Do claims adjusters employed by insurance companies fall within the administrative exemption (Cal. Code Regs, tit. 8, § 11040) to the requirement that employees are entitled to overtime compensation?

#11-52 *United Parcel Service Wage & Hour Cases, S191908.* (B221709; 192 Cal.App.4th 1425; Los Angeles County Superior Court; JCCP No. 4606.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. The court ordered briefing deferred pending decision in *Kirby v. Immoos Fire Protection, Inc., S185827* (#10-132), which presents the following issues: (1) Does Labor Code section 1194 apply to a cause of action alleging meal and rest period violations (Lab. Code, § 226.7) or may attorney’s fees be awarded under Labor Code section 218.5? (2) Is our analysis affected by whether the claims for meal and rest periods are brought alone or are accompanied by claims for minimum wage and overtime?

#