



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF DECEMBER 22, 2003

[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 description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-156 People v. American Contractors Indemnity Co., S120474. (E031426; 112 Cal.App.4th 613, mod. 112 Cal.App.4th 1626a; Orange County Superior Court; 99NF2727.) Petition for review after the Court of Appeal affirmed an order denying a motion to vacate the forfeiture of a bail bond in a criminal case. This case presents the following issue: If the trial court erroneously enters summary judgment on a forfeited bail bond before the time prescribed by statute, is the judgment void or merely voidable in the court's discretion?

#03-157 American Financial Services Assn. v. City of Oakland, S119869. (A097784, A100258; 111 Cal.App.4th 1435; Alameda County Superior Court; 2001-027338.) Petition for review after the Court of Appeal reversed in part and otherwise affirmed the judgment in a civil action. This case includes the following issue: Is the city's local ordinance regulating "sub-prime lending" preempted by state law? (See Fin. Code, §§ 4970, 4971.)

#03-158 HLC Properties, Ltd. v. Superior Court, S120332. (B167458; 112 Cal.App.4th 305; Los Angeles County Superior Court; SC062601.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case includes the following issues: (1) What is an "organization" capable of holding and claiming the attorney-client privilege? (See Evid. Code, § 175.) (2) If an individual's

(over)

assets are managed by such an “organization” and the individual, personally or through agents, consults an attorney about those assets, is the attorney-client privilege held by the individual or the organization? (3) Assuming the privilege is held by the organization in such circumstances, does the privilege transfer to a successor entity that acquires the assets through probate of the individual’s estate? (See Evid. Code, § 953, subd. (d).)

#03-159 People v. Modiri, S120238. (H023584; 112 Cal.App.4th 123; Santa Clara County Superior Court; CC079647.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case includes the following issue: Is the so-called “group beating exception” (see People v. Corona (1989) 213 Cal.App.3d 589), as embodied in CALJIC No. 17.20, to the requirement of a finding of personal infliction of great bodily injury for purposes of imposing an enhancement under Penal Code section 12022.7, inconsistent with People v. Cole (1982) 31 Cal.3d 568?

#03-160 People v. Apodaca, S120424. (H024797; unpublished opinion; Santa Clara County Superior Court; CC120278.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#03-161 People v. Rider, S120014. (A097996; unpublished opinion; San Mateo County Superior Court; SC047362.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in Apodaca and Rider deferred pending decision in People v. Barker, S115438 (#03-77), which includes the following issue: When a defendant is charged with the felony offense of “willfully” failing to register as a sex offender (Pen. Code, § 290), does the defendant’s unintentional forgetting of the obligation to register constitute a defense to the charge?

#03-162 Kadish v. Jewish Community Centers of Greater Los Angeles, S120631. (B159740; 112 Cal.App.4th 711; Los Angeles County Superior Court; BC249545.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. The court ordered briefing deferred pending decision in Wiener v. Southcoast Childcare Centers, Inc., S116358 (03-100), which includes the following issue: Under what circumstances may the operators of a preschool be held liable for injuries incurred by the

preschool's students when a third-party assailant drove his car through a four-foot high chain link fence and onto the preschool's playground?

DISPOSITION

#02-175 People v. Allen, S110035, was transferred to the Court of Appeal for reconsideration in light of People v. Reynoso (2003) 31 Cal.4th 903.

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