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MONDAY TUESDAY WEDNESDAY THURSDAY **TODAY** Questions and Comments

TODAY'S RULINGS **PENDING CASES** NEWS **RULINGS** VERDICTS

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Dr. Leevil v. Westlake Health Care Center S241324
Jun. 14, 2017

D.J. cite: 2017 DJDAR 5679
California Supreme Court

ORDER

DR. LEEVIL v. WESTLAKE HEALTH CARE CENTER

No. S241324

C.A. 2nd, Div. 6, No. B266931

California Supreme Court

Filed June 14, 2017

Petition for review granted; issues limited

The petition for review is granted. The issue to be briefed and argued is limited to the following: Does Code of Civil Procedure section 1161a require a purchaser of real property at a foreclosure sale to perfect title before serving a three-day notice to quit on the occupant of the property?

Cantil-Sakauye, Chief Justice

Werdegar, Associate Justice

Opinions by Practice Area
Published 6/16/2017

Bankruptcy
Debtors' adversary proceeding properly dismissed where they failed to state a claim for wrongful foreclosure under California law.
Turner v. Wells Fargo N.A. (In re Turner)
(15-60046)
US Court of Appeals - Ninth Circuit June 15, 2017 — 2017 DJDAR 5690

Civil Procedure
Order denying motion to vacate final judgment is appealable even if it raises issues that could have been litigated via appeal of the judgment.
Ryan v. Rosenfeld (S232582)
California Supreme Court June 15, 2017 — 2017 DJDAR 5686

Criminal Law and Procedure
Conviction for illegal transportation of firearms into defendant's state of residence reversed, where



U.S. v. Hernandez (14-50214)
US Court of Appeals - Ninth Circuit June 15, 2017 — 2017 DJDAR 5700

Insurance
In insurance coverage dispute, policy holder entitled to receive amount to repair home damaged in fire less depreciation, even though amount exceeds home's fair market value.
California Fair Plan Assoc. v. Garnes (A143190)
California Courts of Appeal - 1st District June 14, 2017 — 2017 DJDAR 5685

Chin, Associate Justice
Corrigan, Associate Justice
Liu, Associate Justice
Cuéllar, Associate Justice
Kruger, Associate Justice

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Real Property

Civil Code Section 1009 preclude both recreational and non-recreational public use of non-coastal property from ripening into an implied dedication of a public road.

Scher v. Burke (S230104)
California Supreme Court June 15, 2017 — 2017 DJDAR 5694

ORDER:
Compre v. S.C. (People) (S241408)
California Supreme Court June 14, 2017 — 2017 DJDAR 5680

ORDER:
De La Torre v. Cashcall (S241434)
California Supreme Court June 14, 2017 — 2017 DJDAR 5679

ORDER:
Dr. Leevil v. Westlake Health Care Center (S241324)
California Supreme Court June 14, 2017 — 2017 DJDAR 5679

ORDER:
In Re C.W. (S241826)
California Supreme Court June 14, 2017 — 2017 DJDAR 5681

ORDER:
In Re J.H. (S241835)
California Supreme Court June 14, 2017 — 2017 DJDAR 5682

ORDER:
In Re J.R. (S241246)
California Supreme Court June 14, 2017 — 2017 DJDAR 5682

ORDER:
In Re T.H. (S241546)
California Supreme Court June 14, 2017 — 2017 DJDAR 5682

ORDER:
J.(K.) v. Los Angeles Unified School District (S241057)
California Supreme Court June 14, 2017 — 2017 DJDAR 5679

ORDER:
McClain v. Sav-On Drugs (S241471)
California Supreme Court June 14, 2017 — 2017 DJDAR 5679

**ORDER:
Morrison (Sinque) on H.C. (S241052)
California Supreme Court June 14, 2017 —
2017 DJDAR 5683**

**ORDER:
People v. Abrams (S241237)
California Supreme Court June 14, 2017 —
2017 DJDAR 5680**

**ORDER:
People v. Condon (S241582)
California Supreme Court June 14, 2017 —
2017 DJDAR 5680**

**ORDER:
People v. Escobar (S241137)
California Supreme Court June 14, 2017 —
2017 DJDAR 5680**

**ORDER:
People v. Guillen (S241058)
California Supreme Court June 14, 2017 —
2017 DJDAR 5681**

**ORDER:
People v. Hwang (S241778)
California Supreme Court June 14, 2017 —
2017 DJDAR 5681**

**ORDER:
People v. Ibarra (S241834)
California Supreme Court June 14, 2017 —
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**ORDER:
People v. Lopez (S241207)
California Supreme Court June 14, 2017 —
2017 DJDAR 5682**

**ORDER:
People v. Miranda (S240998)
California Supreme Court June 14, 2017 —
2017 DJDAR 5683**

**ORDER:
People v. Mueck (S241533)
California Supreme Court June 14, 2017 —
2017 DJDAR 5683**

**ORDER:
People v. Pineda (S241394)
California Supreme Court June 14, 2017 —
2017 DJDAR 5683**

ORDER:

People v. Rios (S241680)
California Supreme Court June 14, 2017 —
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ORDER:

People v. Van Orden (S241574)
California Supreme Court June 14, 2017 —
2017 DJDAR 5684

ORDER:

People v. Vaughn (S241069)
California Supreme Court June 14, 2017 —
2017 DJDAR 5684

ORDER:

Spear Education v. S.C. (Cad-Ray)
(S241197)
California Supreme Court June 14, 2017 —
2017 DJDAR 5684

Published 6/15/2017

Bankruptcy

Trustee's untimely filing of request to revoke debtor's discharge due to fraud does not warrant reversal of favorable judgment because deadline was non-jurisdictional time bar.

Weil v. Elliott (In re Elliott) (16-55359)
US Court of Appeals - Ninth Circuit June 14,
2017 — 2017 DJDAR 5641

Civil Procedure

Frivolous appeal dismissed and expanded prefilng order and sanctions imposed on vexatious litigant.

Kinney v. Clark (B265267)
California Courts of Appeal - 2nd District
June 14, 2017 — 2017 DJDAR 5677

Civil Rights

Advertising middleman unsuccessful in challenging as unconstitutional law barring advertising payments for alcoholic products.

Retail Digital Network LLC v. Prieto (13-56069)
US Court of Appeals - Ninth Circuit June 14,
2017 — 2017 DJDAR 5663

Government

City unsuccessful in arguing that contracts created enforceable obligations under Dissolution Law on part of former redevelopment agency.

City of Big Bear Lake v. Cohen (C076576)
California Courts of Appeal - 3rd District
June 14, 2017 — 2017 DJDAR 5671

Health Care

Attorney-in-fact exceeds authority under power of attorney to admit principal to residential care facility, thus precluding facility from enforcing arbitration agreement contained in admission agreement.

Hutcheson v. Eskaton Fountainwood Lodge (C074846)
California Courts of Appeal - 3rd District
June 14, 2017 — 2017 DJDAR 5655

Intellectual Property

GOOGLE mark has not fallen victim to 'genericide' to warrant cancellation of trademark despite public's widespread use of the term as a verb.

Elliott v. Google Inc. (15-15809)
US Court of Appeals - Ninth Circuit June 14, 2017 — 2017 DJDAR 5648

Real Property

Judgment entered in debtor's favor overturned where lienholder's claim for balance due on junior loan not barred by anti-deficiency statutes.

Black Sky Capital LLC v. Cobb (E064482)
California Courts of Appeal - 4th District
June 13, 2017 — 2017 DJDAR 5644

Torts

On question of first impression, arrest without any formal charges will not support claim for malicious prosecution.

Van Audenhove v. Perry (E065418)
California Courts of Appeal - 4th District
June 14, 2017 — 2017 DJDAR 5676

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Administrative Agencies

Commercial business owners need not exhaust administrative remedies before bringing suit challenging water district's method of calculating wastewater fees, warranting reversal of judgment favoring agency.

Plantier v. Ramona Municipal Water District (D069798)
California Courts of Appeal - 4th District
2017 DJDAR 5612

Arbitration

Denial of motion to compel arbitration of plaintiff-home buyers' dispute against brokers, title companies, and service providers overturned where arbitration agreements covered claims asserted.

Laymon v. J. Rockcliff Inc. (A147464)
California Courts of Appeal - 1st District
June 9, 2017 — 2017 DJDAR 5600

Contracts

Where complaint alleges failure to pay re: arguably non-contracting services, demurrer sustained improperly against unlicensed contractor that provided such services.

Phoenix Mechanical Pipeline v. Space Exploration (B269186)
California Courts of Appeal - 2nd District
June 13, 2017 — 2017 DJDAR 5623

Criminal Law and Procedure

On remand, appellate court finds no error in admitting defendant's statements that inculpates co-defendant in light of 'People v. Smith,' warranting affirmance of co-defendant's murder conviction.

People v. Smith (D069445)
California Courts of Appeal - 4th District
June 9, 2017 — 2017 DJDAR 5583

Prosecutor's request to increase defendant's sentence after jury returned its verdict violated defendant's due process, warranting reversal and remand.

People v. Wilford (D069888)
California Courts of Appeal - 4th District
June 12, 2017 — 2017 DJDAR 5606

Family Law

Family Code Section 271's sanction provisions only meant to accomplish fee-shifting as between parties to litigation; non-parties may not avail themselves of the section.

Webb v. Webb (B269311)
California Courts of Appeal - 2nd District
2017 DJDAR 5619

Water Rights

Denial of applications to sever and transfer rights to Gala River water largely upheld; remand nevertheless warranted on issue of statutory forfeiture.

United States v. Gila Valley Irrigation District (14-16942)
US Court of Appeals - Ninth Circuit June 13, 2017 — 2017 DJDAR 5628

Published 6/13/2017

Civil Procedure

Federal courts of appeal lacks jurisdiction to review order striking class allegations because plaintiffs' 'voluntary-dismissal' tactic does not amount to 'final decision.'

Microsoft Corp. v. Baker (15-457)
US Supreme Court June 12, 2017 — 2017 DJDAR 5505

Consumer Law

Defaulted debt purchaser that collects debts on its own behalf does not qualify as a 'debt collector' under Fair Debt Collection Practices Act.

Henson v. Santander Consumer USA Inc. (16-349)

US Supreme Court June 12, 2017 — 2017 DJDAR 5543

Criminal Law and Procedure

Where defendant is tried for publishing 'notice' or 'advertisement' of child pornography on members-only online bulletin board, he is not foreclosed by law from making defense that board's closed nature renders posting not a 'notice' or 'advertisement.'

U.S. v. Brown (15-30148)

US Court of Appeals - Ninth Circuit June 12, 2017 — 2017 DJDAR 5517

Where initial traffic stop violates Fourth Amendment, subsequent stop arranged by initial officer via telephone is causally related to the first and its fruits must be suppressed.

U.S. v. Gorman (15-16600)

US Court of Appeals - Ninth Circuit June 12, 2017 — 2017 DJDAR 5547

In narrow context presented, juvenile nonhomicide offender not entitled to habeas relief from life sentence where Virginia's 'geriatric release' program complied with mandates of 'Graham.'

Virginia v. LeBlanc (16-1177)

US Supreme Court June 12, 2017 — 2017 DJDAR 5515

Immigration

Without making concrete finding that class of aliens poses threat to U.S., President may not employ Immigration and Nationality Act powers to bar entry by such class.

State of Hawaii v. Trump (17-15589)

US Court of Appeals - Ninth Circuit June 12, 2017 — 2017 DJDAR 5555

Immigration laws differentiating unwed parent's ability to pass citizenship to child based on parent's gender is unconstitutional; high court declares applicable rule in the interim.

Sessions v. Morales-Santana (15-1191)

US Supreme Court June 12, 2017 — 2017 DJDAR 5530

Immunity

In matter of first impression, collateral order rule

does not allow for interlocutory appeal of denial of motion to dismiss case in state-action immunity case.

SolarCity v. Salt River Project (15-17302)
US Court of Appeals - Ninth Circuit June 12, 2017 — 2017 DJDAR 5524

Intellectual Property

BPCIA's disclosure requirements under 42 U.S.C. Section 262(l)(2)(A) not enforceable by injunction; applicant seeking FDA approval for biosimilar product need not wait for licensure before providing commercial marketing notice.

Sandoz Inc. v. Amgen (15-1039)
US Supreme Court June 12, 2017 — 2017 DJDAR 5497

ORDER:

Brown v. U.S. (16-7794)
US Supreme Court June 12, 2017 — 2017 DJDAR 5582

ORDER:

McIntosh v. U.S. (16-7234)
US Supreme Court June 12, 2017 — 2017 DJDAR 5582

ORDER:

McKnight v. Petersen (16-1003)
US Supreme Court June 12, 2017 — 2017 DJDAR 5582

ORDER:

Oil States Energy Services LLC v. Greene's Energy Group LLC (16-712)
US Supreme Court June 12, 2017 — 2017 DJDAR 5582

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Criminal Law and Procedure

Masseur who sexually victimized 'special needs' victim fails to challenge eight-year sentence; 'fortunate' not to receive maximum 10-year term of imprisonment.

People v. Sperling (B272275)
California Courts of Appeal - 2nd District June 8, 2017 — 2017 DJDAR 5475

State Dept. of Hospitals improperly 'undesignated' psychologist's SVP evaluation report and failed to follow dictates of Welfare and Institutions Code Section 6601, warranting remand.

In re Snyder (C082275)
California Courts of Appeal - 3rd District June 9, 2017 — 2017 DJDAR 5488

Defendant fails to overturn conviction for illegally importing weapons into the U.S. by arguing that the relevant substantive statutes did not apply extraterritorially.

People v. Ubaldo (14-50093)
US Court of Appeals - Ninth Circuit June 9, 2017 — 2017 DJDAR 5480

Juveniles

Order granting defendant's motion to transfer case from adult court to juvenile court is improper retroactive application of Proposition 57.

People v. Superior Court (Walker)
(D071461)

California Courts of Appeal - 4th District
June 8, 2017 — 2017 DJDAR 5459

ORDER:

Melson v. Dunn (16-1212)
US Supreme Court June 8, 2017 — 2017
DJDAR 5479

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