

Monday, December 1, 2008

Division One

**A120185 – People of The State of California, v. Kenneth Howard Davidson.**

The judgment and sentence are affirmed. Flinn, J.<sup>1</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Four

**A119944 – Stephen T. Davies, v. Sallie Mae, Inc. et al.**

By The Court: Respondents' request that this court's October 31, 2008 opinion be certified for publication is granted. The Reporter of Decisions is directed to publish said opinion in the Official Reports. Reardon, Acting P.J.

Tuesday, December 2, 2008

Division Two

**A114560 – The People, v. Eric William Treadaway and Chelsea Marie Logue.**

**A116069 – In re Chelsea Marie Logue, on Habeas Corpus.**

The judgment is affirmed. Logue's petition for writ of habeas corpus is denied. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A117114 – Mark Huschke, v. Paula Slater.**

Appellant's belated request to dismiss this appeal is hereby granted. The parties shall bear their own costs. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Certified for Publication.)

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<sup>1</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, December 2, 2008

The court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Sepulveda, J.; Annie Reasoner, Deputy Clerk; CHP Officer Kevin Barrett, bailiff.

A121713 Moberg  
v.  
South San Francisco Unified School District  
Cause called. Appellant Eric Moberg (in propria personam) argued for himself. Moira O'Neill argued for respondent South San Francisco USD. Joseph Quinn was also present on behalf of respondent, but did not argue. Cause submitted.

A120015 People  
v.  
Andre McDaniel  
Cause called. Oliver Northup argued for appellant McDaniel. David Rose argued for respondent People of the State of California. Cause submitted.

A120289 Salk  
v.  
Regents of the University of California  
Cause called. Mark Kennedy argued for appellant Salk. Ethan Schulman argued for respondent Regents Regents of the University of California. Cause submitted.

At this point, Sepulveda, J. left the bench and Rivera, J. joined the bench. Argument continued before Ruvolo, P.J., Reardon, J., and Rivera, J.

A119005 Executive Risk Indemnity

v.

Jones

Cause called. Jerome Falk argued for appellant Jones. Paul Breslin argued for respondent Executive Risk Indemnity. Sean White was also present on behalf of respondent, but did not argue. Appellant Jones is to submit a letter brief by 12 noon on Thursday, December 4, 2008; respondent Executive Risk may respond by 5:00 p.m. on Friday, December 5, 2008, at which time the cause will be submitted.

*Court adjourned at 11:16 a.m.*

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, December 2, 2008

The court convened at 1:30 p.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J.; Annie Reasoner, Deputy Clerk; CHP Officer Steven Umeki, bailiff.

- A120352      Cocotis  
                  v.  
                  Clancy  
Cause called. Appellant Gregory Cocotis (in propria personam) argued for himself. Ellyn Nesbit argued for respondent Patrick Clancy. Cause submitted.
- A121039      In re T.P., A Minor  
                  People  
                  v.  
                  T.P.  
Cause called. Olga Kelley argued for appellant T.P. Ronald Niver argued for respondent People of the State of California. Cause submitted.
- A120048      Terry Quarry, et al,  
                  v.  
                  Doe 1 Diocese  
Cause called. Irwin Zalkin and Devin Storey argued for appellant Quarry. Tami Smason argued for respondent Doe 1 Diocese. Cause submitted.

*Court adjourned at 2:35 p.m. .*

Wednesday, December 3, 2008

Division Two

**A116437 – In re Peter George Cooper, on Habeas Corpus.**

We reaffirm our prior order granting Cooper's petition for habeas corpus, vacating the Governor's decision that reversed that Board's grant of parole, and reinstating the decision of the Board. We reaffirm our order that the Board was to release Cooper immediately pursuant to the conditions set forth in its decision of February 16, 2006. In the interests of justice, this opinion shall be final as to this court immediately. (Cal. Rules of Court, rule 8.264(b)(3).) Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, December 3, 2008

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Margulies, Justice, Flinn, Justice Pro Tem, judge of Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution, Fred Abad, Deputy Clerk, and CHP Officer Stephen Umeki, Bailiff.

- A120532 Robert Larry Eder, et al.,  
v.  
California Department of Fish and Game.  
Cause called and argued by James Walsh, counsel for appellants, and Peter Southworth, counsel for respondent. Cause ordered submitted.
- A121935 Estate of Jean Marie Mooney.  
Anne Scully, et al.,  
v.  
Thomas Murphy, et al.  
Cause called and argued by James Barringer, counsel for appellant. Respondents did not appear. Cause ordered submitted.
- A112701 Joshua Sakov,  
A115566 v.  
A116796 Ester Adut.  
A118009 Cause called and argued by Ester Adut, appellant in propria persona. Respondent  
A118262 did not appear. Cause ordered submitted.

J. Marchiano concludes the cases on the morning calendar. Before the Court recessed for the afternoon calendar, J. Marchiano, J. Margulies, and J. Flinn, honored J. Swager as the 29<sup>th</sup> Justice to serve in Division One for 13 years and 10 years with the Bay Municipal Court were he had a sterling career and mastered the art of judging. J. Swager reflected on his years of service and thanked his colleagues, chamber staff, administrative staff and clerks.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, December 3, 2008

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Margulies, Justice, Flinn, Justice Pro Tem, judge of Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution, Fred Abad, Deputy Clerk, and CHP Officer Kevin Bartlett, Bailiff.

- A120899 In re K. C.,  
The People,  
v.  
K. C.  
Cause called and argued by Paul Kleven, counsel for appellant, and Christina Vom Saal, counsel for respondent. Cause ordered submitted.
- A120277 Rebecca Liceaga,  
v.  
Debt Recovery Solutions.  
Cause called and argued by Alex Trueblood, counsel for appellant, and Wendy Vierra, counsel for respondent. Cause ordered submitted.
- A119953 San Francisco Bay Area Rapid Transit District,  
v.  
Fair Employment and Housing Commission.  
Cause called and argued by Joseph Hearst, counsel for appellant, and Kathleen Mikkelson, counsel for respondent. Cause ordered submitted.
- A120874 Californians for Alternative to Toxics,  
v.  
Department of Agriculture, County of Humboldt.  
Cause called and argued by Sharon Duggan, counsel for appellant, and Rosanne Zuber, counsel for respondent. Cause ordered submitted.

Court adjourned.

Wednesday, December 3, 2008(Continued)

Division Three

**A120749, A120757 – Uphold Our Heritage, v. Town of Woodside, Steve Jobs, R.P.I.**

By The Court: The requests for publication of this court's opinion, filed November 12, 2008, are denied because the opinion (1) establishes no new rule of law, nor does it alter or modify an existing rule; (2) involves no legal issue of outstanding public interest; (3) does not criticize existing law; and (4) does not meet any of the other criteria for publication set forth in rule 8.1105(c) of the California Rules of Court. Pursuant to rule 8.1120(b) of the California Rules of Court, the clerk is directed to forward to the Clerk of the Supreme Court the requests for publication, the opinion, and a copy of this order. For the reasons set forth above, this court recommends that the requests be denied by the Supreme Court. The request for modification of the opinion and the petition for rehearing are also denied. Pollak, J. Acting P.J.

Division Four

**A115269 – Dennis Kahane, v. Lynn Jansen et al.**

The judgment is affirmed. Rivera, J., We Concur: Sepulveda, Acting P.J., Haerle, J.<sup>2</sup>  
(Not for Publication.)

Thursday, December 4, 2008

Division One

**A119346 – Mercury Insurance Company, v. David Douglas Pearson.**

The judgment in favor of Mercury is affirmed. Margulies, J., We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A120505 – In re T.L., a Person Coming Under the Juvenile Court Law. The People, v. T.I.**

The judgment is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

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<sup>2</sup> Associate Justice of the First District Court of Appeal, Division Two, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 4, 2008(Continued)

Division Three

**A120892 – The People, v. Eric Christopher Daviesson.**

The judgment is affirmed. Siggins, J., We Concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

Friday, December 5, 2008

Division Two

**A119312 – In re G.B., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services, v. C.A.**

The custody order and the revised restraining order are affirmed. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Friday, December 5, 2008

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J., and Siggins, J.; and B. Robbins, Deputy Clerk.

A119458 Ross Edwards, et al.,  
v.

Webcor Construction.

Cause called and argued by Jorja Jackson, counsel for appellant, and Niki L. Okcu, counsel for respondents Edwards et al. There was no appearance for respondent Williams. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the courtroom and Justice Jenkins joined the bench. Justice Pollak presided over the remainder of the calendar.

A121105 CHB American Bank,  
v.

Chong Soo Kim, et al.

Cause called and argued by Thomas H. Bomar, counsel for appellants, and Mark S. Faulkner, counsel for respondent. Cause ordered submitted.

A120736 Gerhard Weilandt,  
v.

Jiri Novotny.

Cause called and argued by Daniel A. Conrad, counsel for appellant, and Noell Kubota, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Friday, December 5, 2008(Continued)

Division Four

**A120050 – Jeffrey Tverberg et al., v. Fillner Construction, Inc.**

The judgment is reversed and the matter remanded to the trial court for further action. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Certified for Publication.)

**A119415 – The People, v. William Emmitt Hembree.**

The judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A118222 – City and County of San Francisco, v. Martin J. Coyne et al.**

The judgment is affirmed. CCSF is entitled to its costs on appeal. Simons, P.J., We Concur: Jones, P.J., Dondero, J.<sup>3</sup> (Certified for Publication.)

Monday, December 8, 2008

Division Four

**A119753 – The People, v. Michael James Daniel.**

The commitment order is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

**A118641 – The People, v. Dion Davis.**

Appellant's convictions for grand theft (count 2) and petty theft with a prior (count 3) are reversed. The judgment of conviction for robbery (count 1) is affirmed. Simons, J., We Concur: Jones, P.J., Dondero, J.<sup>4</sup> (Not for Publication.)

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<sup>3</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>4</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI section 6 of the California Constitution.

Tuesday, December 09, 2008

Division Two

**A117852 – David Erwin, v. LCA-Vision Inc.**

The judgment of dismissal following summary judgment is reversed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A120135 – J.K. Selznick, v. Andrew M. Zacks et al.**

The orders granting Zacks's and ZUL's motions to strike, and the related orders awarding attorney fees and costs, are affirmed. Zacks and ZUL shall recover their costs. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A119341 – Michael Dunn, v. County of Mendocino.**

The trial court judgment is affirmed. Respondent is awarded costs of appeal. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A119101 – Leua Khamvan, v. Western Environmental Consultants, Inc.**

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Tuesday, December 9, 2008

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Lambden, J., Richman, J., Officer Umeki and I. Santos, Deputy Clerk.

A113184      The People,  
                  v.  
                  Darryl Daniels et al.  
Cause called and argued by Stephen Greenberg, counsel for appellant, via teleconference, and Jeffrey M. Laurence, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, the court took a (5) five minute recess.

A117613      Kenneth William Sturgill, a Minor, etc. et al.  
                  v.  
                  City of Livermore.  
Cause called and argued by Michael G. Descalso, counsel for appellant, and Peter P. Edrington, counsel for respondent. Cause ordered submitted.

A119908      The People,  
                  v.  
                  Heliodoro Romero-Arellano et al.  
Cause called and argued by Robert Stevens Condie, counsel for appellant, and Christopher W. Grove, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A119424      Johnnie Mae Washington,  
                  v.  
                  Linda Harrington et al.  
Cause called and argued by Steven Rosenthal, counsel for appellant, and Dennis Vann, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Lambden left the bench and Justice Haerle joined the bench for the remainder of the calendar.

A120462      Diane Benson,

v.

The Workers' Compensation Appeals Board and  
The Permanente Medical Group.

Cause called and argued by Timothy Timmons, counsel for petitioner, Melissa Brown, counsel for amicus curiae California Applicants' Attorneys Association for petitioner, Carl Taber, counsel for respondent, Timothy Nelson, counsel for amicus curiae Zenith Insurance Company for respondent, and Derrick Au, counsel for amicus curiae County of Los Angeles for respondent. Cause ordered submitted.

**Court recessed until 1:30 p.m.**

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Tuesday, December 9, 2008

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Officer Fredericks and I. Santos, Deputy Clerk.

A122284 Lavender Galvao,  
v.  
Workers' Compensation Appeals Board  
and Kinko's et al.  
Cause called and argued by Michael McKenna, counsel for petitioner, and Karen Dutton, counsel for respondent. Cause ordered submitted.

A113020 The People,  
v.  
James Ary.  
Cause called and argued by James Gee, counsel for appellant, and Joan Killeen, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A121132 Peter Patras,  
v.  
Alexander Anolik, PLC et al.,  
John Crossfield.  
Cause called and argued by Harlan Watkins, counsel for appellant, and John Brown, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Presiding Justice Kline left the bench and Justice Richman joined the bench for the remainder of the calendar.

A114037/  
A120431 The People,  
v.  
Janine Simone Chandler.  
In re Janine Simone Chandler on Habeas Corpus.  
Cause called and argued by Carol Strickman, counsel for appellant, and Sharon Birenbaum, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A117889/  
A119009 In re the Marriage of Ann Marie Meagher and Malekpour Maleki.  
Ann Marie Meagher,  
v.

Malekpour Maleki.

Cause called and argued by Shahbaz Rahbari, counsel for appellant, and Edward Thomson, counsel for respondent. Cause ordered submitted.

**Court Adjourned.**

Tuesday, December 9, 2008(Continued)

Division Three

**A122992, A123320 – Ronnie Watkins et al., v. County of Alameda et al.**

By The Court: Upon due consideration of appellant's motion to consolidate appeals, it is ordered that the appeals in docket numbers A122992 and A123320 be consolidated for purposes of briefing, oral argument (if any) and decision. Counsel for all parties are directed to list both appellate case numbers on all future pleadings. Appellants' consolidated opening brief on appeal shall be due 30 days from the filing of the record in A123320. McGuiness, P.J.

Division Four

**A121594 – Catherine Louise Briggs et al., v. Resolution Remedies et al.**

By The Court: Appellants' request for rehearing is denied. Appellants' request to publish this court's November 21, 2008 opinion is granted. The Reporter of Decisions shall publish the opinion in the Official Reports. Reardon, Acting P.J. (Certified for Publication.)

**A120578 – Frank Converson, v. San Francisco Unified School District.**

The judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

**A120379 – Demas Yan, v. Marc D. Coopersmith et al.**

The order granting respondents' special motion to strike is affirmed. Respondents shall recover their costs on appeal. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Wednesday, December 10, 2008

Division One

**A121422 – The People, v. Lamar Anton Perryman.**

The judgment of the trial court is affirmed in all respects. Flinn, J.<sup>5</sup> We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

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<sup>5</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, December 10, 2008(Continued)

**A120518 – The People, v. Gregory Chatten Stockman.**

By The Court: The petition for rehearing is denied. Marchiano, P.J.

Division Three

**A119458 – Webcor Construction LP, v. Ross Edwards, JR., et al.**

The order denying a preliminary injunction is affirmed. Respondents shall recover their costs on appeal. McGuiness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Five

**A119954, A120861 – Michael M. Caminero, v. Jenny Chung.**

The trial court's order granting Chung's special motion to strike pursuant to section 425.16, subdivision (b) is reversed. The matter is remanded with directions to vacate the order and subsequent judgment of dismissal and enter a new order denying the motion. The trial court's order awarding attorney fees and costs to Chung as the prevailing part pursuant to section 425.16, subdivision (c) is also reversed. Caminero is awarded his cost on appeal. Jones, P.J., We Concur: Needham, J., Dondero, J.<sup>6</sup> (Not for Publication.)

Thursday, December 11, 2008

Division Two

**A114163 – The People, v. Pelisi Foketi Fonua.**

**A121849 – In re Pelisi Foketi Fonua.**

The judgment is affirmed and the petition for writ of habeas corpus is denied. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

**A120773 – The People, v. Rolf Gregory Kissmann.**

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<sup>6</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 11, 2008(Continued)

The judgment is affirmed. Pollak, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

**A120352 – Gregory S. Cocotis, v. Patrick Clancy et al.**

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

**A120015 – The People, v. Andre Lavont McDaniel.**

The judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Friday, December 12, 2008(Continued)

Division Two

**A119759 – Barbara Dobard, v. Steven Tai et al.**

The judgment is affirmed. Each side will bear its own costs on appeal. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A120336 – Toshia Webster et al., v. Rhonda Colvin.**

The purported appeal from the order granting the motion to permit the cross-complaint to remain on file is dismissed. The order denying the special motion to strike under the section 425.16 is affirmed. Respondents shall recover their costs of appeal. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Four

**A121974 – The People, v. Robert Z. Merrill.**

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

**A118107 – Douglas Wong et al., v. Lafayette Jamerson.**

By The Court: It is ordered that the opinion filed herein on November 14, 2008, be modified as follows: (See Order.) The request for publication is denied. Jones, P.J. (Not for Publication.)

Monday, December 15, 2008

Division Three

**A120736 – Gerhard Weilandt, as Trustee, etc., v. Jiri Novotny.**

The order denying Novotny's petition is reversed. Novotny shall recover his costs on appeal. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Monday, December 15, 2008(Continued)

Division Four

**A122475 – In re D.A., a Person Coming Under the Juvenile Court Law. The People, v. D.A.**

The judgment is affirmed. Ruvolo, J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A119075 – The People, v. Timothy Grauer Marshall.**

The order is affirmed. Simons, Acting P.J., We Concur: Needham, J., Dondero, J.<sup>7</sup> (Not for Publication.)

Tuesday, December 16, 2008

Division Two

**A122095 – The People, v. T.P.**

Our independent review having found no arguable issues that require briefing, the judgment of conviction is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A121517 – The People, v. Homer Alvin Marchbanks.**

The appeal is dismissed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

**A120030 – The People, v. Juan Carlos Barajas.**

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

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<sup>7</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, December 16, 2008(Continued)

**A120144 – Antonio Giusto, v. City of San Mateo Personnel Board, City of San Mateo, R.P.I.**

The judgment is reversed. The trial court is directed to deny Giusto's petition for writ of mandate and to enter a new judgment affirming the Board's decision. Giusto shall pay appellants' costs on appeal. Jenkins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Division Three

**A118709 – Isiah Lewis v. County of Napa.**

The judgment is reversed, and the matter is remanded with instructions to issue a writ of mandate directing the Napa County Board of Supervisors to accept for filing Lewis's appeal from the disputed order of the Planning Commission. Lewis shall recover his costs on appeal. McGuinness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Four

**A118109 – Mary Bollero Hagan, v. Bernard P. Hagan, Sommers & Schwartz LLP, et al.**

The appeal is dismissed. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, December 16, 2008

The Court convened at 9:55 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Reardon, Acting P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Marty Fredericks, Bailiff.

- A119901      Carole Marasovic  
                 v.  
                 Lun-The Yuen  
                 Cause called. In pro per appellant Marasovic argued. No appearance by, or on behalf of, respondent. Cause submitted.
- A118871      People  
                 v.  
                 Charles Santiago Davenport  
                 Cause called. Sara Zimmerman argued for appellant Davenport. Brent Wilner argued for respondent. Cause submitted.
- A118978      People  
                 v.  
                 Ali Foroutan  
                 Cause called. Under the supervision of Michael Romano, certified law student Stuart Robinson argued the opening and certified law student Nicholas Xenakis argued the closing for appellant Foroutan. John Vance argued for respondent. Cause submitted.

Court adjourned at 10:38 a.m.

Tuesday, December 16, 2008(Continued)

Division Five

**A115717 – The People, v. Scott Emerson Felix.**

The indeterminate term of commitment imposed October 20, 2006 and the dismissal of the 2006 petition are affirmed. Dondero, J.<sup>8</sup> We Concur: Simons, Acting P.J., Needham, J. (Certified for Partial Publication.)

**A120498 – In re B.H., a Person Coming Under the Juvenile Court Law. The People, v. B.H.**

The juvenile court's finding that the minor violated Penal Code section 602, subdivision (k) (trespass), is reversed. In all other respects, the court's orders are affirmed. Simons, J., We Concur: Jones, P.J., Dondero, J.<sup>9</sup> (Not for Publication.)

**A119658 – The People, v. Edwin Gail Donahue, Sr.**

The judgment is affirmed. Simons, Acting P.J., We Concur: Needham, J., Dondero, J.<sup>10</sup> (Not for Publication.)

**A119309 – The People, v. Ray Porter.**

By The Court: It is ordered that the opinion filed herein on January 31, 2008, be modified as follows: (See Order.) Jones, P.J. (Not for Publication.)

Wednesday, December 17, 2008

Division One

**A118000 – The People, v. Jade Anderson.**

The judgment of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Swager, J. (Certified for Partial Publication.)

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<sup>8</sup> Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>9</sup> Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>10</sup> Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, December 17, 2008(Continued)

**A120769 – The People, v. Fred Bernard Arnold.**

Accordingly, the judgment is affirmed. Swager, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A120775 – In re K.M., a Person Coming Under the Juvenile Court Law. The People, v. K.M.**

Accordingly, the judgment is affirmed. Swager, Acting P.J., We Concur: Margulies, J., Flinn, J.<sup>11</sup> (Not for Publication.)

**A120271 – The People, v. Ronnie Yarbrough.**

Accordingly, the judgment is affirmed. Swager, J., We Concur: Marchiano, P.J., Flinn, J.<sup>12</sup> (Certified for Publication.)

Division Two

**A120186 – The People, v. Keith Cole Christian.**

The judgment is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A116053 – The People, v. Rex Lee Bell.**

By The Court: It is ordered that the opinion herein on November 26, 2008, be modified as follows: (See Order.) There is no change in the judgment. Appellant's petition for rehearing is denied. McGuiness, P.J. (Not for Publication.)

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<sup>11</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>12</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, December 17, 2008

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J., and Siggins, J.; and F. Castuera, Deputy Clerk.

A119347 Estate of Michael Justin Belloni,  
Deceased.  
Paula Belloni  
v.  
Frank Belloni.  
Cause called and argued by Barbara Farhum, counsel for appellant, and Bernard Cummins, counsel for respondent. Cause ordered submitted.

A117299 The People,  
v.  
Sergio Mendoza Chavez.  
Cause called and argued by Douglas McMaster for appellant, and Richard Such, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Pollak, J. left the courtroom and Jenkins, J. joined the bench.

A116626 The People,  
v.  
Ricky Lee Johnson.  
Cause called and argued by David Martin, counsel for appellant, and Sharon Wooden, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, McGuiness, PJ. Left the courtroom and Pollak, J. rejoined the bench, and presided the last case.

A122022 Jorge Pineda,  
v.  
Bank of America.  
Cause called and argued by Gregory Karasik, counsel for appellant, and Thomas Geidt, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, December 17, 2008(Continued)

Division Five

**A120083 – The People, v. Guillermo Mendoza.**

The trial court order is affirmed. Simons, J., We Concur: Jones, P.J., Dondero, J.<sup>13</sup> (Not for Publication.)

Thursday, December 18, 2008

Division Three

**A121105 – CHB America Bank, v. Chong Soo Kim et al.**

The judgment is affirmed. Appellants shall bear costs on appeal. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

**A120409 – David Fernandez, v. Jennifer Fernandez, Sonoma County Department of Child Support Services, R.P.I.**

The order is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

**A121039 – In re T.P., a Person Coming Under the Juvenile Court Law. The People, v. T.P.**

The orders of the juvenile court are affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

**A121186 – In re L.F., a Person Coming Under the Juvenile Court Law. Marin County Department of Health and Human Services, v. L.F.**

The orders appealed from are affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

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<sup>13</sup> Judge of the Superior Court of The City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 18, 2008(Continued)

**A121378 – In re B.S., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services, v. J.S., B.S.**

The juvenile court's order is affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

**A116694 – The People, v. Michele Ann Walker.**

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Thursday, December 18, 2008

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Dondero, J,\* Joshua Chow and Eric F. Cyman, Deputy Clerks.

A118436 Bank of America,  
v.  
State of California,  
Cause called and argued by Todd Noonan, counsel for appellant, and by Rosemary Kelly, counsel for respondent. Cause ordered submitted.

A120228 Ford Greene,  
v.  
Marin County Flood Control,  
Cause called and argued by Ford Greene, appellant, and by Sheila Lichtblau, counsel for respondent. Cause ordered submitted.

A117503 The People,  
v.  
Danny Alfred Fontana,  
Cause called and argued by Alan Azer Dressler, counsel for appellant, and by Jeremy Friedlander, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Dondero left the bench and Justice Simons entered.

A119679 Stephen J. Kennedy,  
v.  
Healthone Staffing,  
Cause called and argued by Stephen J. Kennedy, appellant, and by Kenneth Law, counsel for respondent. Cause ordered submitted.

A117286 The People,  
v.  
Jerry Lariosa Cabonce,  
Cause called and argued by Craig Matthew Buckser, counsel for appellant, and by Sharon G. Birenbaum, counsel for respondent. Cause ordered submitted.

A119527 Nicholas Honchariw,  
v.  
Olympia Fundings,  
Cause called and argued by Nicholas Honchariw, appellant, and by Jacqueline Carroll Fagerlin, counsel for respondent. Cause ordered submitted.

A119954 Martha Decamp,  
v.  
Broad Street Investment Management et al.,  
Cause called and argued by Jacques LeBoeuf, counsel for appellant, and by Albert E. Cordova, counsel for respondent. Cause ordered submitted.

A119456 Yolanda Williams,  
v.  
Damon Williams Jr.,  
Cause called and argued by Damon Williams, appellant. Cause ordered submitted.

A120255 Christopher John Tarantino,  
v.  
Sunny Day Tarantino,  
Cause called and argued by Christopher Tarantino, appellant, and by Mary Ann Fabi Bird, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

A116816 Reginald Taylor et al.,  
v.  
Elliott Turbomachinery Co. Inc.,

A117648 Vickie Taylor et al.,  
v.  
Crane Co., et al.,  
Consolidated Causes called and argued by Paul C. Cook, counsel for appellants, and by Roger E. Podesta and Raymond Gill, counsels for respondents. Causes ordered submitted.

A115620 Stancy Nesby,  
v.  
City and County of San Francisco,

A116370 Stancy Nesby,  
v.  
City of Berkeley,  
Causes called and argued by Jivaka Candappa, counsel for appellant in case number A115620, and Bryan Vereschagin, counsel for appellant in case number A116370, and by Danny Yeh Chou, counsel for respondent in case number A115620, and Matthew Orebic, counsel for respondent in case number A116370. Causes ordered submitted.

A120430 The People,  
v.  
The Superior Court of the County of Contra Costa,  
Michael Nevail Pearson  
Cause called and argued by Douglass MacMaster, counsel for petitioner, and by David Lane, counsel for real party in interest. Cause ordered submitted.

At this point in the proceedings Justice Needham left the bench and Justice Jones entered.

A118686 Linh Lai,  
v.  
Val Dobrushin,  
Cause called and argued by Milla Leah Lvovich, counsel for appellant, and by Laura Grace Schaefer, counsel for respondent. Cause ordered submitted.

Court adjourned at 3:47 p.m.

\*Judge from San Francisco County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 19, 2008

Division Two

**A120344 – The People, v. Tyler James Dwyer.**

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

**A117929 – The People, v. Hiram Rayfield Joseph.**

The judgment is reversed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A122284 – Lavender Galvao, v. Workers' Compensation Appeals Board and Kinko's et al.**

The Board's Decision After Reconsideration is annulled, and the WCJ's decision is reinstated. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A120732 – The People, v. Susan Ward.**

The appeal is dismissed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A120865 – Olusegun K. Phillips-Alonge, v. The Regents of the University of California et al.**

Appellant's writ petition is denied. The superior court's judgment is affirmed. Respondents are awarded costs on appeal. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

**A121853 – The People, v. Cesario Angelo Jacobo, Jr.**

The \$400 fee imposed pursuant to section 1203.097 is ordered stricken. The trial court is directed to prepare an amended abstract of judgment reflecting this change and to forward a copy of the amended abstract to the Department of Corrections and Rehabilitation. In all other respect, the judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Friday, December 19, 2008(Continued)

**A121582 – In re B.G., a Person Coming Under the Juvenile Court Law. The People, v. B.G.**

The order is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A117691 – The People, v. Timothy Paul Galvan.**

The judgment is reversed on the criminal street gang enhancements imposed pursuant to section 190.2, subdivision (a)(22) and section 186.22, subdivision (b)(1). In all other respects, the judgment is affirmed. The matter is remanded to the trial court for resentencing. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A116911 – Theodore DeJung, v. Superior Court, County of Sonoma.**

The judgment is reversed, and the case is remanded for further proceedings consistent with the views expressed in this opinion. DeJung is awarded his costs on appeal.<sup>14</sup> Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Certified for Publication.)

**A120289 – Pia Salk, v. The Regents of the University of California.**

The judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A120966 – In re S.Z. et al., Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department, v. Sa.Z.**

The order granting the Department's section 388 petitions, denying father's section 388 petitions, and terminating father's visitation with daughter and son, is affirmed. Jones, P.J., We Concur: Simons, J., Dondero, J.<sup>15</sup> (Not for Publication.)

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<sup>14</sup> At oral argument, counsel for DeJung requested that, in the event we reverse and remand, we order the matter assigned to another trial judge. We deny the request as not supported by a showing that the interests of justice would be best served by such an order. (Code Civ. Proc., § 170.1 subd. (c) .)

<sup>15</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, December 22, 2008

Division One

**A121935 – Estate of Jean Marie Mooney, Deceased. Anne Scully et al., v. Thomas Murphy et al.**

The probate court's order is reversed and remanded with directions that it be modified in accordance with the views expressed in this opinion. Appellants are to bear their own costs on appeal. Margulies, J., We Concur: Marchiano, P.J., Flinn, J.<sup>16</sup> (Certified for Publication.)

Division Three

**A122022 – Jorge A. Pineda, v. Bank of America, N.A.**

The judgment is affirmed. Defendant is to recover its costs on appeal. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A119528 – The People, v. Robert Antonio Romero.**

The judgment is affirmed. The abstract of judgment shall be amended as to count four to reflect the dismissal of the enhancement allegations under section 12022.53. Pollak, J., We Concur: McGuinness, P.J., Jenkins, J. (Not for Publication.)

Division Four

**A120844 – Adoption of O.M., a Minor. T.M. et al., v. B.R.**

The trial court's order is affirmed. Respondents are awarded their costs on appeal. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Certified for Publication.)

Division Five

**A121116 – Estate of William G. Dempsey, Deceased. Dennis Giacometti, as Administrator, etc., v. Brandenburger & Davis.**

The order is reversed and remanded for determination of an appropriate fee to B&D. Costs on appeal to Giacometti. Simons, Acting P.J., We Concur: Needham, J., Dondero, J.<sup>17</sup> (Not for Publication.)

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<sup>16</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, December 22, 2008(Continued)

**A120255 – In re the Marriage of Christopher John and Sunny Tarantino.  
Christopher John Tarantino, v. Sunny Day Tarantino.**

The orders are affirmed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

Tuesday, December 23, 2008

Division One

**A118644 – In re the Marriage of Bernard and Mary Hagan. Bernard P. Hagan, v. Mary B. Hagan.**

By The Court: It is ordered that the opinion filed herein on November 25, 2008, be modified in the following particulars: (See Order.)

The petition for rehearing is denied. Marchiano, P.J. (Not for Publication.)

**A121142 – In re Kelvin Cannon, on Habeas Corpus.**

**A121143 – In re Robert Luca, on Habeas Corpus.**

By The Court: It is ordered that the opinion filed herein on November 25, 2008, be modified as follows: (See Order.)

Respondents' petition for rehearing is denied. Margulies, Acting P.J. (Certified for Publication.)

**A116847, A118116 – Anthony Marin et al., v. Costco Wholesale Corporation.**

Because neither law, nor logic, nor policy support the judgment, it is reversed with directions to enter judgment for defendant. The order awarding attorney fees and costs to plaintiffs is reversed. Defendant is awarded costs in appeal A116847; the parties will bear their own costs that are solely allocable to appeal A118116. Marchiano, P.J., We Concur: Swager, J., Margulies, J. (Certified for Publication.)

Division Two

**A120903 – In re H.E. et al., Persons Coming Under the Juvenile Court Law.  
Humboldt County Department of Health and Human Services, v. A.E.**

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<sup>17</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, December 23, 2008(Continued)

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

**A120470 – Estate of Elie Tzortzatos, Deceased. Wai-Ling Li, v. Marie-Claire Tzortzatos.**

The order appealed from this affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A121644 – The People, v. Robert Jefferson.**

The judgment is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A121616 – In re D.J. et al., Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department, v. P.W.**

The judgment is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

**A117613 – K.S. et al., v. City of Livermore.**

The judgment is affirmed. The children are to pay the costs of appeal. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

**A122716 – The People, v. David Lee Binstock.**

The judgment is affirmed. Siggins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A119347 – Estate of Michael Justin Belloni, Deceased. Frank Belloni, as Administrator, etc., v. Paula N. Belloni.**

The appeal is dismissed. Respondent shall recover his costs on appeal. McGuinness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A120624 – The People, v. Kenneth James Burke.**

The judgment is affirmed. McGuinness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Tuesday, December 23, 2008(Continued)

**A116626 – The People, v. Ricky Lee Johnson.**

The judgment is reversed as to counts six and seven. The matter is remanded to the trial court with directions to issue an amended abstract of judgment reflecting reversal on appellant's convictions on counts six and seven and correcting the error showing that one of the five year enhancements, which was imposed, was stayed (see *ante*, fn. 3). The court shall forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A123175 – B.B., v. The Superior Court of Del Norte County, Del Norte County Department of Health and Human Services, R.P.I.**

The writ petition is denied, the stay is dissolved, and the case remanded for further proceedings. The decision is final in this court immediately. (Cal Rules of the Court, rule 8.264(b)(3).) Pollak, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

**A118765 – Hal Wagenet, v. Steven Ford et al.**

The judgment is reversed, and the case is remanded to the trial court with directions to vacate its order denying appellants' special motion to strike, and to enter a new order granting the motion. Appellants shall recover their costs on appeal. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

**A122670 – The People, v. Lamont William Jones, Jr.**

Judgment affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A119967 – The People, v. Jose Alberto Montano.**

The trial court order is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A120994 – The People, v. Alexander Robert Wilson.**

Tuesday, December 23, 2008(Continued)

The judgment is affirmed. Simons, Acting P.J., We Concur: Needham, J., Dondero, J.<sup>18</sup>  
(Not for Publication.)

**A120225 – Jill Karen Schaffer, v. City and County of San Francisco et al.**

By The Court: It is ordered that the opinion filed herein on November 26, 2008, be modified as follows: (See Order.)

The petition for rehearing is denied. Needham, J. (Certified for Publication.)

Monday, December 29, 2008

Division One

**A116899 – The People, v. Sylvester Antoine Bradford.**

The judgment of the trial court is reversed. The matter is remanded to the trial court for further proceedings consistent with this decision. Margulies, J., We Concur: Marchiano, P.J., Swager, J. (Certified for Publication.)

**A120277 – Rebecca Liceaga, v. Debt Recovery Solutions, LLC.**

The trial court correctly concluded that Congress has preempted state court private actions against furnishers of inaccurate credit information to credit reporting agencies and that no exclusion for California actions exists. The judgment upon the pleadings is affirmed. Flinn, J.<sup>19</sup>  
We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

Division Five

**A118222 – City and County of San Francisco, v. Martin J. Coyne et al.**

By The Court: It is ordered that the opinion filed herein on December 5, 2008, be modified as follows: (See Order). There is no change in the judgment. Jones, P.J. (Certified for Publication.)

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<sup>18</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section of the California Constitution.

<sup>19</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section of the California Constitution.

Monday, December 29, 2008(Continued)

**A119456 – In re the Marriage of Yolanda Williams and Damon Williams, Jr.  
Yolanda Williams, v. Damon Williams, Jr.**

The judgment is affirmed. The parties shall bear their own costs on appeal. Needham, J.,  
We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A120337 – The People, v. John William McQueen.**

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Dondero, J.<sup>20</sup> (Not for  
Publication.)

Tuesday, December 30, 2008

Division One

**A122313 – The People, v. John Henry Richards, Jr.**

We find no arguable issues that require further briefing and accordingly, affirm the  
judgment. Margulies, J., We Concur: Marchiano, P.J., Flinn, J.<sup>21</sup> (Not for Publication.)

**A122360 – In re G.B., a Person Coming Under the Juvenile Court Law. The People,  
v. G.B.**

There was no abuse of discretion in the commitment to Fouts Springs Youth Facility. The  
other orders entered were appropriate for the offense. The order committing defendant to Fouts  
Springs Youth Facility is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.<sup>22</sup>  
(Not for Publication.)

**A121822 – Stardust Real Estate & Loans, v. Johnetta Maduakolam.**

The order denying the second motion for relief from default is affirmed. Marchiano, P.J.,  
We Concur: Swager, J., Flinn, J. (Not for Publication.)

Division Two

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<sup>20</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to  
article VI, section 6 of the California Constitution.

<sup>21</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to  
article VI, section 6 of the California Constitution.

<sup>22</sup> Retired Judge of the Marin Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the  
California Constitution.

Tuesday, December 30, 2008(Continued)

**A115281 – The People, v. Jamal Easterling.**

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A117458 – John Ford III, et al., Richard E. Warren, Jr.**

The judgment is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A118252 – The People, v. Luis Enrique Benitez.**

We can hardly imagine the issue being handled better than the way it was handled by Judge McLaughlin here. There was no error. The judgment is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

**A117628 – The People, v. Jorge O. Rodriguez.**

The judgment is affirmed. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

**A122097 – The People, v. Kenneth Lavern Waters.**

The judgment and sentence is affirmed. Jenkins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

**A120034 – In re J.R., a Person Coming Under the Juvenile Court Law. San Francisco Human Services Agency, v. J.C.R.**

The jurisdictional order is affirmed. McGuinness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A119260 – Thelma Russ et al., v Fremont Unified School District.**

The judgment is reversed with respect to appellants' causes of action for nonpayment of wages, and the matter is remanded to the trial court for further proceedings consistent with this opinion. In all other regards, the judgment is affirmed. The parties shall bear their own costs on appeal. Jenkins, J., We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

Division Four

Tuesday, December 30, 2008(Continued)

Division Four

**A118871 – The People, v. Charles Santiago Davenport.**

Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A121413 – In re M.P., a Person Coming Under the Juvenile Court Law. The People, v. M.P.**

The judgment is affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Wednesday, December 31, 2008

Division One

**A120874 – Californians for Alternatives to Toxins, a nonprofit California corporation, v. Department of Agriculture County of Humboldt.**

The judgment of dismissal is affirmed. Marchiano, P.J., We Concur: Margulies, J., Flinn, J.<sup>23</sup> (Not for Publication.)

**A121851 – The People, v. Gerardo Garcia.**

Accordingly, the judgment is affirmed. Flinn, J.<sup>24</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Four

**A121540 – In re T.L., a Person Coming Under the Juvenile Court Law. The People, v. T.L.**

The orders of the juvenile court are affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

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<sup>23</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>24</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, December 31, 2008(Continued)

**A119901 – Carole Marasovic, v. Lun The Yuen et al., Robert Florian DeSmet.**

The July 7, 2006 order granting defendants relief under Code of Civil Procedure section 473, subdivision (b) for their former attorney's neglect and abandonment is reversed to the extent it failed to direct that attorney, respondent Robert DeSmet, to pay appellant Carole Marasovic's reasonable compensatory legal fees and costs. Appellant shall recover costs incurred on appeal upon timely application in the trial court. (Cal. Rules of Court, rule 8.278(c)(1).) Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

**A118540 – In re Marriage of Rhonda and Shawn William Mott. Rhonda Lynn Ivaldi, v. Shawn William Mott, Robert Mott et al.**

The judgment is affirmed. Respondents shall be awarded their costs on appeal. Simons, J., We Concur: Jones, P.J., Dondero, J.<sup>25</sup> (Not for Publication.)

**A120285 – Boys and Girls Club of Petaluma et al., v. James J. Walsh et al.**

The order modifying the Trust is affirmed. Respondents are awarded costs on appeal. Jones, P.J., We Concur: Needham, J., Dondero, J.<sup>26</sup> (Certified for Publication.)

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<sup>25</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>26</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.