Sixth Appellate District

San Jose, California

MONDAY, MARCH 2, 1998

H015858 In re ALVIA MILTON YORK on Habeas Corpus.
The superior court's order is affirmed. (not published)
(Mihara, J.; We concur: Cottle, P.J., Wunderlich, J.)
Filed March 2, 1998

H017356 PEOPLE v. CRUZ
The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed March 2, 1998

H016007 PEOPLE v. WINGO
(Filed order modifying opinion.) This modification does not affect the judgment. (not published)
(Wunderlich, J.; Premo, Acting P.J.; Elia, J.)
Filed March 2, 1998

H016681 SANTA CLARA COUNTY DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES v. GERILYN T.
The juvenile court's order of March 7, 1997, denying reunification services to the mother is affirmed. (not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed March 2, 1998

H016566 PEOPLE v. GONZALEZ
The judgment is affirmed. (not published)
(Mihara, J.; We concur: Cottle, P.J., Bamattre-Manoukian, J.)
Filed March 2, 1998

H017827 GEORGE H. V. SUPERIOR COURT; SANTA CLARA COUNTY DEPARTMENT OF FAMILY AND CHILDREN'S SERVICE
The petition for an extraordinary writ is denied. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed March 2, 1998

TUESDAY, MARCH 3, 1998

H016227 PEOPLE v. TYRONE R., A MINOR
The judgment is affirmed. (not published)
(Mihara, J.; We concur: Cottle, P.J., Bamattre-Manoukian, J.)
Filed March 3, 1998

H015983 PEOPLE v. NGUYEN
The judgment is affirmed. (not published)
(Mihara, J.; We concur: Cottle, P.J., Bamattre-Manoukian, J.)
Filed March 3, 1998

Sixth Appellate District

Tuesday, March 3, 1998 (continued)

H016961 PEOPLE v. EDUARDO R., A MINOR
The jurisdictional and dispositional orders are affirmed. (not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed March 3, 1998

H016637 PEOPLE v. SPEARS
The judgment is affirmed. (not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed March 3, 1998

H016485 PEOPLE v. VALENZUELA
The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed March 3, 1998

H014635 PEOPLE v. GRASSO, et al.
H015309 PEOPLE v. CHAVEZ
The judgments against Chavez, Michael and Rosario are affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Cottle, P.J., Premo, J.)
Filed March 3, 1998

H016812 PEOPLE v. JENSEN
The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed March 3, 1998

Tuesday, March 3, 1998 (continued)

H013360, H01509, H015511, H016104, H016674, H016805, H016806, H017215 FMC CORPORATION v. PLAISTED & COMPANIES, et al.

The final judgment in this matter consists of the following eight documents:

The document titled “Judgment on Six Sites (New),” filed October 25, 1994 (hereafter “Document (1)”).

The document titled “Judgment on Six Sites (Second Trial),” filed January 2, 1996 (hereafter “Document (2)”).

The document titled “Judgment on Seven Sites (Third Trial),” filed March 4, 1996 (hereafter “Document (3)”).

The document titled “Judgment on Six Sites (Fourth Trial),” filed August 1, 1996 (hereafter “Document (4)”).

The document titled “Judgment on Five Sites (Fifth Trial),” filed January 22, 1997 (hereafter “Document (5)”).

The document titled “Judgment on Four Sites (Sixth Trial),” filed February 14, 1997 (hereafter “Document (6)”).

The document titled “Judgment on Four Sites (Seventh Trial),” filed February 21, 1997 (hereafter “Document (7)”).

The document titled “Judgment on Six Sites (Eighth Trial),” filed May 28, 1997 (hereafter “Document (8)”).

As so defined, the judgment is modified as follows:

a. In document (2), *delete* the paragraph that begins at the bottom of page 18, following the numeral 2, beginning with the words “Based on” and ending with the words “at this site,” and *insert* in place of the deleted paragraph the following new paragraph:

“Notwithstanding the findings of the jury set out in the special verdicts above, it is judicially determined and declared as a matter of law that plaintiff is not entitled to insurance coverage under the Plaisted/London insurance policies enumerated above for the policy periods of August 4, 1964 through October 1, 1970 at the Andover site.”

b. In the following eight places, *delete* the words “the anti-stacking qualifications of the ‘all sums’ analysis (per *Armstrong World Industries* and *Keene Corp*.)” or the words “the anti-stacking qualifications of the ‘all sums’ analysis pursuant to *Armstrong World Industries* and *Keene Corp*.” or the words “the anti-stacking qualifications of the ‘all sums’ analysis pursuant to *Armstrong* and *Keene Corp*.”, as appropriate, and *insert* in place of the deleted words the new words “the provision that only the policy limits of London umbrella and excess policies in effect as of July 1 in one of the policy periods in which coverage is triggered for a single occurrence can apply to

property damage attributable to that occurrence, but that if coverage for that occurrence is triggered in more than one policy period FMC may select the policy period in which the policy limits are to be fixed":

i. In Document (5) at page 7, lines 11-12.
ii. In Document (5) at page 10, lines 11-13.
iii. In Document (6) at page 5, lines 6-7.
iv. In Document (6) at page 7, lines 26-27.
v. In Document (7) at page 5, lines 19-21.
vi. In Document (7) at page 8, lines 7-8.
vii. In Document (8) at page 6, lines 9-11.
viii. In Document (8) at page 9, lines 21-23.

c. In Document (2), *delete* the section numbered 7 on page 22, beginning with the words "Based on the findings" and ending with the words "(6.156 years) pro rata," and *insert* in place of the deleted section the following new section 7:

"7. Pursuant to *Armstrong World Industries, Inc*. v. *Aetna Casualty & Surety Co*. (1996) 45 Cal.App.4th 1, each insurance policy of the London defendants in effect between August 5, 1964, and October 1, 1970, must pay, subject to its policy limits, retentions, underlying insurance limits and other policy language, and subject to the provision that only the policy limits of London umbrella and excess policies in effect as of July 1 in one of the policy periods in which coverage is triggered for a single occurrence can apply to property damage attributable to that occurrence, but that if coverage for that occurrence is triggered in more than one policy period FMC may select the policy period in which the policy limits are to be fixed, all sums that FMC is legally obligated to pay as damages to investigate and to remediate third party property damage for which FMC is liable at the Newark, Leslie Salt, and Dublin Road sites, without any allocation thereof to FMC."

d. In Document (3), *delete* the section numbered 3 on page 15, beginning with the words "Based on the findings" and ending with the words "to October 1, 1970." in subsection c) of section 3, and *insert* in place of the deleted section the following new section 3:

"3. Pursuant to *Armstrong World Industries, Inc*. v. *Aetna Casualty & Surety Co*. (1996) 45 Cal.App.4th 1, each insurance policy of the London defendants in effect between August 5, 1964, and October 1, 1970, must pay, subject to its policy limits, retentions, underlying insurance limits and other policy language, and subject to the provision that only the policy

limits of London umbrella and excess policies in effect as of July 1 in one of the policy periods in which coverage is

Tuesday, March 3, 1998 (continued)

H013360, H01509, H015511, H016104, H016674, H016805, H016806, H017215 FMC CORPORATION v. PLAISTED & COMPANIES, et al. (continued)

triggered for a single occurrence can apply to property damage attributable to that occurrence, but that if coverage for that occurrence is triggered in more than one policy period FMC may select the policy period in which the policy limits are to be fixed, all sums that FMC is legally obligated to pay as damages to investigate and to remediate third party property damage for which FMC is liable at the Ayer, Kemmerer and Green River sites, without any allocation thereof to FMC."

e. In Document (4), *delete* the section numbered 3 on page 15, beginning with the words "Based on the stipulation" and ending at the end of page 15, and *insert* in place of the deleted section the following new section 3:

"3. Pursuant to *Armstrong World Industries, Inc*. v. *Aetna Casualty & Surety Co*. (1996) 45 Cal.App.4th 1, each insurance policy of the London defendants in effect between August 5, 1964, and October 1, 1970, must pay, subject to its policy limits, retentions, underlying insurance limits and other policy language, and subject to the provision that only the policy limits of London umbrella and excess policies in effect as of July 1 in one of the policy periods in which coverage is triggered for a single occurrence can apply to property damage attributable to that occurrence, but that if coverage for that occurrence is triggered in more than one policy period FMC may select the policy period in which the policy limits are to be fixed, all sums that FMC is legally obligated to pay as damages to investigate and to remediate third party property damage for which FMC is liable at the Meadville site, without any allocation thereof to FMC."

As so modified the judgment, as so defined, is affirmed. Each party shall bear its own costs on appeal. (published)
(Bamattre-Manoukian, J.; We concur: Cottle, P.J., Mihara, J.)
Filed March 3, 1998

WEDNESDAY, MARCH 4, 1998

H016840 PEOPLE v. TORRES

The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed March 4, 1998

H016145 PEOPLE v. HARO

The judgment is affirmed. (not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed March 4, 1998

Wednesday, March 4, 1998 (continued)

H016868 PEOPLE v. JONES
The judgment is reversed. (not published)
(Wunderlich, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed March 4, 1998

H016888 PEOPLE v. BORONDA
The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed March 4, 1998

H017178 PEOPLE v. BORONDA
The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed March 4, 1998

H015946 MARRIAGE OF DAVIES
By the Court*:
Appellant's petition for rehearing is denied.
Dated March 4, 1998 Premo, Acting P.J.
*Before Premo, Acting P.J., Elia, J., and Wunderlich, J.

H015058 PEOPLE v. SMITH
The judgment is vacated and the matter is remanded for the limited purpose of allowing the trial court to consider whether or not to exercise its discretion, in light of People v. Hendrix, supra, 16 Cal.4th 508. (not published)
(Wunderlich, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed March 4, 1998

H016416 PEOPLE v. LINDSEY
The judgment is affirmed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)
Filed March 4, 1998

THURSDAY, MARCH 5, 1998

H016797 PEOPLE v. SANDOVAL
The judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Cottle, P.J., Mihara, J.)
Filed March 5, 1998

FRIDAY, MARCH 6, 1998

Sixth Appellate District

San Jose, California

H016348 BARTON v. ELEXSYS INTERNATIONAL, INC., et al.
The judgment is affirmed. Costs on appeal to defendants.
(not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed March 6, 1998

Friday, March 6, 1998 (continued)

H014845 BARLING v. COMMISSION ON TEACHER CREDENTIALING OF THE STATE OF CALIFORNIA

The order denying Barling's petition for writ of mandate is affirmed. (not published)
(Cottle, P.J.; We concur: Premo, J., Mihara, J.)
Filed March 6, 1998

H016433 PEOPLE v. O'BRIEN

The restitution order is affirmed. (not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed March 6, 1998

H017823 JOSE C. v. SUPERIOR COURT OF MONTEREY COUNTY; MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES

The petition for an extraordinary writ is denied. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)
Filed March 6, 1998

H016491 PEOPLE v. CAMOZZI

Defendant's conviction on count 2 and its corresponding true section 12022.85 finding are reversed. Defendant's sentence is modified to strike the three-year concurrent sentence for count 2 and to strike the three-year stayed term for count 2's corresponding section 12022.85 allegation. In all other respects, the judgment is affirmed. (not published)
(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)
Filed March 6, 1998