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The State of the ADA and California Law

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In the year 1510, there appeared in print a story by a Spanish writer named Garcí Rodríguez de Montalvo. *Las Sergas de Esplandián* tells the tale of a wandering adventurer who came upon a fabled land, abundant with griffons and gold, and peopled by a glorious population --- brave, strong and beautiful, black women all --- who lived in the manner of Amazons, led by Queen Califía. This realm stood apart, a patch of earth above the sea. Understood to lie west of the Indies, “very close to the side of the Terrestrial Paradise,” it fired the European imagination to such an extent that the quest to find it became one of the goals of the great Age of Exploration.

And so, in the 1530s, when Hernán Cortés sailed into the sea that now bears his name, he confidently announced to his crew that they had arrived in the domains of Queen Califía. By standards of both myth and modernity, he was a bit off. What the Medellín conquistador had encountered is what we know today as Baja, a peninsula that fingers its way into the warm, deep waters of the Pacific south of the Golden State, bereft of classical monsters, easy treasure and Amazons.

It was left, instead, to Juan Cabrillo to make the European advent into the true California, accomplished in 1542 when he floated into the bay now known as San Diego. It would be another two centuries before the Europeans would come to stay. But ultimately the Spanish arrived in force, sprinkling their saints across Califia's land until it was littered with Sans and Santas, including of course, the City in which we convene today, named for the patron of Assisi.

This story of discovery or invasion, or more precisely both, continued in 1769, when Father Junipero Serra founded the first of the 21 missions that would radically alter life by the Western sea. Moving from south to north, the Franciscans strung their outposts like rosary beads across the golden hills and valleys, taking care to position them a day's travel apart. By this, of course, they meant a day's walk, a journey afoot over uneven terrain to be undertaken by rugged individuals accustomed to physical labor, presumed to be able to cover 20 to 30 miles between dawn and twilight. But in a small nod to human needs and comfort, the traverse was made easier by the construction of El Camino Real, the royal road, which was marked with mission bells that charted the course from one clerical community to the next

By this point, I trust you are asking yourself what any of this --- interesting though I hope you find it --- has to do with the ostensible subject of my remarks, which I do understand to be the state of the ADA and California law. The answer is that I find it easier to make sense of the present and the future by first exploring

their foundations in the past. And in the story of how California got her name, and what the friars did when they arrived here, I find lessons that give me insight into my topic.

The primary lesson is that the history of California is complex and much disputed. What is true, and what it means, is often a subject of great controversy. I could tell you several other accounts of how the 31st state was named, some of them arising from the languages of the indisputably real indigenous peoples of California, rather than the characters of European fantasy. I could also tell you of the decimating effect of the mission system on Native Americans, clearly a story of destruction rather than creation.

But while far from the only stories to be told, the fantastic account of the black monarch of the West, and the tale of El Camino Real, speak to me in ways that serve my purposes here today. They confirm to me that myth and imagination are an integral part of California; that the foundational ideas of our state include the notion that improbable glories may indeed exist or be created; and that effective pathways can and should be built to link us to one another.

What is striking to me is that such thinking is a hallmark not only of the majority and the powerful, but also of Californians who have consistently been excluded from or marginalized by her history, including, of course, people with disabilities. In placing his outposts, Junipero Serra gave not a thought to the needs of those who could not journey afoot, and his mission bells were designed for the

benefit of those who could hear. But the glorious promise of California, the prospect of a royal road to paradise, has proved strong enough to keep reinventing itself for more enlightened ages.

One of my disability community colleagues illustrated this point when she told me she had come here because she heard that curb cuts were paved in gold. I have yet to locate that particular accessibility requirement in Title 24 of the state building code, but primeval part of my California mind would not be overly surprised to find it there.

In any event, the evolving myth of El Camino Real now gives quarter to the curb cuts themselves, as well as to detectable warnings for those who are blind, visual cues to accompany the voice of the bells, and inventive accommodations for disabilities that affect endurance, and the ability to read the signposts along the way.

But myth is one thing, and reality is another. How is the disability community actually faring in its efforts to access and travel the royal road? As it turns out, the answer includes a nuanced interplay between state and federal developments, making it not only possible, but necessary, to speak of the ADA and California law together.

Montalvo's vision of a California island was powerful enough to keep her reflected as such on Renaissance maps long after European explorers had debunked the idea of a stand-alone Western paradise. On the same theme, our U.S.

countryfolk continue to rail against various purported forms of California incontinence, some of which they might even be able to prove. But the truth is that California really is quite tightly bound to the American mainland, as is clearly manifest in her civil rights history.

In 1959, California enacted the first incarnation of the Unruh Civil Rights Act. Named for its sponsoring author, California Assemblymember Jesse Unruh, this statute applied to “all business establishments of every kind whatsoever,” prohibiting discrimination “on the basis of race, color, religion, ancestry or national origin.” In 1959, also, came the first version of the state’s Fair Employment Practices Act, known as FEPA. Both these early California laws became templates for later civil rights reforms enacted nationally in the 1960s, prominently including, of course, the Civil Rights Act of 1964.

This same time period also saw the earliest efforts to address disability in the modern civil rights era. In 1968 came the federal Architectural Barriers Act, and California’s Government Code 4450, both of which mandated some measure of physical access to government buildings.

That same year, in an advance over federal law, the state legislature passed California Civil Code 54.1, often known as the California Disabled Person Act. Reaching to privately owned and operated businesses two decades before the ADA was enacted, the state CDPA in its earliest form expressly prohibited discrimination against those with physical and visual disabilities.

By the 1970s, California in her turn was taking some pages from the federal code books. “Sex” was added to the Unruh Act’s list of protected diversity characteristics. The state legislature also took heed of the fundamental principle underlying Title VI of the ’64 Civil Rights Act, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973. These three federal enactments prohibited discrimination by recipients of federal financial assistance on the basis of race, sex and disability, respectively, standing collectively for the proposition that government money could not be used to underwrite discrimination.

Mirroring these federal developments, in 1977, California enacted Government Code 11135, which barred any program or activity funded by the state from discriminating “on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability.” Though lacking in effective implementation and enforcement mechanisms, Cal. Gov. Code 11135 was nevertheless remarkable for its inclusion of both physical and mental disability in a more general civil rights statute.

In the field of employment, also, California was early in protecting the interests of people with disabilities. In 1973, what was then termed “physical handicap” --- defined to include sensory as well as physical impairments --- was added to FEPA. In 1980, the state’s primary employment protections were

recodified and renamed, becoming part of the current Fair Employment and Housing Act, FEHA, which is still found in the state's Government Code.

On the federal side, the 1980s saw extensive congressional and judicial activity, often taking the form of a colloquy between the two branches. Legislative overrides such as the Remedies Act of '86 and the Restoration Act of '88 overturned restrictive U.S. Supreme Court interpretations of the federal civil rights canon. At the same time, Congress was enacting new substantive protections for people with disabilities, including the Air Carrier Access Act of 1986, and the 1988 Amendments to the Fair Housing Act, which for the first time added disability to an existing general federal civil rights law.

This, then, was the rich and varied landscape against which the ADA was enacted. There were numerous federal laws in place already prohibiting disability discrimination. They mandated architectural access to federal buildings. Reached to both public and private recipients of federal funds, including virtually all state and local governments. Encompassed both public and private housing. And covered air travel.

And on the state side, California stood generally abreast or ahead of the nation when it came to protecting the interests of people with disabilities. There were requirements for physical access to state buildings. A disability-specific public accommodations law addressing physical and sensory disabilities. A general employment discrimination law that included physical and sensory

disabilities, with those protected characteristics also added to the general Unruh Act list as of 1987. And a prohibition against discrimination by recipients of state funding, which covered both physical and mental disabilities.

It was at this time, in the late 1980s, that I began my own practice at DREDF. To be a new lawyer is tremendously exciting in any event --- if you don't think that's true, you're in the wrong job --- but to be a new disability civil rights lawyer at that time was a truly heady experience. There was a glorious sense of momentum, of a social justice movement poised to achieve a culminating victory. That victory, of course, was to be the Americans with Disabilities Act, a landmark piece of legislation that would fill in the gaps in the existing federal disability rights canon, and embed disability into the general national consciousness in an unprecedented way.

The ADA was indeed that landmark, a success borne of the hard work of the disability rights movement over decades, years spent forging necessary political alliances, and crafting and implementing precursor laws that would demonstrate to Congress the viability of this new, even more ambitious, legislation.

California's special role is seen here yet again, for as in the debates leading up to the 1964 Civil Rights Act, this state's vanguard civil rights protections factored into the congressional consideration of the ADA. Did it make sense to require disability access to privately owned public accommodations? The Golden State had already opened that lunch counter. Would transportation systems grind

to a halt if lifts on buses were expressly mandated? California had already deployed them along the royal road. The ADA was the future, but it never could have been achieved without support from the past.

As I reflect on this now, two decades later, a few critical observations come to mind. The first is grounded in the old adage “Be careful what you wish for.” The spectacular successes of the ADA have paradoxically spawned some of its most bedeviling challenges. If you travel the country asking random groups of people to name a disability law, many now can, who could not have done so before 1990. And what they usually identify is the ADA.

But the edifice of the ADA so overshadows its foundations that the foundations have become curiously invisible. It is as if the history of what came before --- the intricate filigree of federal disability and general civil rights laws, and the strong and independent history of state law protections in various parts of the country --- were somehow obliterated by ADA’s overpowering arrival on the scene.

Were this ignorance evident solely among the lay folk on the street, it would not be quite as worrisome. But as case law from the 1990s confirms, it is an ignorance to be found among members of the judiciary across the nation and, most problematically for us, here in California. Now, it is true that the Golden State continued its historic interplay with federal precedent in the wake of the ADA, passing, most prominently, AB 1077 in 1992. This California enactment was

indeed intended to conform state law to the ADA in some respects, for example, adding mental disability protection to FEHA for the first time.

But what seemed quickly forgotten were other key aspects of 1077 --- the confirmation, for example, of California's intent to reference only *explicitly endorsed* or *analogous* provisions of federal law. To incorporate the federal ADA as a floor but not a ceiling of protection. And to preserve the state's independent disability rights laws where they are of equal or greater strength than their federal counterparts.

But in 1992, the risk of confusion borne of express state cross-reference to federal law seemed not particularly likely to result in any significant damage. Which leads me to my second observation about the ADA's post-passage journey: be careful of the unexpected, the famously described "unknown unknowns." In this case, these include statutory construction developments such as the dramatic judicial narrowing of the federal definition of "disability," and recent changes in federal attorneys' fees law, and well as constitutional developments attendant to the renewed federalism debate.

In the late 1980s, when the ADA was wending its way through Congress, the prospect of a definition problem was undreamed of, and the legislative strategy decision seemed obvious: it was best to go with the tried-and-true, to adopt the Section 504 disability definition, which in the 15+ years of judicial interpretation since 1973 had not proved a barrier to standing. I realize this seems somewhat

astonishing in retrospect, now that the U.S. Supreme Court's tangled efforts to parse the concept of "disability" have been bound into the reporters. I speak here of the high court's 1999 *Sutton* trilogy, and the 2002 *Toyota v. Williams* case.

But even with benefit of these opinions to study, I confess perplexity at this definition dilemma. It doesn't make sense to me. While there is a sampling of reverse discrimination cases to consider, in no other field of civil rights law is standing the fierce focus of analysis. The debate is instead where it should be: on the question of whether the diversity characteristic in question has inappropriately resulted in exclusion or discrimination.

But the federal courts seem utterly unable to treat disability in kind, particularly in the context of employment cases. As I search for something to account for this turn of events, a most depressing insight comes front and center: for all our progress towards enlightenment, the courts, in particular the U.S. Supreme Court, seem unable to accept the foundational idea that disability and ability can comfortably co-exist. If you can do things, do the job, they seem to be saying, you can't really be disabled, and if you are truly impaired, you couldn't possibly be qualified. Perhaps that isn't the motivation behind this trend, but the result is clear: a staggering 95% of disability cases that come to judicial decision are being resolved on summary judgment against the plaintiff on this threshold standing issue.

In other statutory construction news, we have the *Buckhannon* decision. It was a sleeper from a media perspective, issued on the same day as the Casey Martin decision in 2001, with the golfer's long drive to and through the high court grabbing all the headlines. But *Buckhannon* is clearly among the most profoundly influential of the modern civil rights decisions, invalidating, as it did, the federal catalyst theory for attorneys' fees recovery. It adds, moreover, to the bad news previously conveyed by the 1992 *City of Burlington* decision, which eliminated the possibility of multipliers in federal fee-shifting cases.

Under *Buckhannon*, plaintiffs are not "prevailing" unless they have secured a judgment on the merits or a court-ordered consent decree. This decision, too, perplexes me, because its predictable effect runs counter to the Court's stated interest in ensuring only appropriate and efficient litigation. Elimination of catalyst fees, in contrast, serves both as a practical deterrent to enforcement of civil rights laws by those who cannot afford counsel, and as an incentive to pursue litigation to the bitter end when it is filed.

The news on the federalism front is yet more remarkable, and adding to the complexity is the fact that it is really a development on two fronts. For it raises issues of federal judicial versus legislative powers, as well as issues of general federal powers vis-à-vis the states.

When the ADA was in passage, there was no thought given to the idea that Congress might lack the power to enact this legislation, or to impose it on the

states. The bill in its time was entirely consistent with the vision of federalism that had guided this country since the passage of the first major civil rights statutes of the 1960s. It was the vision of a fundamentally national community, whose ideals were to be safeguarded through the broad, comprehensive and active involvement of the federal government in the protection of the rights of its citizens.

For much of the past five decades, that vision, once established in its mid-20th Century form, went virtually unquestioned. Indeed, it was so fundamentally internalized that it is difficult now to view it as the truly revolutionary vision that it is. Both the federal actors with the power to make and interpret laws, and the national community to whom those laws were applied, began to take it for granted, and it was against that backdrop that the ADA was enacted.

But the Rehnquist Court, now transitioned into the Roberts Court, has not been so complacent. In the year 2000, beginning with the *Kimel* case, and continuing on to the *Goodman* decision almost exactly a year ago, this vision has been subject to a profound reevaluation, which is playing out now not only at the highest levels of government, but in public debate.

In one of my more pessimistic moments, it occurred to me that this recent cataract of Eleventh Amendment immunity decisions, which finds parallels in a stream of modern Commerce Clause authority, and threatens now to spill over into Spending Clause jurisprudence, can be characterized, at base, as an attempted

revision of the First Amendment. In its new incarnation, this cornerstone provision might soon read: “Congress shall make no law --- period.”

In truth, that is a hyperbolic assessment (offered primarily for the laugh you just gave me, because a sense humor is always worth retaining). There is a great temptation to view this current federalism reconsideration with a sense of surprise and dislocation, as if we face a challenge we have never faced before. But notwithstanding the quietudes of most of the past fifty years, the challenges of and to federalism have always been the central challenges of American history.

The most critical junctures of our national life have been characterized by this repeating hallmark: by an intense and passionately engaging debate about the appropriate vision for a federated government that provides citizenship to those who are simultaneously the citizens of disparate, far-flung, sovereign states.

It was such a debate that resulted, in 1787, in the elegance of the United States Constitution. It was such a debate that resulted, between 1861 and 1865, in the bloodshed of the American Civil War. It was such a debate that resulted, in the 1960s, in the passage of our modern federal civil rights statutes. And, I submit, it is a debate that is again at the forefront of American politics and law.

Historically, our eras of intense national debates about federalism have been painful, sometimes unbearably so. But for the most part the new realities that have emerged from them, as well the insights that we have gained about ourselves and

each other in the process, have ultimately inured to the benefit of both individual Americans and our society as a whole.

But in the meantime, where are we, and where do we go from here? The federalism debate will continue to play out, adding a new chapter to constitutional jurisprudence that will impact the ADA and its precursor federal disability statutes along with the rest of the modern federal civil rights canon. As for federal statutory construction issues, the retrenchment of prevailing party fee entitlements will also continue to affect enforcement of all federal civil rights laws.

As far as disability specifically, the definition dilemma will remain at the forefront. There has already been one bill dropped in Congress to address this issue, H.R. 6258, the “ADA Restoration Act of 2006.” Though that particular legislation died with the close of the 109th Congress last fall, the possibility of a restoration act is now a key agenda item for the national disability community.

The issue of “notification” also remains on the national radar. As you may recall, Clint Eastwood became a prominent spokesman on this issue in the year 2000, when his Mission Ranch hotel and restaurant in Carmel, California, became the subject of an access lawsuit. As was correctly reported, Eastwood ultimately obtained a jury verdict in his favor. But that victory was grounded in the determination that the plaintiff had not actually tried to use the Mission Ranch facilities, and was therefore not herself denied access. Much less publicized was

the jury's determination that there were indeed numerous barriers in violation of access standards.

Indeed, the existence of access problems had never really been in dispute at Mission Ranch. The case was controversial, rather, because it raised the question of whether it is fair to hold businesses accountable for violations if they have not first been notified of problems by individual patrons with disabilities.

While at first blush this type of warning might seem reasonable, in no other civil rights law is there a requirement to individually inform public accommodations of their legal obligations before pursuing a claim. The ADA is now seventeen years old, and many millions of dollars have been spent to educate businesses of their responsibilities. To introduce an unprecedented requirement of "notification" at this point --- or frankly any point --- creates a disincentive for compliance, allowing offenders to simply wait until they are caught before initiating needed accessibility modifications.

But the purported fairness of "notification" has gained great sway in the public mind, with the support of formidable advocates such as Eastwood, who put his weight behind H.R. 3590, the "ADA Notification Act of 2000." I like to think of myself as relatively fearless, but Eastwood is the kind of adversary that can really give one pause. At the time of the Mission Ranch trial, I tried to convey to the media my concern about the implementation barriers that notification would create. Somehow, I ended up quoted in the San Jose Mercury News as saying that

Clint Eastwood was a “deterrent and an obstacle” to access. I still have this image of Dirty Harry squinting at his morning paper over a cup of coffee, muttering to himself about how this Kilb person was gonna make his day.

The Mission Ranch trial is long over, and H.R. 3590 died with the 106th Congress. But the prospect of notification remains of continued concern to the disability community, and the debates over its propriety will undoubtedly continue.

All told then, from the vantage of 2007 it is difficult to keep disappointment entirely at bay. The sense of promise and possibility that we felt in 1990 on the south lawn of the White House when the ADA was signed is now a distant memory. But it is not entirely gone.

Despite the unexpected set-backs that we have encountered, the ADA has embedded disability deeply into the national consciousness, and done much of practical significance to change both the architectural and attitudinal barriers that challenge people with disabilities. The ADA has made a difference in real American lives, and it has served as a beacon to the world, with numerous countries inspired by the U.S. model towards enactment of their own disability rights protections.

As far as the view closer to home, there is generally even more good news. There was, yes, a perplexing judicial amnesia during the late 1990s, when California state courts and federal courts within the Golden State seemed unable to

fathom the idea that California could and did have her own strong and independent disability rights protections.

But we seem to have overcome that hurdle now, most prominently with the passage of the Prudence K. Poppink Act of 2000, named for a stalwart disability rights colleague now gone, which clarified and confirmed the broad reach of California's state law definition of "disability." As a result, we are now seeing California jurisprudence that put the emphasis where it should be, on the merits of disability discrimination claims. There is, for example, *Green v. California*, now fully briefed and awaiting scheduling of oral argument in the California Supreme Court, which will address a key FEHA burden of proof issue.

On the enforcement front, things also look fairly good on the state side. When the Casey Martin case came down in 2001, I heard about the decision, as I sometimes do, from a reporter. This reporter was savvy enough, after our golf conversation was concluded, to ask me what I thought of *Buckhannon*, which I similarly first heard about on that call.

Now, I have a mute button on my phone for just such situations --- inartfully named, of course, because one need not be vocal to communicate, even across a telephone wire. But in my case it's a safety feature that prevents me from blurting out the first thing that comes into my mind when I hear about an adverse decision. So I managed to keep my initial instinct out of print, though I confess to you now it

was something on the order of “Gee, I really gotta get myself a map of the state courthouses.”

The state courthouses indeed continue to prove a relatively solid remedial refuge, though developments of recent years have created some flux and controversy. We have our own notification dramas here in California, fueled to an even greater heat by the availability of damages under our public accommodations laws. And as on the federal side, public perceptions of “fairness,” as well as legislative history and legal reasoning, will likely continue to inform the debate.

In state fees news, there is *Ketchum v. Moses*, a 2001 anti-SLAPP case in which the California Supreme Court confirmed the availability of multipliers under California fees law. *Ketchum* progeny continue to develop state authority in this area, hopefully moving us away ever-more-clearly away from the federal example set in *City of Burlington*.

As far as the theory of catalyst fees, in 2004, the California Supreme Court issued the *Graham* and *Tipton-Whittingham* decisions, explicitly declining to import *Buckhannon* into state law. However, this line of authority articulates a new rule, specifically, that “a plaintiff seeking attorney fees under a catalyst theory must first reasonably attempt to settle the matter short of litigation.” The exact parameters of this “attempt-to-settle” requirement will undoubtedly continue to be fleshed out in other catalyst theory cases. In the meantime, the *Vasquez v. California* case, which like *Green* is now awaiting high court oral argument, will

consider whether the “attempt-to-settle” rule should be extended to non-catalyst cases.

In other news, 2004 also saw the passage of Proposition 64, a citizens’ referendum that mandated changes to California’s Unfair Competition Law, the UCL, California Business & Professions Code 17200. The UCL had previously been a very expansive tool for enforcement of civil rights, as well as consumer protections in the Golden State. Historically, Section 17200 had granted very broad standing, enabling even those not directly affected or injured by a challenged action or omission to bring a UCL claim.

Proposition 64, in contrast, limits the right to sue under the UCL to plaintiffs who have actually suffered injury. Most problematically, it defines injury to require loss of money or property, a form of loss often not present in civil rights cases. However, California’s key disability rights statutes independently provide for private rights of action, and generally expansive remedies, thus lessening the impact of Proposition 64 in this particular field of law.

Finally, I note that the *Pioneer Electronics* decision came down about two weeks ago, confirming the continued availability of a robust California class-action vehicle for enforcement of consumer protections and civil rights.

And so it goes, in these and other ways that we will explore over the course of this Symposium. Federal rights remain in flux, with the potential for wax or wane. But our concern about that serves as a powerful reminder that the disability

community indeed has something left to protect at the national level. And regardless of national developments, I think it is fair to say that the royal road through Queen Califia's land remains open to us, now more than ever. We are, as always, a day's travel from tomorrow. And the journey will continue.

Kilb Hastings Remarks – February 2007
Judicial Authority List
FEDERAL AUTHORITY

****Definition**

Bragdon v. Abbott, 118 S.Ct. 2196 (June 25, 1998)

Sutton v. United Airlines, Inc., 119 S.Ct. 2139 (June 22, 1999)

Murphy v. United Parcel Service, Inc., 119 S.Ct. 2133 (June 22, 1999)

Albertsons, Inc. v. Kirkingburg, 119 S.Ct. 2162 (June 22, 1999)

Toyota Motor MFG v. Williams, 122 S.Ct. 681 (Jan. 8, 2002)

****Title III**

Martin v. PGA Tour, Inc., 121 S.Ct. 1879 (May 29, 2001)

****Fees**

City of Burlington v. Dague, 505 U.S. 557 (1992)

Buckhannon Bd. & Care Home v. W. Va Dept. of Health & Human Res, 121 S.Ct. 1835 (May 29, 2001)

****Eleventh Amendment Immunity**

Kimel v. Florida Board of Regents, 528 U.S. 62 (Jan. 11, 2000)

Bd. of Trustees of Univ. of Alabama v. Garrett, 121 S.Ct. 955 (Feb. 21, 2001)

Nevada Dept. of Human Resources v. Hibbs, 538 U.S. 721 (May 27, 2003)

Tennessee v. Lane, 121 S.Ct. 1978 (May 17, 2004)

U.S. v. Georgia (Goodman), 126 S.Ct. 877 (Jan. 10, 2006)

Judicial Authority List

CALIFORNIA AUTHORITY

****Fees**

Ketchum v. Moses, 24 Cal. 4th 1122 (2001)

Graham v. DaimlerChrysler Corp., 34 Cal. 4th 553 (2004, as modified Jan. 12, 2005)

Tipton-Whittingham v. City of Los Angeles, 34 Cal. 4th 604 (2004)

Vasquez v. California[±] 138 Cal. App. 4th 550 (4th App. Dist., Div. 1, Apr. 12, 2006)
Cal. Sup. Case No. S143710 (Petition granted Aug. 16, 2006)

****FEHA**

Green v. California[±] 132 Cal. App. 4th 97 (4th App. Dist., Div. 2, Aug. 24, 2005)
Cal. Sup. Case No. S13770 (Petition granted Nov. 16, 2005)

****Class Actions**

Pioneer Electronics v. Superior Court of Los Angeles, 2007 Cal. LEXIS 553 (Jan. 25, 2007)

[±]Addendum: Subsequent Judicial Developments as of January 2008

Green Appellate decision subsequently reversed by the California Supreme Court at *Green v. California* 42 Cal. 4th 254 (Aug. 23, 2007), rehearing denied at 2007 Cal. LEXIS 10928 (Oct. 10, 2007)