

CACJ'S WORK AS AN *AMICUS CURIAE*—THE PUBLISHED CASES

This is the most recent list of most of the *published* decisions that CACJ contributed to as an *amicus curiae*. Because we are listing published cases, this list does not reflect the vast majority of the cases that CACJ has contributed to. Moreover, CACJ has often appeared as an amicus in trial courts, and only two cases from trial courts (both in Federal courts) are listed.

The following list is not meant to be exhaustive, as compiling a complete list of all of the cases in which CACJ has appeared is not easily accomplished. The majority of the briefs filed by CACJ have been written by the two persons who have chaired the Amicus Committee for the past 40 years--Ephraim Margolin, who served in that position from the beginning of the organization until 1991; and John Philipsborn, who has been the Chair, or Co-Chair of the Committee since 1992. While the amicus chairs have been the organization's primary brief writers, many lawyers have contributed the briefing in a number of cases discussed below including Chuck Sevilla, Dennis Riordan, Chuck Weisselberg, Richard Such, Cliff Gardner, Steve Dunkle and Larry Gibbs. It must be underscored that many other lawyers have written valuable briefs for CACJ.

CACJ has voiced its views in many of the most pressing legal issues of the day on behalf of the accused, and also supported criminal defense lawyers to better enable them to do their work.

CACJ welcomes assistance from lawyers willing to volunteer their time to write briefs.

UNITED STATES SUPREME COURT

Kaley v. U.S. [argued on October 16, 2013], Supreme Court 12-464. (A case considering the extent to which federal courts must focus on forfeiture proceedings which result in deprivation of the right to counsel or counsel of choice. CACJ co-authored the brief with Munger, Tolles, et al., led by attorney John Owens, and contributed to by J.T. Philipsborn.)

Harrington v. Richter (2011) ___ U.S. ___; 131 S.Ct. 770 (Chuck Weisselberg and others on brief for CACJ. CACJ joined in challenging what was contended to be an unreasonable application of the *Strickland* standard, and the doctrines of review that limited federal consideration of the California Supreme Court ruling in a death penalty *habeas corpus* case.)

Missouri v. Seibert (2004) 542 U.S. 600 (The result in this case is a tribute to the litigation by, and work of, then amicus co-chair Chuck Weisselberg, whose cases and

scholarship are quoted in the U.S. Supreme Court decision. So are several of CACJ's amicus cases. Chuck co-wrote a brief that was filed in the case, which stands for the proposition that there law enforcement cannot develop tactics to circumvent the **Miranda** rule.)

U.S. v. Patane (2004) 542 U.S. 630 (Chuck Weisselberg was on brief on behalf of CACJ in a combined ACLU, NACDL , CACJ brief in a case in which the question was whether it was violative of the **Miranda** rule, or the Fifth Amendment generally, for the physical evidence of a gun disclosed during an unmirandized interrogation to have been introduced into evidence. The impact of police training which was dignified in **Missouri v. Seibert** was not as great here, and the court upheld the conviction.)

Stogner v. California (2003) 539 U.S. 607. (The U.S. Supreme Court reversed our State Supreme Court at the urging of CACJ, and upheld the arguments made by Contra Costa County's Alternate Defender Office that the Constitution bars application of a new state law that permitted otherwise time-barred criminal prosecutions. CACJ had initially litigated this issue and joined NACDL in briefing the issues. Martin Buchanan, Michael Dashjian and Jeff Fisher on brief)

U.S. v. Ruiz (2002) 536 U.S. 622 (Over CACJ's strenuous objections, the U.S. Supreme Court decided that **Brady** rights do not survive the entry of a guilty plea, as they are primarily trial rights.)

U.S. v. Dickerson (2000) 530 U.S. 428 (Amicus co-chairs Philipsborn and Weisselberg filed two separate briefs in this case, though CACJ only appeared once. In a much anticipated case, the U.S. Supreme Court upheld the **Miranda** rule.)

Kansas v. Hendricks (1997) 521 U.S. 346 (Civil commitment of sexually violent predators held to satisfy substantive due process requirements.)

Wisconsin v. Mitchell (1993) 508 U.S. 476 (A statute that augments penalty because the victim is selected on the basis of race, religion, color, etc. does not offend the First Amendment. Such a motive is a relevant consideration in sentencing.)

R.A.V. v. St. Paul (1992) 505 U.S. 377 (Ordinance banning "fighting words" not violative of the First Amendment--one of the first tests of "hate" crime statutes. Dennis Riordan on brief)

California v. Hodari D. (1991) 499 U.S. 621 (When police are chasing a suspect, the latter is not seized until he either submits or is caught and any item disposed of before that time is not the product of a seizure, but rather constitutes abandoned property.)

Florida v. Riley (1989) 488 U.S. 445 (Observation by police in helicopter from altitude of 400 feet of contents of a partially covered greenhouse within the curtilage did not violate any reasonable expectation of privacy and therefore did not violate the Fourth Amendment.)

California v. Superior Court of California (1987) 482 U.S. 400 (Extradition case holding that the asylum state may not inquire into the defenses or guilt or innocence of the charged party.)

Kolender v. Lawson (1983) 461 U.S. 352 (Statute requiring persons stopped with reasonable suspicion under **Terry v. Ohio**, to provide "credible and reliable" identification or be guilty of a misdemeanor is void for vagueness on its face.)

United States v. Turkette (1981) 452 U.S. 576 (Held that RICO was not intended solely to protect legitimate business enterprises from infiltration by racketeers. RICO makes criminal the participation in an association which performs only illegal acts even if it has not infiltrated or attempted to infiltrate a legitimate enterprise.)

Chandler v. Florida (1981) 449 U.S. 560 (There is no absolute prohibition that prohibits television cameras from state court rooms.)

Michigan v. DeFillippo (1979) 443 U.S. 31 (Ordinance, later held unconstitutional, made it a crime to refuse to identify oneself during a **Terry** stop. Arrest for failure to comply authorized the search incident to the arrest. This was a precursor to the good faith test--reliance on an ordinance.)

Goldberg v. United States (1976) 425 U.S. 94 (A writing by a government lawyer relating to witness' testimony signed or adopted by witness is not work product and disclosure to the defense is required under the Jencks Act.)

SUPREME COURT OF CALIFORNIA

People v. Martinez (2013) 57 Cal.4th 555 (CACJ, represented by the U.C. Davis Clinic, clinical professor Feinberg and J.T. Philipsborn on brief, successfully argued that effective representation in plea negotiations under California law includes appropriate consideration of immigration consequences, and reviewability in effectiveness on that issue.

People v. Johnson (2012) 53 Cal.4th 512 (CACJ joined in the argument about the level of competence necessary for self-representation. Larry Gibbs and Cliff Gardner on brief for CACJ.)

In re Reno (2012) 55 Cal.4th 420 (CACJ, Larry Gibbs, and Cliff Gardner on brief, addressed the state Supreme Court's ruling seeking limitations on an exhaustion petition filed in a death penalty litigation, and attacking proposed sanctions on counsel of record.)

Maldonado v. Superior Court (2012) 53 Cal.4th 1112 (CACJ appeared to urge the development of a procedure related to court-ordered examinations of the accused, including an array of 'protective measures' modeled on measures used in Federal litigation.)

People v. Hernandez (2012) 53 Cal.4th 1095 (*Amicus* co-chairs Ann Moorman and John Philipsborn co-wrote a brief joining in the challenge to the limitation on consultation between an attorney and the accused during trial.)

People v. Ary (2011) 51 Cal.4th 510 (CACJ appeared as an *amicus* addressing the proper standard for a retrospective assessment of competence.)

Galindo v. Superior Court (2010) 50 Cal.4th 1 (In a brief written by Steve Dunkle, CACJ encouraged the disclosure of impeaching evidence prior to preliminary hearings.)

People v. Towne (2008) 44 Cal.4th 63 (*Amicus* co-chairs Chuck Weisselberg and John Philipsborn addressed the implications of U.S. Supreme Court rulings on sentencing issues in the California context.

People v. Nelson (2008) 43 Cal.4th 1242 (CACJ's brief, which was contributed to by Linda Robertson and Jennifer Friedman addressed the use of the product rule, DNA cold hit issues, and other DNA-related matters.)

Verdin v. Superior Court (2008) 43 Cal.4th 1096 (CACJ assisted the Riverside Public Defender Office and appeared at oral argument to co-argue this case which, for a brief time, pointed to the supremacy of the statutory discovery procedure that did not, until the advent of P.C. 1054.3, permit extra-statutory discovery, including court ordered examinations of the accused.)

People v. Superior Court (Vidal) (2007) 40 Cal.4th 999 (Is a finding pertinent to intellectual disability in a death penalty case reviewable by writ? What kind of evidence is pertinent to the finding – CACJ participated in this case at both reviewing levels, Court of Appeal and Supreme Court.)

In re Hawthorne (2005) 35 Cal 4th 40 (The State must adjudicate post conviction claims of mental retardation according to the current state of the federal law, and under Penal Code Section 1376)

People v. Black (2005) 35 Cal 4th 1238 (Is the State sentencing system constitutional after Booker and Fan-Fan. Apparently, it is.)

People v. Leal (2004) 33 Cal.4th 999 (In a brief authored by Richard Such, CACJ addressed the question of what duress means under the California sexual assault laws.)

People v. Smith (2003) 31 Cal.4th 1207 (For the first time, the State Supreme Court dealt at some length with the question of how California might incorporate the federal definitions of outrageous governmental conduct, and sentencing entrapment, into its legal fabric. CACJ helped ensure that the Court kept the current California definitions intact, and kept the question of sentencing entrapment open in the face of the State's arguments to the contrary.)

People v. Sanders (2003) 31 Cal.4th 318 (This is a case in which the State Supreme Court issued a rare 'win' for defenders of the Fourth Amendment, ruling that probationers and parolees can only be searched pursuant to reasonable cause, and that a search cannot be justified where police do not know that a person is subject to a probation search condition. Kathy Kahn was on brief)

People v. Neal (2003) 31 Cal.4th 63 (Another one of Charles Weisselberg's fine efforts on behalf of CACJ. The State Supreme Court noted its objection to police training to circumvent constitutional rights--a precursor to the U.S. Supreme Court ruling in **Missouri v. Seibert** in 2004, which commented at length about Chuck Weisselberg's work, and CACJ litigation.)

People v. Superior Court (Ghilotti) (2002) 27 Cal.4th 888 (The first SVP case determined after California's law reform efforts in the area. The case determined both the definitions, and procedures, to be used in seeking to release a person fitting the SVP label.)

People v. Storm (2002) 28 Cal.4th 1007 (Yet another of Chuck Weisselberg's amicus efforts on an interrogation issue, which marked the slow shift of the State Supreme Court towards **People v. Neal**, described above.)

People v. Valencia (2002) 28 Cal.4th 1 (CACJ appeared through Cliff Gardner to question whether the pulling away of a window screen constituted a burglary.)

People v. Lloyd (2002) 27 Cal.4th 997 (A number of issues came out of this murder case prosecuted in Alameda County. CACJ's appearance was for the purpose of asserting **Lloyd's** privacy rights to telephone calls initiated from jail in the face of Prop 8.)

Manduley v. Superior Court (2002) 27 Cal.4th 537 (This is the case in which the State Supreme Court, in the face of CACJ's objections, allowed the initiative process to be used to 'reform' California's juvenile justice laws through Proposition 22.)

People v. Mooc (2001-2002) 26 Cal.4th 1216 (Eric Multhup briefed this case seeking clarification of when a court can reject a defense request for discovery of records to prove that an officer provoked a fight that resulted in a battery conviction.)

In re Randy G (2001) 26 Cal.4th 556 (CACJ joined counsel of record to urge that the State Supreme Court find that there are indeed places on a high school campus where students do have an expectation of privacy.)

In re Resendiz (2001) 25 Cal.4th 230 (Thanks in part to the arguments of CACJ, the State Supreme Court refused to adopt a categorical rule barring ineffective assistance claims based on advice concerning the immigration consequences of a guilty plea.)

Alvarado v. Superior Court (2000) 23 Cal.4th 1121 (Counsel of record had objected vehemently to PC 1054 discovery procedures deleting the names of victims/witnesses in cases in which crimes of violence were alleged to have taken place in a custodial setting. The State Supreme Court decided that a categorical rule denying the defense access to the information would not be upheld.)

People v. Frazer (1999) 21 Cal.4th 737 (This was the precursor to the U.S. Supreme Court ruling in **Stogner v. California**, outlining the retrospective extension of the statute of limitation for sex crimes, and reversing this case. Chuck Sevilla and John Philipsborn previewed the arguments that eventually won before the U.S. Supreme Court.)

People v. Tufunga (1999) 21 Cal.4th 935 (Part of the issue presented here involved the question of whether a claim-of-right instruction is available in a robbery case. While upholding the conviction, the court also noted that such an instruction would be available. Eric Multhau)

People v. Allen (1999) 21 Cal.4th 424 (Michael Ogul litigated this case for CACJ, in which the question was whether the timing of the entry of a plea in a prior case was such that the accused could collaterally attack the voluntariness of that plea in the trial court.)

Daily Journal Corporation v. Superior Court (1999) 20 Cal.4th 1117 (Can a trial court order the release of Grand Jury transcripts where the Penal Code would bar such release? The answer urged by CACJ was no--and the State Supreme Court agreed.)

In re Attorney Discipline System (1998) 19 Cal.4th 582 (Amicus chair John Philipsborn was one of several California lawyers invited to present argument on whether the State

Supreme Court should order the maintenance of the attorney discipline system. Philipsborn argued that it should, because there needed to be some forum for the disciplining of errant state prosecutors.)

People v. Tillis (1998) 18 Cal.4th 284 (DA can impeach defense expert with prior drug incident without providing discovery first. CACJ pointed out the great advantage prosecutors have in obtaining such impeachment evidence through government records to which the defense does not have access.)

People v. Peevy (1998) 18 Cal.4th 284 (Upholds use of defendant's statements even when made after intentional violation of **Miranda** by interrogating officers; noting also CACJ's role as plaintiff in the 42 U.S.C. 1983 action, **California Attorneys for Criminal Justice v. Butts** (C.D. Cal. 1996) 922 F. Supp. 327.)

People v. Pulido (1997) 15 Cal. 4th 713 (Dennis Riordan addressed the scope of complicity in robbery murder where one person, acting alone, kills in the perpetration of a robbery, and another person thereafter aids and abets the robber in the asportation and securing of the property taken, is the second person guilty of first degree murder under section 189? Answer: no.)

People v. Tello (1997) 15 Cal.4th 264 (Appellate court determined defense counsel was ineffective on direct appeal for failing to bring a motion to suppress evidence; reversed; this should be dealt with on a habeas corpus petition.)

People v. Eubanks (1997) 14 Cal.4th 580 (Where the victim of an alleged crime contributed financially to the costs of the district attorney's investigation; held, the district attorney may thereafter suffer from a disabling conflict of interest requiring recusal.)

Cowan v. Superior Court of Kern County (1996) 14 Cal.4th 367 (Holds that a defendant may waive a statute of limitations defense to a lesser included offense in order to get an instruction on that lesser crime; cited by dissent.)

People v. Gardeley (1996) 14 Cal.4th 605 (The Street Terrorism Enforcement and Prevention Act (STEP Act, enacted in 1988. (Pen. Code, @ 186.20 et seq.)

People v. Superior Court (Romero) (1996) 13 Cal.4th 497 (Trial court retains power to dismiss a strike in three strikes context.)

People v. Cuevas (1995) 12 Cal.4th 252 (Overrule **Gould's** holding that an out-of-court identification is in all cases insufficient by itself to sustain a conviction.)

People v. Horton (1995) 11 Cal.4th 1068 (Death case in which special circumstance set aside.)

People v. Superior Court (Aishman) (1995) 10 Cal. 4th 735 (Penal Code section 22.75, one of California's "hate crimes" statutes provides for imposition of a sentence enhancement for felonies committed because of the victim's race, color, nationality, country of origin, ancestry, disability or sexual orientation, does not require specific intent.)

In re M. S. (1995) 10 Cal.4th 698 (Addressing various constitutional challenges to Penal Code sections 422.6 and 422.7, two of California's "hate crime" statutes, and upholding them.)

People v. Leahy (1994) 8 Cal.4th 587 (Court reaffirms applicability of the Kelly-Frye standard in this state.)

People v. Whitfield (1994) 7 Cal.4th 437 (Implied malice murder held to exist in vehicular drunk driving homicide.)

Cummiskey v. Superior Court (1992) 3 Cal.4th 1018 (multiple contentions regarding propriety of grand jury indictment procedures.)

Tapia v. Superior Court (1991) 53 Cal.3d 282 (Analyzing Prop 115's many provisions under ex post facto.)

Raven v. Deukmejian (1990) 52 Cal.3d 336 (Overruling one section of Prop 115 which would have much of the California Constitution subservient to the rulings of the U.S. Supreme Court interpretations of the U.S. Constitution. J.T. Philipsborn presented the winning argument on behalf of CACJ)

In re Christian S. (1994) 7 Cal. 4th 768 (Holds that imperfect self defense exists to defend against malice and permit voluntary manslaughter; cited for raising significant policy issues supporting the defense.)

People v. Colantuono (1994) 7 Cal.4th 206 (CACJ attempts to bring reason to a failed attempt to "hopefully eliminate the confusion on this issue which has developed throughout the courts of this state.")

People v. Mayfield (1993) 5 Cal.4th 853A (Two justices vote to grant rehearing based in part on CACJ's amicus request to do so.)

People v. Gonzalez (1990) 51 Cal.3d 1179 (Holds that a trial court lacks

jurisdiction to order "free-floating" post-judgment discovery when no criminal proceeding was pending.)

Yarborough v. Superior Court of Napa Cty. (1985) 39 Cal.3d 197 (Court discusses problem of giving inmates access to the courts to defend themselves in civil suits and reaffirms right to appoint counsel without deciding the issue of compensation.)

In re Lance W. (1985) 37 Cal.3d 873 (Upholds Prop. 8 which eliminates independent state grounds as a basis to suppress evidence.)

Mosk v. Superior Court of Los Angeles Cty. (1979) 25 Cal. 3d 474 (Justice Mosk refuses to respond to a subpoena for public testimony on "Tannergate" and wins).

Brosnahan v. Brown (1982) 32 Cal.3d 236 (Court rejects multiple constitutional challenges to Prop. 8.)

People v. Shirley (1982) 31 Cal.3d 18 (Holding hypnosis induced testimony inadmissible.)

Brosnahan v. Brown (1981) 31 Cal.3d 1 (Court rejects challenges to the manner in which Prop. 8 was put on the ballot.)

People v. Williams (1981) 29 Cal.3d 392 (Court overturns ruling prohibiting voir dire from being conducted as a means to uncover bases for peremptory challenges.)

Rockwell v. Superior Court (1976) 18 Cal.3d 420 (Court declares death penalty statute unconstitutional.)

CALIFORNIA COURTS OF APPEAL

Packer v. Superior Court (2013) 201 Cal.App.4th 152 (A Grand Jury indictment was challenged because one of the indicting Grand Jurors had been employed by an agency involved in the investigation of the case. CACJ appeared and supported the arguments that the indictment should have been invalid.)

Magallan v. Superior Court (2011) 192 Cal.App.4th 1444 (A defendant is entitled to obtain discovery to assist him in litigating his suppression motion at the preliminary hearing. Steve Dunkle on brief for CACJ.)

Alvarez v. Superior Court (2010) 183 Cal.App.4th 969 (CACJ appeared, *amicus* co-chairs Ann Moorman and J.T. Philipsborn, to address whether it is proper for a Superior

Court judge newly assigned to a case to reject a plea agreement that had been accepted by the original judge.)

People v. Superior Court (Vidal) (2005) 129 Cal. App. 4th 434 (Review Granted. The case involved the definition of mental retardation in the Penal Code Section 1376 context–ineligibility for death penalty prosecution)

People v. Bussel (2002) 97 Cal.App.4th Supp.1 (CACJ appeared in the litigation of the misdemeanor manslaughter case in an attempt to clarify the appropriate instruction to be given where vehicular homicide is at issue.)

Williams v. Superior Court (2002) 93 Cal.App.4th 1408 (This case is also reported under the State Supreme Court amicus action. It was the initial attack on the validity of Proposition 22, modifying the juvenile justice architecture in California. Review was granted.)

People v. Salazar-Marino (2001) 89 Cal.App.4th 590. (CACJ supported the argument that giving a false resident alien identification card as defined under state law was vague, and that the statute was preempted by federal law.)

Hatch v. Superior Court (2000) 80 Cal.App.4th 170 (This was one of the first interpretations of California Penal Code §288.2(a), which was interpreted to outlaw Internet communication leading to distribution of materials with intent to seduce a minor. This was a much commented upon case because of its novelty.)

Horton v. City of Oakland (2000) 82 Cal.App.4th 580 (Joining several other groups, CACJ appeared to contest the constitutional validity of a city ordinance authorizing civil forfeiture of vehicles used by persons attempting to solicit prostitution, or to acquire drugs. Nina Wilder for CACJ)

People v. Paz (2000) 80 Cal.App.4th 293 (A case in which CACJ's opposition to legislation amending 288a was noted by the court at some length; this is not strictly speaking an amicus case, but rather as a case in which CACJ's legislative work was commented upon.)

People v. Superior Court (Mouchaourab) (2000) 78 Cal.App.4th 403 (This case, consolidated with four others, was one in which the defense sought to obtain discovery of non-testimonial Grand Jury proceedings for the purpose of preparing 995 motions. Interpreting Penal Code §1054, the court of appeal held that it was permissible for a trial court to compel disclosure of such proceedings to assist defendants in preparing motions to set aside an Indictment, including communications between the DA, the Grand Jury and questions and answers between the court and jury.)

People v. Superior Court (Whitley) (1999) 68 Cal.App.4th 1383 (The question presented was whether an unauthorized parole revocation undermined the legality of a civil commitment proceeding under the Sexually Violent Predators Act.)

In re Transcripts of Phase Three Grand Jury Proceedings (1998) 64 Cal.App.4th 1203 (Asks the age-old question: “Does a court have the authority to order disclosure of grand jury proceedings terminated by a "settlement" prior to deliberations by the grand jury?” And says yes. CACJ helped fight the result, and this case is reversed—see above)

In re Myresheia W. (1998) 61 Cal. App. 4th 734 (Juvenile charged with robbery, a strike under Three Strikes legislation, is still not entitled to a jury trial.)

Reid v. Superior Court of Santa Clara County (1997) 55 Cal.App.4th 1326 (Mandate issues directing the lower court to vacate its previous order prohibiting the petitioner's defense counsel or agents from directly contacting the victims.)

Susan S. v. Philip D. Israels et al, (1997) 55 Cal.App.4th 1290 (Crime victim has a cause of action for invasion of her constitutional right to privacy against a defense attorney who, without authorization, reads and disseminates the victim's confidential mental health records.)

Amarawansa v. Superior Court of Los Angeles Cty. (1996) 49 Cal.App.4th 1251 (The superior court adopted a flat fee compensation system for new cases, and subsequently extended the flat fee system to existing cases which petitioners had undertaken to handle at the hourly rate. The attorneys challenged the change for those cases they agreed to handle at an hourly rate. The court upheld the change of compensation rates because there was no contract for an hourly rate.)

People v. Nguyen (1995) 40 Cal.App.4th 28 (Is it a burglary to enter a house with the intent to steal property by giving the victim a worthless check in exchange for various items? Yes.)

Espinoza v. Superior Court (1994) 28 Cal.App.4th 957 (Defendant unsuccessfully sought to prohibit the county sheriff's department from supplying the bailiff in petitioner's trial, in which deputies from that sheriff's department will also testify for the prosecution.)

Jones v. Superior Court (1994) 26 Cal.App.4th 92 (No sanctions against counsel for unintentionally omitting facts from petition for writ of mandate.)

People v. Salemme (1992) 2 Cal.App.4th 775 (Answering the question whether defendant's alleged entry into the home of an intended victim for the purpose of selling fraudulent securities constituted burglary in the affirmative.)

People v. Superior Court (1988) 200 Cal.App.3d 491 (Statutory scheme authorizes forfeiture of property necessary for the retention of private counsel; retention is not prohibited by the constitutional right to counsel.)

People v. Superior Court (Fairbanks) (1987) 192 Cal.App.3d 32 (Duty of defense counsel to provide access to or information about alteration of possible murder weapon.)

People v. Vega-Hernandez (1986) 179 Cal.App.3d 1084 (Trial court's restitution order exceeded its authority because Prop 8's provision for it was deemed not self-executing.)

Gilbert v. Superior Court (1985) 169 Cal. App. 3d 148 (Court concludes that the trial court erred in reducing petitioner's fees after he had performed his services for the indigent defendant.)

Adam v. Superior Court (1983) 145 Cal.App.3d 402 (Court grapples with new statute which permits superior court to find an error at preliminary examination was "minor" within the meaning of the new subdivision, so that it could be corrected on remand.)

Mark Bledstein et al., v. Superior Court (1984) 162 Cal.App.3d 152 (CACJ argues successfully that the legal malpractice statute of limitations is tolled while a plaintiff is incarcerated.)

People v. Betty Horn (1984) 158 Cal.App.3d 1014 (Arguing the impact of Prop 8 on the insanity standard in California.)

Arnelle v. City & Cty. Of San Francisco (1983) 141 Cal.App.3d 693 (When counsel appointed by the court to represent an indigent defendant is dissatisfied with the compensation ordered him by the court, is an action at law ever the proper avenue by which he should seek review of the court's determination? Answer: No, counsel can rely on a petition for a writ of mandate.)

In re Gray (1981) 123 Cal.App.3d 614 (Exactly when does the attorney-client privilege drop following an allegation of ineffective assistance of counsel.)

People v. Childs (1980) 112 Cal.App.3d 374 (Robbery case involving 654 and **Harvey** issues.)

Deukmejian v. Superior Court of Los Angeles County (1980) 103 Cal.App.3d 253 (Law office search warrant case.)

People v. Municipal Court for the San Francisco Judicial District (1979) 89 Cal.App.3d 739 (Courts discovery order in prostitution case for possible **Murgia** motion upheld.)

FEDERAL CIRCUIT COURTS OF APPEAL

Planes v. Holder (9th Cir., 2012) 686 F.3d 1033 (CACJ, combining with the Immigration Defense Project and other *amici*, and represented by attorney Julia Peck and others, addressed the immigration related considerations of the interpretation of criminal convictions in immigration proceedings.)

Irons v. Carey (9th Cir., 2007) 506 F.3d 951 (CACJ and other *amici* combined to address the justiciability of a claim made in federal court addressing California's 'good time' provisions, joining the Habeas Corpus Resource Center.)

U.S. v. Ashfari (9th Cir., 2005) 426 F.3d 1150 (CACJ and many other groups intervened in this federal prosecution to contest the designation of given groups as terrorist organizations under 18 U.S.C. 2339(B)(a)(1).)

Fields v. Woodford (9th Cir., 2002) 315 F.3d 1062 (Challenging the racially based challenges from the prosecution. Brief authored by Richard Neuhoff.)

U.S. v. Walters (9th Cir., 2002) 309 F.3d 589 (CACJ appeared to contest the denial of counsel of choice, J.T. Philipsborn on brief.)

Fields v. Woodford (9th Cir. 2002) 309 F.3d 1095; 281 F.3d 963 (This case was briefed thanks to CACJ's Wendy Peoples and Richard Neuhoff; CACJ appeared to urge the Ninth Circuit to change a portion of its ruling dealing with the admissibility of juror declarations in the review of a capital case, among other things.)

Gritchen v. Collier (9th Cir. 2001) 254 F.3d 807 (CACJ appeared with numerous other organizations in a 1983 action to urge the court to find that a police officer was acting under color of law in threatening to sue counsel for defamation.)

Sandoval v. Calderon (9th Cir. 2000-2001) 241 F.3d 765 (Assisted by several amicus lawyers, CACJ appeared here to urge the Ninth Circuit to uphold a habeas grant in a death case where the prosecutor had, among other things, urged the Bible as support for imposition of death.)

CACJ v. Butts (9th Cir. 1999-2000) 195 F.3d 1039 (This action which was initiated by CACJ and other organizations was aimed at providing a basis to allege violations of civil rights against police officers who intentionally violate **Miranda** rights. Chuck Weisselberg helped design this litigation.)

California First Amendment Coalition v. Calderon (9th Cir. July 23, 1998) 92 F.3d 1191 (Injunction requiring Warden to allow witnesses and media to view executions by lethal injection from the time the inmate is secured to the gurney until just after the pronouncement of death overturned by the Circuit. Warden gets to say when the viewing takes place based on security concerns.)

Xiao v. Reno (9th Cir. 1996) 81 F.3d 808 (District court order prohibiting government from deporting witness to China who had been subject to torture is upheld.)

Barrera-Echavarria v. Rison (9th Cir. 1995) 44 F.3d 1441. (Chuck Weisselberg, and students in one of his clinics, combined to write a brief in a case in which the question was whether a person who came to the U.S. from Cuba could be detained given that his country of origin would not accept him, nor would any third country. Though a panel of the court ordered the detainee released, on rehearing, the full court was less friendly. The case has since been superceded. See 373 F.3d 952 (9th Cir. 2004)).

United States v. Scolari (9th Cir. 1995) 72 F.3d 751 (Noting CACJ's position in another case approving judges participating in criminal settlement conferences.)

United States v. Mett (9th Cir. 1995) 65 F.3d 1531 (Conflict of interest where defense attorney for defendant in serious felony case also represented the prosecutor in a drunk driving offense held not reversible.)

In re Grand Jury Proceedings Oscar B. Goodman (9th Cir. 1994) 33 F.3d 1060; 1994 (Defense attorney required to divulge fee information to grand jury.)

Portman v. County of Santa Clara (9th Cir. 1993) 995 F.2d 898 (Issue: whether a public defender has standing to challenge the constitutionality of a state statutory scheme that makes him an at-will employee on the ground that the scheme interferes with the Sixth Amendment rights of his clients.)

United States v. Sherbondy (9th Cir. 1988) 865 F.2d 996 (Violent felony involving firearm, commerce clause, witness intimidation.)

United States v. Simpson (9th Cir. 1987) 813 F.2d 1462 (Not outrageous enough misconduct to dismiss a case where the government informant has sexual relationship with defendant as part of her cooperation to make a case.)

United States v. Lopez (9th Cir. 1993) 4 F.3d 1455 (Government secretly has defendant seeing another “defense” attorney to foster cooperation deemed bad form but not sufficient in itself to warrant dismissal.)

Toussaint v. McCarthy (9th Cir. 1986) 801 F.2d 1080 (Eighth amendment prison conditions reviewed, e.g., enforced idleness in administrative segregation, access to the prison law library, health care, visits, *etc.*)

United States v. Leonard Peltier (8th Cir. 1986) 800 F.2d 772 (Government withholding of evidence not serious enough to warrant relief.)

United States v. Agosto (8th Cir. 1982) 675 F.2d 965 (Government filed a motion for inquiry concerning possible conflicts of interest of certain defense counsel and the district court disqualified three defense counsel.)

United States v. Barger (9th Cir. 1982) 672 F.2d 772 (Another case in which CACJ supports an attorney who has been denied payment of investigator fees and costs.)

United States v. Seawell (1978) 583 F.2d 416 (“Dynamite” blast instruction to dislodge a potentially hung jury upheld again.)

In re Osterhoudt (9th Cir. 1983) 722 F.2d 591 (Another defense attorney subpoenaed before the grand jury to testify about fee source.)

United States v. Hodge & Zweig (9th Cir. 1977) 548 F.2d 1347 (Yet another defense attorney subpoenaed before the grand jury to testify about fee source.)

DISTRICT COURT CASES

Valdivia v. Davis (E.D. Cal., 2002) 206 F.Supp.2d 1068 (CACJ appeared in a case in which CACJ was a moving force sometime ago in a case in which the district court found that California’s unitary parole revocation hearing system did not comport with due process. A number of lawyers including past president Alex Landon, and Steve Perello, have been involved in this litigation. The case continues as this report is prepared, and CACJ’s participation continues to be acknowledged.)

U.S. v. Lopez (N.D. Cal., 1991) 765 F.Supp. 1433 (This District Court ruling which was partially overruled by the Ninth Circuit (see *Lopez* decision of 1993 above) involved former CACJ president Barry Tarlow as counsel of record, and litigation about the use of

a violation of ethical rules by a federal prosecutor as the basis for sanctions. J.T. Philipsborn on brief.)