

Pending California Supreme Court Cases That MPP Is Tracking

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Attorney-Client

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
<p>Immigration Status And The Practice Of Law. The court ordered The Committee of Bar Examiners of the State Bar of California to show cause before this court why its motion for admission of Sergio C. Garcia to the State Bar of California should be granted. This case includes the following issues: (1) Does 8 U.S.C. section 1621(c) apply and preclude this court’s admission of an undocumented immigrant to the State Bar of California? Does any other statute, regulation, or authority preclude the admission? (2) Is there any state legislation that provides — as specifically authorized by 8 U.S.C. section 1621(d) — that undocumented immigrants are eligible for professional licenses in fields such as law, medicine, or other professions, and, if not, what significance, if any, should be given to the absence of such legislation? (3) Does the issuance of a license to practice law impliedly represent that</p>	<p>Review granted May 16, 2012 Opening brief due June 15, 2012</p>	<p><i>In re Garcia on Admission, S202512</i> Original proceeding.</p>

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
<p>the licensee may be legally employed as an attorney? (4) If licensed, what are the legal and public policy limitations, if any, on an undocumented immigrant's ability to practice law? (5) What, if any, other public policy concerns arise with a grant of this application?</p>		
<p>Attorney Fees. Preemption. Is an award of fees to a prevailing defendant under the California Disabled Persons Act (Civ. Code, § 54 et seq.) inconsistent with, and therefore preempted by, the federal Americans with Disabilities Act (42 U.S.C. § 12101 et seq.)?</p>	<p>Waiting for argument Fully briefed November 15, 2010</p>	<p><i>Jankey v. Lee</i>, S180890 181 Cal.App.4th 1173</p>

Civil Litigation and Commercial Law

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
<p>Multiple Settlement Offers. When a plaintiff makes two reasonable settlement offers under Code of Civil Procedure section 998, both of which expire by operation of law, does the second offer extinguish the first such that the later offer is the operative one for purposes of the cost-shifting provisions of section 998(d)?</p>	<p>Review granted May 9, 2012</p> <p>Opening brief due June 8, 2012</p>	<p><i>Martinez v. Brownco Construction Co., Inc.</i>, S200944</p> <p>203 Cal.App.4th 507</p>
<p>Releases and Joint and Several Liability. Should the common law rule that a release for consideration of one joint tortfeasor operates as a release of the joint and several liability of all joint</p>	<p>Set for argument</p> <p>May 29, 2012</p> <p>San Francisco</p> <p>Fully briefed</p>	<p><i>Leung v. Verdugo Hills Hospital</i>, S192768</p> <p>193 Cal.App.4th 971</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
tortfeasors be abandoned in light of statutory and case law modifications of the joint and several liability rule?	October 28, 2011	
<p>HOAs and Arbitration.</p> <p>Unconscionability. (1) Is a homeowners association bound by an arbitration provision contained in the covenants, conditions and restrictions for a common interest development that were executed and recorded prior to the time the association came into existence?</p> <p>(2) Did the Court of Appeal err by applying the state law doctrine of unconscionability only to the arbitration provision, and not to other provisions in the covenants, conditions and restrictions, in light of federal law prohibiting the application of state law to treat arbitration</p>	<p>Set for argument</p> <p>May 29, 2012</p> <p>San Francisco</p> <p>Fully briefed January 25, 2011</p>	<p><i>Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US), LLC</i>, S186149</p> <p>187 Cal.App.4th 24</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
<p>provisions differently from other provisions of the same agreement? (See <i>Allied-Bruce Terminix Cos. v. Dobson</i> (1995) 513 U.S. 265.</p>		
<p>Preemption. Credit Cards and Banking.(1) Is Civil Code section 1748.9, which requires credit card issuers to make certain disclosures on checks issued to cardholders for cash advances from the cardholders' credit card accounts, preempted by the National Bank Act (12 U.S.C. ? 21 et seq.)? (2) Is 12 Code of Federal Regulations section 7.4008, which was promulgated under the National Bank Act by the Office of the Comptroller of the Currency and which provides that state laws that impair a nationally chartered bank's non real-estate banking powers are</p>	<p>Set for argument May 29, 2012 San Francisco Fully briefed April 5, 2011</p>	<p><i>Parks v. MBNA America Bank, N.A.</i>, S183703 184 Cal.App.4th 652</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
not applicable to nationally chartered banks, a valid regulation?		
<p>Work Product Privilege. Is the statement of a witness that is taken in writing or otherwise recorded verbatim by an attorney or the attorney's representative entitled to the protection of the California work product privilege?</p>	<p>Set for argument</p> <p>May 31, 2012</p> <p>San Francisco</p> <p>Fully briefed</p> <p>November 10, 2010</p>	<p><i>Coito v. Superior Court</i>, S181712</p> <p>182 Cal.App.4th 758</p>
<p>Section 17200: Continuing Violation Doctrine, Continuous Accrual Doctrine, Delayed Discovery (1) May the continuing violation doctrine, under which a defendant may be held liable for actions that take place outside the limitations period if those actions are sufficiently linked to unlawful conduct within the limitations period, be asserted in an action</p>	<p>Waiting for argument</p> <p>Fully briefed February 22, 2011</p>	<p><i>Aryeh v. Canon Business Solutions, Inc.</i>, S184929 185 Cal.App.4th 1159</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
<p>under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.)? (2) May the continuous accrual doctrine, under which each violation of a periodic obligation or duty is deemed to give rise to a separate cause of action that accrues at the time of the individual wrong, be asserted in such an action? (3) May the delayed discovery rule, under which a cause of action does not accrue until a reasonable person in the plaintiff's position has actual or constructive knowledge of facts giving rise to a claim, be asserted in such an action?</p>		
<p>Social Host Immunity. (1) Is a person who hosts a party at a residence, and who furnishes alcoholic beverages and charges an admission fee to uninvited guests, a</p>	<p>Waiting for argument</p> <p>Fully briefed</p> <p>July 26, 2011</p>	<p><i>Ennabe v. Manosa</i>, S189577</p> <p>190 Cal.App.4th 707</p> <p>(mod. order)</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
<p>“social host” within the meaning of Civil Code section 1714, subdivision (c), and hence immune from civil liability for furnishing alcoholic beverages? (2) Under the circumstances here, does such a person fall within an exception stated by Business and Professions Code section 25602.1 to the ordinary immunity from civil liability for furnishing alcoholic beverages provided by Business and Professions Code section 25602, subdivision (b)?</p>		
<p>Parol Evidence Rule. Fraud Exception. Does the fraud exception to the parol evidence rule permit evidence of a contemporaneous factual misrepresentation as to the terms contained in a written agreement at the time of execution, or is such evidence</p>	<p>Waiting for argument Fully briefed September 29, 2011</p>	<p><i>Riverisland Cold Storage, Inc. v. Fresno-Madera Production Credit Assn.</i>, S190581 191 Cal.App.4th 611</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
<p>inadmissible under <i>Bank of America National Trust & Savings Association v. Pendergrass</i> (1935) 4 Cal.2d 258, 263, as “a promise directly at variance with the promise of the writing”?</p>		
<p>Gov’t Tort Claims Act. Substantial Compliance With Presentment Requirement. Did plaintiff substantially comply with the statutory requirement that her claim against the county for medical negligence be presented “to the clerk, secretary or auditor thereof” or mailed to “the governing body” (Gov. Code, § 915(a)) by delivering the claim to the risk management department of the county hospital where the injury allegedly occurred?</p>	<p>Waiting for argument</p> <p>Fully briefed</p> <p>October 31, 2011</p>	<p><i>DiCampli-Mintz v. County Of Santa Clara</i>, S194501</p> <p>195 Cal.App.4th 1327</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
<p>Expert Testimony. Lost Profits Did the trial court err in excluding proffered expert opinion testimony regarding lost profits?</p>	<p>Waiting for argument Fully briefed November 16, 2011</p>	<p><i>Sargon Enterprises, Inc. v. University of Southern California</i>, S191550 Nonpublished Opinion</p>
<p>Police Officers' Duty Of Care. Whether under California negligence law, liability can arise from tactical conduct and decisions employed by law enforcement officers preceding the use of deadly force.</p>	<p>Waiting for argument Fully briefed January 4, 2012</p>	<p><i>Hayes v. County of San Diego</i>, S193997 Ninth Circuit Certification Request</p>
<p>Wrongful Death Standing. Is a person's good faith belief in the validity of a marriage measured by an objective or subjective standard for the purpose of determining the person's status as a putative spouse under CCP section 377.60?</p>	<p>Waiting for argument Fully Briefed January 5, 2012</p>	<p><i>Ceja v. Rudolph & Sletten, Inc.</i>, S193493 194 Cal.App.4th 584</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
<p>Primary Assumption of Risk. Regulated Activity. Amusement Parks. (1) Does the existence of a state regulatory scheme for amusement parks preclude application of the doctrine of “primary assumption of risk” with respect to the park’s operation of a bumper car ride? (2) Does the doctrine apply to bar recovery by a rider of a bumper car ride against the owner of an amusement park or is the doctrine limited to “active sports”? (3) Are owners of amusement parks subject to a special version of the doctrine that imposes upon them a duty to take steps to eliminate or decrease any risks inherent in their rides?</p>	<p>Waiting for argument Fully briefed March 8, 2012</p>	<p><i>Nalwa v. Cedar Air, L.P.</i>, S195031 196 Cal.App.4th 566</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
<p>Preemption. Unfair Competition. Is an action under the Unfair Competition Law (Bus. & Prof. Code § 17200 et seq) based on a trucking company’s alleged violation of state labor and insurance laws “related to the price, route or service” of the company and thus preempted by the Federal Aviation Administration Authorization Act of 1994 (49 U.S.C. 14501)?</p>	<p>Waiting for argument Fully briefed March 26, 2012</p>	<p><i>People ex rel. Harris v. Pac Anchor Transportation</i>, S194388 195 Cal.App.4th 765</p>
<p>Real Estate. Trustee Error During Foreclosure Proceeding. When a trustee makes an error in the processing and announcement of a beneficiary’s “credit bid” during foreclosure proceedings on a deed of trust, and the trustee has not yet issued a trustee’s deed to the highest bidder at the foreclosure sale, does the</p>	<p>Waiting for argument Fully briefed May 2, 2012</p>	<p><i>Biancalana v. T.D. Service Co.</i>, S198562 200 Cal.App.4th 527</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
trustee have the discretionary authority to set aside the foreclosure sale due to that error?		
<p>Medical Marijuana. Preemption. These four cases present issues concerning preemption, under federal or state law, of local ordinances regulation or banning the operation of medical marijuana dispensaries and related activities, and standing to challenge such ordinances.</p>	<p>In Briefing</p> <p>Reply brief due June 7, 2012 (<i>City of Riverside</i>)</p> <p>Fully briefed May 18, 2012 (<i>Pack</i>)</p> <p>Fully briefed April 4, 2012 (<i>G3</i>)</p>	<p><i>City of Riverside v. Inland Empire Patient’s Health and Wellness Center, Inc.</i>, S198638 200 Cal.App.4th 885</p> <p><i>People v. G3 Holistic, Inc.</i>, S198395 Nonpublished opinion</p> <p><i>Pack v. Superior Court</i>, S197169 199 Cal.App.4th 1070</p>
<p>Revival Of Corporate Status After Notice Of Appeal Is Filed. If a corporation’s corporate status is suspended due to nonpayment of taxes at the time it files a notice of appeal, can the appeal</p>	<p>In briefing</p> <p>Reply brief due June 4, 2012</p>	<p><i>Bourhis v. Lord</i>, S199887</p> <p>There is no opinion from the Court of Appeal. The petition for review was granted after the Court of Appeal denied a</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
<p>proceed if the corporation thereafter revives its status even if it does not do so until the time for filing the notice of appeal has expired?</p>		<p>motion to dismiss the appeal.</p>
<p>Individuals With Disabilities Education Act. Does Education Code section 56041 – which provides generally that for qualifying children ages eighteen to twenty-two, the school district where the child’s parent resides is responsible for providing special education services – apply to children who are incarcerated in county jails?</p>	<p>In briefing Opening brief due June 4, 2012</p>	<p><i>Los Angeles Unified School District v. Garcia</i>, S199639 669 F.3d 956 (9th Cir. 2012)</p>
<p>Unfair Competition and Preemption. Can a cause of action under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) be predicated on a violation of the federal Truth in Savings Act (12</p>	<p>In briefing Answer brief due June 14, 2012</p>	<p><i>Rose v. Bank of America, N.A.</i>, S199074 200 Cal.App.4th 1441</p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
U.S.C. § 4301 et seq.) despite Congress's repeal of the private right of action provided for under the federal statute?		
<p>Privacy and On-Line Retail Purchases. Does the Song-Beverly Credit Card Act of 1971 (Civ. Code, § 1747 et seq.), which prohibits retailers from recording a customer's personal identification information when the customer uses a credit card in a transaction, preclude on-line retailers from obtaining and recording a purchaser's address and telephone number as a prerequisite to accepting a credit card as payment for a purchase of an item that does not need to be shipped to the purchaser?</p>	<p>In briefing Answer brief due June 14, 2012</p>	<p><i>Apple Inc. v. Superior Court</i>, S199384 There is no opinion from the Court of Appeal. The Court of Appeal summarily denied a petition for a preemptory writ of mandate. The Supreme Court granted review and issued an order to show cause.</p>
<p>Privacy. Police Officers. Are the names of police officers involved in on-duty</p>	<p>In briefing</p>	<p><i>Long Beach Police Officers Assn. v. City</i></p>

<i>Issue</i>	<i>Status</i>	<i>Case Name & Court of Appeal Opinion</i>
shooting incidents subject to disclosure under the California Public Records Act?	Answer brief due June 16, 2012	<i>of Long Beach, S200872</i> 203 Cal.App.4th 292

Construction & Design

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
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Employment

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
Wage & Hour Class Actions. This case presents issues concerning the certification of class actions in wage and	Review granted May 16, 2012	<i>Duran v. U.S. Bank National Assn.,</i> S200923

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
hour misclassification litigation and the use of representative testimony and statistical evidence at trial of such a class action.	Opening brief due June 15, 2012	203 Cal.App.4th 212 203 Cal.App.4th 1042b (mod. order)
<p>Attorney's Fees. Labor Code §§ 218.5 and 1194.</p> <p>(1) Does Labor Code section 1194 apply to a cause of action alleging meal and rest period violations (Lab. Code, § 226.7) or may attorney's fees be awarded under Labor Code section 218.5? (2) Is the analysis affected by whether the claims for meal and rest periods are brought alone or are accompanied by claims for minimum wage and overtime?</p>	<p>Waiting for opinion</p> <p>Argued March 6, 2012</p> <p>San Francisco</p> <p>Fully briefed</p> <p>May 10, 2011</p>	<p><i>Kirby v. Immoos Fire Protection, Inc.</i>, S185827</p> <p>186 Cal.App.4th 1361</p>
<p>Prevailing Wage Law. Charter City. Public Works Project. Does California's prevailing wage law (Lab. Code, § 1720 et seq.) apply to charter cities?</p>	<p>Waiting for opinion</p> <p>Argued April 4, 2012</p> <p>Los Angeles</p> <p>Fully briefed December 22, 2009</p>	<p><i>State Building & Construction Trades Council of California v. City of Vista</i>, S173586</p> <p>173 Cal.App.4th 567</p>

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
<p>Public Employment. Arbitration. Can a school district be required to arbitrate disputes over the granting of a charter school petition under the terms of a collective bargaining agreement, or does Education Code section 47611.5, subdivision (e), preclude referring such a dispute to arbitration?</p>	<p>Waiting for opinion Argued May 1, 2012 San Francisco Fully briefed July 23, 2010</p>	<p><i>United Teachers Los Angeles v. Los Angeles Unified School District</i>, S177403 177 Cal.App.4th 863</p>
<p>Scope Of Power Press Exception In Labor Code § 4558 Can the spouse of an injured worker claim damages for loss of consortium in an action at law brought by the injured worker under Labor Code section 4558 for damages allegedly caused by an employer’s knowing removal of or failure to install a safety guard on a power press?</p>	<p>Set for argument June 5, 2012 Los Angeles Fully briefed August 25, 2011</p>	<p><i>LeFiell Manufacturing Co. v. Superior Court</i>, S192759 193 Cal.App.4th 1413</p>
<p>Mixed Motive Defense. Does the “mixed-motive” defense apply to employment discrimination claims under the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.)?</p>	<p>Waiting for argument Fully briefed January 11, 2011</p>	<p><i>Harris v. City of Santa Monica</i>, S181004 181 Cal.App.4th 1094</p>

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
<p>Free Speech and Labor Disputes. (1) Did the Court of Appeal err in concluding that the parking area and walkway in front of the entrance to plaintiff's retail store, which is part of a larger shopping center, do not constitute a public forum under <i>Robins v. Pruneyard Shopping Center</i> (1979) 23 Cal.3d 899 and its progeny? (2) Do the Moscone Act (Code Civ. Proc. § 527.3) and Labor Code section 1138.1, which limit the availability of injunctive relief in labor disputes, violate the First and Fourteenth Amendments of the United States Constitution because they afford preferential treatment to speech concerning labor disputes over speech about other issues?</p>	<p>Waiting for argument Fully briefed March 22, 2011</p>	<p><i>Ralphs Grocery Co. v. United Food & Commercial Workers Union Local 8</i>, S185544 186 Cal.App.4th 1078</p>
<p>Privacy Rights of Non-Union Public Employees. (1) Under the state Constitution (Cal. Const., art. I, § 1), do the interests of non-union-member public employees in the privacy of their personal contact information outweigh the interests of the union representing their bargaining unit in</p>	<p>Waiting for argument Fully briefed November 7, 2011</p>	<p><i>County of Los Angeles v. Los Angeles County Employee Relations Board</i>, S191944 192 Cal.App.4th 1409</p>

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
<p>obtaining that information in furtherance of its duties as a matter of labor law to provide fair and equal representation of union-member and non-union-member employees within the bargaining unit? (2) Did the Court of Appeal err in remanding to the trial court with directions to apply a specific notice procedure to protect such employees' privacy rights instead of permitting the parties to determine the proper procedure for doing so?</p>		
<p>Arbitration. Statutory Wage Claims. Jurisdiction Of Labor Commissioner. (1) Can a mandatory employment arbitration agreement be enforced prior to the conclusion of an administrative proceeding conducted by the Labor Commissioner concerning an employee's statutory wage claim? (2) Was the Labor Commissioner's jurisdiction over employee's statutory wage claim divested by the Federal Arbitration Act under <i>Preston v. Ferrer</i> (2008) __ U.S. __,</p>	<p>In briefing Remanded By U.S. Supreme Court October 31, 2011 Supplemental reply briefs filed March 27, 2012</p>	<p><i>Sonic-Calabasas A, Inc. v. Moreno</i>, S174475 174 Cal.App.4th 546</p>

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
128 S.Ct. 978, 169 L.Ed.2d 917?		
<p>Pre-Employment Arbitration Clauses. Is an arbitration clause in an employment application that provides “I agree to submit to binding arbitration all disputes and claims arising out of the submission of this application” unenforceable as substantively unconscionable for lack of mutuality, or does the language create a mutual agreement to arbitrate all such disputes? (See <i>Roman v. Superior Court</i> (2009) 172 Cal.App.4th 1462.)</p>	<p>In briefing Answer brief due May 30, 2012</p>	<p><i>Wisdom v. Accentcare, Inc.</i>, S200128 202 Cal.App.4th 591</p>
<p>After-Acquired Evidence. Did the trial court err in dismissing plaintiff’s claims under the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) on grounds of after-acquired evidence and unclean hands, based on plaintiff’s use of false documentation to obtain employment in the first</p>	<p>In briefing Answer brief due May 30, 2012</p>	<p><i>Salas v. Sierra Chemical Co.</i>, S196568 198 Cal.App.4th 429</p>

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
instance? Did Senate Bill No. 1818 (2001–2002 Reg. Session) preclude application of those doctrines in this case? (See Civ. Code, § 3339; Gov. Code, § 7285; Health & Saf. Code, § 24000; Lab. Code, § 1171.5.)		

Insurance

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
<p>Continuous Property Damage. Stacking of Limits. (1) When continuous property damage occurs during the periods of several successive liability policies, is each insurer liable for all damage both during and outside its period up to the amount of the insurer’s policy limits? (2) If</p>	<p>Set for argument May 30, 2012 San Francisco Fully briefed August 5,</p>	<p><i>State of California v. Continental Ins. Co.</i>, S170560 170 Cal.App.4th 160 Mod. Order</p>

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
so, is the “stacking” of limits—i.e., obtaining the limits of successive policies—permitted?	2009	
<p>Private Right Of Action Under Unfair Competition Laws. (1) Can an insured bring a cause of action against its insurer under the unfair competition law (Bus. & Prof. Code, § 17200) based on allegations that the insurer misrepresents and falsely advertises that it will promptly and properly pay covered claims when it has no intention of doing so? (2) Does <i>Moradi-Shalal v. Fireman’s Fund Ins. Companies</i> (1988) 46 Cal.3d 287 bar such an action?</p>	<p>Waiting for argument</p> <p>Fully briefed</p> <p>June 30, 2010</p>	<p><i>Zhang v. Superior Court</i>, S178542</p> <p>178 Cal.App.4th 1081</p>

Products/Environmental

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
<p>CEQA. Exhaustion of Administrative Remedies. Does Public Resources Code section 21177 require a petitioner to</p>	<p>Waiting for argument</p> <p>Fully briefed April 11,</p>	<p><i>Tomlinson v. County of Alameda</i>, S188161</p> <p>188 Cal.App.4th 1406</p>

<i>Issue</i>	<i>Status</i>	<i>Case Information</i>
exhaust administrative remedies before filing an action challenging a public agency’s decision that a proposed project is categorically exempt from the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.)?	2011	
Settlements Arising Out Of Patent Lawsuits. May a suit under the Cartwright Antitrust Act (Bus. & Prof. Code, § 16720 et seq.) be brought to challenge “reverse exclusionary payments” made by pharmaceutical manufacturers to settle patent litigation with generic drug producers and prolong the life of the patents in question?	In Briefing Answer brief due May 29, 2012	<i>In re Cipro Cases I & II</i> , S198616 200 Cal.App.4th 442

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