## U.S. Supreme Court Clarifies Warrantless Search Law

02.26.2014

Police officers may search a home without a warrant, even if one of the occupants objects to the search, as long as a co-occupant gives consent and the objecting occupant is no longer at the premises due to a lawful detention or arrest, the United States Supreme Court has ruled. In *Fernandez v. California*, 571 U.S. \_\_\_\_ (2014), the Court clarified an open issue in the law regarding warrantless searches.

The issue in Fernandez was whether evidence obtained during a search of a residence should be suppressed because one of the occupants objected to the search before he was arrested and removed from the scene. Previously, the Court had determined that a warrantless search is permissible when the sole occupant of a dwelling consents. The Court also previously held that a warrantless search is not permissible when one of the occupants is physically present at the scene and objects to the search. In Fernandez, the Court addressed the situation when the objecting occupant is no longer at the premises because of a lawful arrest or detention. The case confirms that police officers may conduct a warrantless search based upon a co-occupant's consent.

For advice regarding *Fernandez v. California* or the law regarding police searches of premises, please contact Jennifer Petrussis at jpetrussis@rwglaw.com or any of the members of the Firm's Police Practices Group.