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IMPORTANT NEW TORTS DECISIONS PUBLISHED IN 2025

Escamilla v. Vannucci (2025) 17 Cal. 5th 571

IMPORTANT NEW DECISION

The California Supreme Court reversed the Court of Appeal and the trial court, ruling that an action for malicious prosecution against an attorney, brought by formerly adverse parties and not by the attorney's clients or the intended beneficiaries of the attorney's clients, is governed by the two-year statute of limitations in California Code of Civil Procedure section 335.1, not the one-year limitations period in California Code of Civil Procedure section 340.6 for actions against attorneys. (March 20, 2025.)

A.B. v. County of San Diego (2025) __ Cal.App.5th __, 2025 WL 1764845

The Court of Appeal reversed the trial court's order granting defendants' motion for summary judgment in plaintiff's action for wrongful death, battery, negligence, and negligent training, and a survival action for violation of Civil Code section 52.1 (Bane Act). Plaintiff alleged that defendants caused the wrongful death of her father Kristopher Birtcher (decedent) after he was brought to the ground and subdued by several deputies after a Hobby Lobby manager called law enforcement because decedent appeared to be suffering from a mental health crisis at the store. The trial court granted summary judgment, concluding there were no triable issues of material fact on plaintiff's theory that holding decedent in restraints in a prone position and applying bodyweight pressure to his back in the last minutes of his life constituted excessive force. The trial court also concluded that plaintiff had failed to identify a legal basis for her negligent training theory asserted against defendant Sheriff Gore. The Court of Appeal disagreed. Construing the facts in the light most favorable to the plaintiff, it concluded there were triable issues of material fact on the claim of excessive force used to restrain decedent, and also held that the trial court erred in granting summary judgment on plaintiff's direct negligence claim against Sheriff Gore because plaintiff identified a statutory basis for it, and Sheriff Gore failed to meet his initial burden to demonstrate the absence of any triable issues of material fact on the negligent training theory. (C.A. 4th, June 26, 2025.)

Bakos v. Roach (2025) 108 Cal.App.5th 390

The Court of Appeal affirmed the trial court's order granting defendants' motion for summary judgment as to plaintiff's claim for abuse of process, but it reversed in part the trial court's order granting summary judgment as to plaintiff's negligence claim. Plaintiff sued defendants for negligence and abuse of process after two humane officers with the Humane Society, accompanied by a volunteer veterinarian, seized dogs, chickens, roosters, and a goose from plaintiff's pheasant hunting club pursuant to a search warrant issued under the Penal Code. The Court of Appeal concluded that summary judgment was proper as to the veterinarian, and summary adjudication was proper as to all defendants on the abuse of process cause of action. However, there were triable issues of material fact in connection with the negligence cause of action against the Humane Society and the humane officers, because plaintiff was not afforded the opportunity for a postseizure administrative hearing and defendants did not establish entitlement to qualified immunity. (C.A. 3rd, January 29, 2025.)

Carmichael v. Cafe Sevilla of Riverside, Inc., et al. (2025) 108 Cal.App.5th 292

The Court of Appeal affirmed the trial court's order granting defendants' motion for summary adjudication on plaintiffs' cause of action for negligence per se, and its order granting defendants' motion for judgment on the pleadings on plaintiffs' cause of action of ultrahazardous activity. Plaintiffs were injured at a nightclub shooting that occurred during a rap concert featuring performers from rival gangs. Plaintiffs' negligence per se claim was based on the defendants' alleged violation of certain provisions of a conditional use permit (CUP) to operate the nightclub, but the CUP was not designed to prevent the type of injuries that plaintiffs sustained. Moreover, hosting a rap concert, even one with performers from rival gangs, was not an ultrahazardous activity. (C.A. 4th, filed on January 7, 2025, published on January 24, 2025.)

Ceron v. Liu (2025) __ Cal.App.5th __, 2025 WL 1766243

The Court of Appeal reversed the judgment for plaintiffs, following a bench trial, in their malicious prosecution action against defendant based upon unlawful detainer actions that defendant had earlier brought against plaintiffs. The trial court concluded that no reasonable person would have believed there were reasonable grounds to bring the two unlawful detainer action. The Court of Appeal disagreed, concluding that defendant had probable cause to bring the unlawful detainer actions based upon the advice of counsel. (C.A. 1st, June 26, 2025.)

Collins et al. v. Diamond Generating Corp. (2025) 107 Cal.App.5th 1162

IMPORTANT NEW DECISION

The Court of Appeal reversed the judgment following a jury trial, where the jury awarded the wrongful death plaintiffs over $150,000 million against defendant Diamond Generating Corporation (defendant)[1] and concluded that defendant was 97 percent at fault for the death of decedent Daniel Collins, an employee of DGC Operations, LLC (OPS), who was killed in an explosion after he attempted to remove the lid of a fuel filter tank. Decedent was one of five OPS employees performing annual maintenance at one of the units at the plant, a process which required them to depressurize the unit's fuel filter skid so the filter could be changed. OPS had recently changed the protocol for depressurizing the skid but had not provided adequate training to its employees on the process, and all five OPS employees working on the project failed to follow the prescribed protocols for depressurization. Defendant had a 50 percent indirect ownership interest in power plaint owner Sentinel Energy Center, LLC (Sentinel), and it was also the parent company of OPS. For a number of years, defendant's executives supervised OPS's plant manager, the individual who was in charge of training and failed to train OPS employees on plant safety. Plaintiffs tried their case against defendant on a negligent undertaking theory, asserting that defendant undertook a duty to render "safety-related services" at the power plant by overseeing OPS's work, and that defendant's failures in safety oversight led directly to decedent's death. The issue on appeal was whether plaintiffs' claims were barred by Privette v. Superior Court (1993) 5 Cal.4th 689 (Privette) and its progeny. The Court of Appeal observed that the Supreme Court has recognized that Privette bars claims against any entity in the chain of delegation and concluded it was possible that any safety-related responsibilities defendant may have had were delegated through Sentinel to OPS under Privette. Because of conflicting facts, the Court of Appeal could not resolve whether defendant had retained control over OPS's work or whether it was negligent in a manner that affirmatively contributed to decedent's death. As a result, a determination of the applicability of the Hooker v. Department of Transportation (2002) 27 Cal.4th 198 (Hooker) exception to the Privette doctrine, stating that a hirer owes a duty to a contract worker if the hirer retains control over any part of the work and negligently exercises that retained control so as to affirmatively contribute to the worker's injury, could not be decided by the trial court but had to be left to the trier of fact. The Court of Appeal concluded that the trial court prejudicially erred in refusing to instruct the jury on the Privette doctrine and its exceptions. Such instructions were warranted by substantial evidence, and the trier of fact could reasonably have reached a result more favorable to defendant in the absence of the error. The judgment was reversed and the case was remanded for a new trial. (C.A. 4th, filed December 11, 2024, published January 8, 2025.)

[1] Plaintiffs had sued other defendants but all those claims were settled before trial.

County of Nevada v. Super. Ct. (2025) 111 Cal.App.5th 85

The Court of Appeal granted a petition for writ of mandate ordering the trial court to set aside its partial denial of defendants' motion for summary judgment and instead enter an order granting the motion for summary judgment. In an action for wrongful death from the shooting of decedent mother who was advancing towards sheriff deputies with a raised knife, the trial court concluded that the deputy who shot the decedent acted reasonably as a matter of law and summary judgment was granted as to him, but the standby deputy who used a taser did not act reasonably and denied the summary judgment motion as to that deputy. The Court of Appeal disagreed, concluding that the backup deputy acted reasonably as a matter of law. Regardless of the alternatives that were available to the deputies, it was beyond dispute that the mother advanced toward the deputies with a deadly weapon. Plaintiffs did not challenge the trial court's conclusion that the lead officer acted reasonably in responding to that threat with deadly force. Applying the perspective of a reasonable officer at the scene, the Court of Appeal concluded that no reasonable juror could find unreasonable the actions of the deputy who did not lead the interaction with the mother but instead served as backup and used less-lethal force as the mother charged him with a raised knife. (C.A. 3rd, May 12, 2025.)

D.G. v. Orange County Social Services Agency (2025) 108 Cal.App.5th 465

The Court of Appeal reversed the trial court's order granting defendant County of Orange's (defendant) motion for summary in plaintiff's action for negligence arising out of alleged sexual abuse by plaintiff's foster father from the time he was a small child until he was a teenager, beginning in the mid-1970's. Plaintiff alleged he repeatedly informed the social worker that "bad people are hurting me." The trial court concluded that the information reported to defendant was insufficient to make it reasonably foreseeable that ongoing abuse was occurring. Alternatively, the trial court found that discretionary immunity applied. The Court of Appeal disagreed. On the negligence claim, defendant County failed to meet its burden to demonstrate a duty of care did not exist. The Court of Appeal concluded that the discretionary act immunity did not apply and concluded there was no considered decision to leave plaintiff in the foster home after he reported he was being hurt by bad people. (C.A. 4th, filed January 14, 2025, published January 31, 2025.)

De la Cruz v. Mission Hills Shopping Center LLC (2025) 110 Cal.App.5th 1086

The Court of Appeal reversed the trial court's order granting defendant's motion for summary judgment in plaintiff's action alleging negligence that caused plaintiff to trip on a pothole in a Mission Hills shopping center parking lot. The trial court granted the motion for summary judgment based upon a contract between defendant and plaintiff's employer, a tenant in the shopping center, that contained an exculpatory clause relieving defendant from any liability for negligent or wrongful acts. The Court of Appeal disagreed, concluding the trial court erred because the usual rule is that you must agree to a contract to be bound by it. (Civ. Code, § 1565.) Defendant failed to satisfy its burden on summary judgment to explain why its motion had a legal basis, and the motion should have been denied. (C.A. 2nd, April 28, 2025.)

Diamond v. Schweitzer (2025) 110 Cal.App.5th 866

The Court of Appeal affirmed the trial court's order granting defendants' motion for summary judgment against plaintiff's complaint alleging that plaintiff suffered injuries from a punch inflicted by a third party during an altercation in the restricted pit area at Bakersfield Speedway. Plaintiff alleged defendants were negligent in failing to provide reasonable security, adequately responding to the altercation, and undertaking reasonable rescue efforts. Defendants moved for summary judgment, asserting plaintiff's negligence claims were barred by the release and waiver of liability form he signed to gain admission to the pit area. The trial court properly granted the motion, concluding the release's language was clear, unequivocal, broad in scope, and included the negligent conduct alleged in the case. The trial court interpreted the release as including risks arising out of or related to racing activities. It concluded the assault was such a risk and was therefore the type of event anticipated and covered by the release. (C.A. 5th, filed March 24, 2025, published April 21, 2025.)

Doe 3 v. Superior Court of Santa Clara County (2025) 110 Cal.App.5th 571

The Court of Appeal granted a petition for writ of mandate directing the trial court to vacate its order overruling defendant's demurrer to plaintiffs' complaint. In 2009 plaintiffs sued an employee of petitioner alleging causes of action related to alleged sexual assault they suffered in their childhood. The trial court dismissed the claims against the employee with prejudice under the then-applicable statute of limitations. In 2022, based upon the revival provision of Code of Civil Procedure section 340.1, plaintiffs filed a complaint against petitioner based on the same allegations of childhood sexual assault. Petitioner demurred to the complaint, arguing that plaintiffs' claims against petitioner could not be revived under section 340.1(q), because they were derivative of the claims that were litigated to finality in the 2009 action. The trial court overruled the demurrer. The Court of Appeal disagreed and granted the writ petition, concluding that a claim for derivative liability against a principal was "litigated to finality" for purposes of section 340.1 (q) where a previous suit against an agent for the same damages on the same operative facts was dismissed with prejudice, and the claim, as stated in the operative complaint, was not revived under section 340.1(q). The trial court was directed to sustain the demurrer without leave to amend. (C.A. 6th, April 9, 2025.)

Drury v. Ryan (2025) 109 Cal.App.5th 1102

The Court of Appeal reversed the judgment for defendant, following a jury trial. Plaintiff sued defendant for personal injuries she suffered when her car was hit by defendant who was making a left turn in front of plaintiff. The trial judge erred in denying plaintiff's request for the jury to be instructed on negligence per se because defendant violated Vehicle Code section 21801. Negligence per se instructions in appropriate cases are essential because, without them, the jury lacks a complete understanding of the law. It is insufficient to instruct the jury on a statute or law providing a standard of care without also explaining its significance or how the statute applies to the case the jury must decide. Because the trial court's failure to instruct was prejudicial, the case was reversed and remanded for a new trial. (C.A. 4th, March 21, 2025.)

E.I. v. El Segundo Unified School Dist. (2025) 111 Cal.App.5th 1267

The Court of Appeal affirmed the judgment for plaintiff, following a jury trial, where the jury awarded plaintiff $1 million in damages after it found defendant negligently failed to protect plaintiff from other students' bullying while she was a student at El Segundo Middle School. On appeal defendant argued that the trial court erred in allowing plaintiff rely on provisions of the Education Code to support her negligence claim, defendant was entitled to discretionary immunity, plaintiff failed to prove her injuries were caused by middle school employees, the trial court erred in allowing the jury to consider a negligent training and supervision theory, expert testimony should have been excluded, and plaintiff's counsel engaged in misconduct during closing argument. The Court of Appeal affirmed, concluding that defendant either waived or failed to develop many of the issues in their opening brief, and concluding that the remaining issues lacked merit. (C.A. 2nd, June 13, 2025.)

Estate of St. John et al. v. Schaeffler et al. (2025) 109 Cal.App.5th 1146

IMPORTANT NEW DECISION

The Court of Appeal affirmed defendant landlords' motion for summary judgment in plaintiff's action for wrongful death. A decedent motorcyclist struck a 300-pound pig on a rural road and then died from an ensuing collision with another vehicle. Plaintiff (decedent's wife) sued the tenants living on a nearby parcel of property who were raising pigs, and also the tenants' landlords. Deciding whether the landlords owed a duty to decedent, the Court of Appeal ruled that a landlord owes a duty if (1) during the period of the tenancy, the landlord (a) actually knows that the property is in a dangerous condition (that is, that the property houses livestock and the livestock is not secured), and (b) has the right to enter the property to secure the livestock; or (2) at the time the tenancy begins or is renewed, the landlord (a) has some reason to believe the livestock might be unsecured, and (b) conducts a reasonable inspection that would reveal that the livestock is unsecured. Because the undisputed evidence in this case did not trigger the duty of care under either rule, the Court of Appeal affirmed the trial court's grant of summary judgment for the landlords. (C.A. 2nd, March 21, 2025.)

Gee v. National Collegiate Athletic Association (2025) 107 Cal.App.5th 1233

The Court of Appeal affirmed the judgment for defendant, following a jury trial where the jury found in favor of defendant in plaintiff's wrongful death action related to the death of her 49-year-old husband who had previously played football for USC. Plaintiff alleged that decedent's Stage II Chronic Traumatic Encephalopathy (CTE) was a substantial factor in her husband's death and alleged that defendant negligently failed to take reasonable steps which would have reduced his risk of contracting CTE. Defendant asserted an assumption of the risk defense and also argued that, as an unincorporated association, it could not be held liable for the failure of its members to vote to enact safety regulations. The Court of Appeal affirmed the judgment, concluding that the assumption of risk doctrine applied, and any instructional error relating to defendant's responsibility for the action or inaction of its members was harmless. (C.A. 2nd, filed December 24, 2024, published January 10, 2024.)

Harding v. Lifetime Financial, Inc. (2025) 109 Cal.App.5th 753

IMPORTANT NEW DECISION

The Court of Appeal affirmed the trial court's order granting defendants' motion for summary judgment in plaintiff's action alleging negligence and negligent supervision. Plaintiff was never a client of defendants. Instead, an impostor posing as an investment advisor employee of defendant Lifetime Financial, Inc. (defendant Lifetime) stole more than $300,000 from plaintiff. Before this occurred, Lifetime had received several inquiries from other individuals about a potential imposter who was posing as the same Lifetime employee and was asking for funds. Defendant Lifetime did not post a warning about the imposter on its website or take any other significant action. Ruling on an issue of first impression, the Court of Appeal concluded that the trial court properly granted defendants' motion for summary judgment.

There was no fiduciary relationship between plaintiff and defendants. Although defendants would owe a fiduciary duty to their customer as to investment decisions, plaintiff was not their customer. There is no authority that holds a fiduciary relationship could arise merely because the imposter used the employee's name and credentials as a licensed investment advisor to perpetuate the fraud. (C.A. 4th, March 14, 2025.)

Holman v. County of Butte (2025) 111 Cal.App.5th 177

IMPORTANT NEW DECISION

The Court of Appeal reversed the trial court's order granting defendant's motion for summary judgment in plaintiff's action for damages under Government Code section 815.6 alleging that defendant breached mandatory duties related to the evaluation, investigation, and cross-reporting of a referral alleging child abuse perpetrated against plaintiff. The trial court granted the motion for summary judgment, concluding that the undisputed facts showed that defendant's employee was exercising his discretion when he decided to "evaluate out" the referral (closing it without conducting an in-person investigation or cross-reporting it to other government agencies). The Court of Appeal disagreed and reversed, ruling that the trial court erred in concluding that defendant's social workers had discretion to decide whether a mandated report meets the statutory definitions of abuse. Under Child Abuse and Neglect Reporting Act (CANRA; Pen. Code § 11164 et seq.), when social workers receive a mandated report of suspected child abuse, section 11166(j) imposes a mandatory duty to cross-report the alleged abuse to law enforcement and other agencies. (C.A. 3rd, filed May 12, 2025, published May 15, 2025.)

I.C. v. Compton Unified School Dist. et al. (2025) 108 Cal.App.5th 688

The Court of Appeal affirmed the judgment for defendants school teacher and school district, following a 15-day jury trial, in plaintiff's action alleging that defendant teacher was negligent in the way that he tried to stop a fight between two students in his class. The teacher, who weighed 375 pounds and had recently been using a walker because of a back condition, immediately intervened to prevent the two boys from hurting themselves or someone else. While pulling the larger boy away from plaintiff – and being hit himself by plaintiff, who continued to throw punches after the other boy stopped—the teacher lost his balance and fell onto plaintiff, breaking plaintiff's leg. One of the other students video recorded the teacher's intervention in the fight. The jury concluded that neither the teacher nor the school district was negligent, and that plaintiff and the other boy were each 50 percent responsible for the harm to plaintiff. Plaintiff argued on appeal the trial court erred in not granting plaintiff's motion for judgment notwithstanding the verdict (JNOV), erred in refusing multiple special instructions plaintiff requested, and erred in excluding an expert witness. The Court of Appeal rejected all of these arguments. (C.A. 2nd, filed January 15, 2025, published February 6, 2025.)

Internat. Currency Technologies v. ICT, Inc. (2025) __ Cal.App.5th __, 2025 WL 1776555

The Court of Appeal affirmed the trial court's 2018 order denying defendant's motion for new trial on the jury verdict for plaintiff on its conversion action that awarded plaintiff damages of $550,000, and also affirmed the trial courts 2024 order awarding plaintiff prejudgment interest in the sum of $222,893.08 on the 2018 jury verdict. The Court of Appeal affirmed, concluding there was sufficient evidence to support the jury's $550,000 damages award on plaintiff's conversion cause of action and the trial court did not err in denying defendant's motion for new trial on this cause of action, and the trial court did not err in awarding plaintiff prejudgment interest from the date of the jury verdict. (C.A. 1st, June 27, 2025.)

Kuo v. Dublin Unified School Dist. (2025) 109 Cal.App.5th 662

The Court of Appeal affirmed the trial court's order granting defendant's motion for summary judgment in plaintiffs' action alleging the wrongful death of decedent Catherine Kuo after she was crushed between two vehicles while volunteering for a middle school program called the "Farmers to Families Food Box Program." The trial court properly granted the motion for summary judgment. The Court of Appeal concluded that fatal injuries unambiguously fell into the category of "any injury" according to the plain meaning of Labor Code section 3364.5. Moreover, decedent was deemed an employee entitled to workers' compensation benefits because defendant adopted a resolution stating, "in accordance with Section 3364.5 of the Labor Code, volunteers shall be entitled to Workers' Compensation benefits for any injury sustained by him/her while in the performance of any service under the direction and control of the District Superintendent." (C.A. 1st, March 12, 2025.)

L.W. v. Audi AG (2025) 108 Cal.App.5th 95

IMPORTANT NEW DECISION

The Court of Appeal reversed the trial court's order granting defendant's motion to quash service of summons for lack of personal jurisdiction in plaintiff's products liability lawsuit stemming from a car accident involving an allegedly defective Audi Q7. The trial court determined that defendant Audi AG (Audi), a German company that manufactures Audi vehicles in Germany and uses an American company to import, market, and sell those vehicles to authorized Audi dealerships across the United States, was not subject to personal jurisdiction in California under a "stream-of-commerce" theory. (See Goodyear Dunlop Tires Operations, S. A. v. Brown (2011) 564 U.S. 915, 926. The Court of Appeal disagreed, concluding that the record contained competent evidence establishing the existence of specific jurisdiction over Audi under a stream-of-commerce theory because the record showed that Audi, through its distributor Volkswagen Group of America Inc. dba Audi of America, Inc., intentionally placed its vehicles into the regular flow of commerce to the United States, including to California. (C.A. 3rd, January 15, 2025.)

Lorenzo v. Calex Engineering, Inc. (2025) 109 Cal.App.5th 49

IMPORTANT NEW DECISION

The Court of Appeal reversed the trial court's order granting defendants' motion for summary judgment in plaintiffs' action for the wrongful death of their daughters. Defendants were owner, general contractor, and excavation contractor for a construction project in downtown Los Angeles. Defendants represented to the City of Los Angeles (LA) that all dump trucks would be staged on-site at the construction project, with no more than 20 trucks present at a time, and LA granted an excavation permit on that basis with the condition that staging be on-site only. However, on the day of the accident defendants set up an off-site staging area miles from the construction project and ordered 90 dump trucks to that unpermitted staging area. The Court of Appeal, finding defendants were morally blameworthy for violating their permit and misrepresenting their staging plan to LA, concluded that defendants had a general duty to conduct their construction project with reasonable care for the safety of others, and the factors in Rowland v. Christian (1968) 69 Cal.2d 108 (commonly known as the Rowland factors) did not justify finding an exception to that duty when defendants implemented an unpermitted staging area for construction vehicles. (C.A. 2nd, March 28, 2025.)

Odom v. L.A. Community College Dist. (2025) 110 Cal.App.5th 470

The Court of Appeal reversed a judgment on a jury verdict awarding plaintiff $10 million for her allegations of sexual harassment, retaliation and related claims. The Court of Appeal reversed the judgment, not for lack of substantial evidence, but for prejudicial errors in the admission of irrelevant and damaging "me-too" evidence from a witness who was not similarly situated to plaintiff (the witness was a student worker, not a tenured faculty member like plaintiff), and for the equally prejudicial and erroneous admission of 20-year-old newspaper articles and other evidence of the alleged harasser's misdemeanor conviction without any Evidence Code section 352 analysis weighing the potential prejudice and the potential probative value of such evidence. (C.A. 2nd, April 7, 2025.)

Ortiz v. Daimler Truck North America LLC (2025) __ Cal.App.5th __, 2025 WL 1778776

IMPORTANT NEW DECISION

The Court of Appeal reversed the trial court's order granting defendant's motion for summary judgment in plaintiffs' action for the wrongful death of their mother who was killed when a commercial truck traveling over 55 miles per hour rear-ended her car at a red light. Plaintiffs' sued defendant for design defect and negligent design, alleging that defendant should be held liable for their mother's death because it failed to equip the truck with a collision avoidance system, called Detroit Assurance 4.0, that would have prevented this fatal accident. The trial court erred in concluding the truck driver was the proximate cause of the accident, not the absence of a collision avoidance system. The proximate cause of the death should have remained a question for the jury. The trial court also erred in concluding that defendant owed no duty to provide a collision avoidance system. The Court of Appeal concluded it was best to retain a duty of care in this context. While commercial truck manufacturers may not have a duty to install collision avoidance systems in every case, they must exercise due care when choosing whether to install these systems. The case was remanded for further proceedings. (C.A. 3rd, June 27, 2025.)

Padron v. Osoy (2025) 110 Cal.App.5th 677

IMPORTANT NEW DECISION

The Court of Appeal affirmed the trial court's order granting defendant's motion for summary judgment in plaintiff's action for personal injuries suffered when plaintiff fell from a ladder while plaintiff was making improvements to defendant's home. The trial court properly granted the motion for summary judgment because plaintiff's claims for his on-the-job injuries were exclusively covered by workers' compensation. Labor Code section 3351(d) provides the default rule of workers' compensation exclusively. Labor Code section 3352 (a)(8)(A) creates an exception to the default rule, excluding from workers' compensation coverage a worker whose employment within the 90 days preceding the accident "was, or was contracted to be, for less than 52 hours." Plaintiff and defendant contracted for a project that would take more than 52 hours but plaintiff was injured less than 52 hours into the job. Plaintiff argued on appeal that this meant the exception applied. The Court of Appeal disagreed, concluding that section 3352(a)(8)(A) excludes from workers' compensation (1) employment contracted to be for less than 52 hours, and (2) employment for less than 52 hours where no time period was contracted for. Because the contract was to take more than 52 hours, the exception under 3352(a)(8)(A) did not apply and plaintiff's claim was barred by the exclusive remedy of workers' compensation. (C.A. 2nd, April 11, 2024.)

Restivo v. City of Petaluma (2025) 111 Cal.App.5th 267

The Court of Appeal affirmed the trial court's order granting defendant's motion for summary judgment in plaintiff's action for personal injuries suffered after her skateboard hit a large crack. Plaintiff alleged there was a dangerous condition. The trial court properly granted the motion for summary judgment because plaintiff failed to raise any triable issue of fact regarding whether defendant had either actual or constructive notice of the alleged dangerous condition. (C.A. 1st, filed May 2, 2025, published May 20, 2025.)

Stokes et al. v. Forty Niners Stadium Management Co., LLC, et al. (2025) 107 Cal.App.5th 1199

The Court of Appeal affirmed the trial court's orders granting defendants' motions for summary judgment to plaintiffs' action alleging that defendants Forty Niners Stadium Management Co., LLC and Landmark Event Staffing Services, Inc. (collectively defendants) were negligent in failing to prevent an assault on decedent Mark Stokes by defendant David Gonzales as they were both leaving a San Francisco Forty Niners game, and failing to provide reasonably adequate security. The Court of Appeal affirmed, concluding that the record from the summary judgment motions presented no substantial, nonspeculative evidence from which a trier of fact could conclude that the acts or omissions of defendants (or either of them) caused decedent's injuries. Because plaintiffs could not establish causation—an essential element of their negligence and premises liability claims—the trial court did not err in granting defendants' motions for summary judgment. (C.A. 6th, filed December 19, 2024, published January 10, 2025.

Tillinghast v. L.A. Unified Sch. Dist. (2025) 110 Cal.App.5th 1272

The Court of Appeal affirmed the jury's award to plaintiff of $15 million in his action for the preventable wrongful death of his son, 13-year old Maxwell Tillinghast, who was jogging in a physical education class when he collapsed from sudden cardiac arrest. The 911 operator asked if the school had a defibrillator. Teachers desperately trying to resuscitate the 13 year old said no. In fact, the school did have one. It was in the main office, but no one ever told the teachers. Decedent would have had a 90% chance of survival if defibrillated within three minutes, but without the defibrillator he died. The sole issue at trial was the factual question of causation of whether decedent's latent heart defect would have led to a fatal outcome even had the teachers known about the nearby defibrillator. The appeal, however, raisd a different issue: the legal question of whether defendant had a duty to inform the teachers. The Court of Appeal concluded that defendant forfeited any complaint about the trial court giving CACI 423, entitled Public Entity Liability for Failure to Perform Mandatory Duty, by not raising an objection to this instruction during the trial. (C.A. 2nd, May 5, 2025.)

Tindall v. County of Nevada (2025) __ Cal.App.5th __, 2025 WL 1702999

The Court of Appeal affirmed the trial court's order granting defendant's motion for summary judgment in plaintiff's personal injury action arising from an incident in the evening in November 2019 where plaintiff slipped on a layer of ice as she walked to her car in the parking lot of the County jail where she worked. The trial court granted the motion for summary judgment concluding that defendant was entitled to the "weather immunity" in Government Code section 831. The Court of Appeal affirmed, rejecting all of plaintiff's arguments on appeal. It found unpersuasive plaintiff's argument that section 831 immunity did not apply to parking lots. It concluded that plaintiff had forfeited her other two arguments that even if the section 831 immunity did apply to parking lots it did not apply in this case because the dangerous condition resulted from a combination of weather with other factors, and that defendant did not carry its burden to show a reasonably careful person would have anticipated the potential existence of slippery ice in the parking lot. (C.A. 3rd, filed May 30, 2025, published June 18, 2025.)

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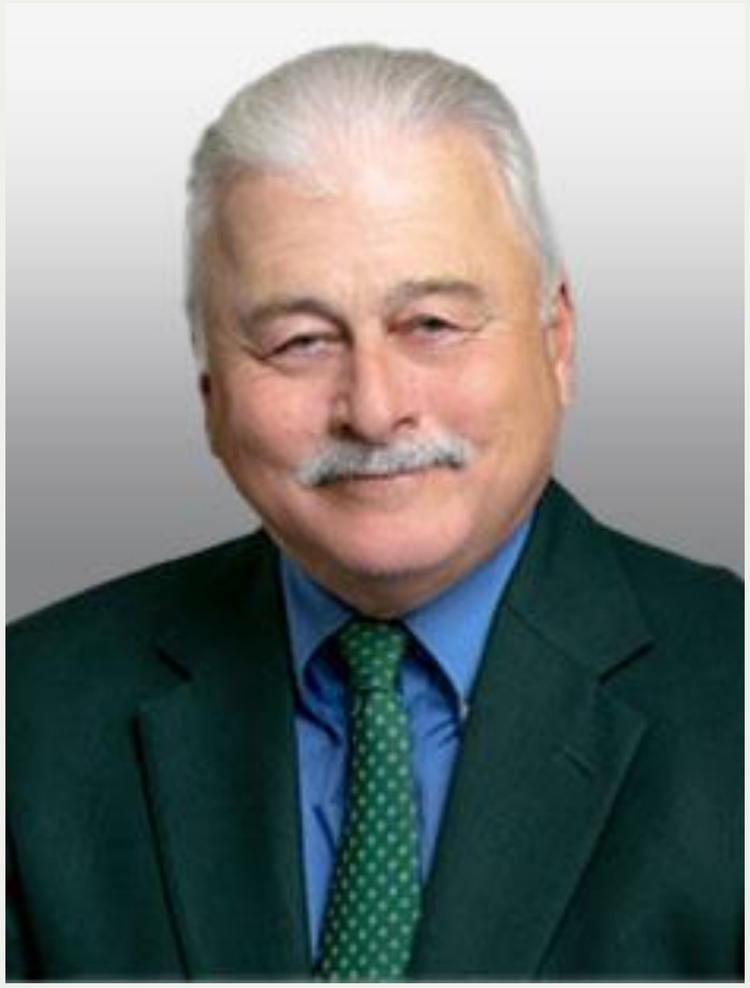

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JAMES WALLACE, ESQ.

La Follette Johnson

James Wallace has more than 20 years experience in the areas of health care law, professional liability defense, products liability and general civil litigation. He has successfully tried numerous cases and binding arbitrations throughout his career. He is the current Vice President/President-elect and on the Board of Directors of the San Diego Defense Lawyers. He has also been a workshop leader for the San Diego County Inn of Courts. He holds the highest “AV” rating by Martindale-Hubbell and he has been repeatedly selected as one of the Southern California “Super Lawyers.” Mr. Wallace has been a Judge Pro Tem and Arbitrator for the San Diego Superior Court and was a State Bar delegate, 1995-2001. He is a member of the San Diego County Bar, Los Angeles County Bar, American Society of Law & Medicine, Southern California Defense Lawyers and the DRI. He attended Seton Hall University receiving a B.A., cum laude, in 1982. Thereafter he received his J.D. from California Western School of Law in 1986.

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BEN CRAMER, ESQ.

Stalwart Law Group

Ben Cramer brings nearly two decades of trial experience to his current role at Stalwart Law Group, where he now exclusively represents victims of medical negligence and elder neglect. His legal career began on the plaintiff side at a boutique firm, followed by 14 years of defense work at two of California's most respected medical malpractice defense firms. During that time, he served as the lead trial lawyer for one of the largest healthcare organizations in Southern California and rose to managing partner of a firm office. A respected figure in the legal community, Ben served as President of the San Diego Defense Lawyers and was selected to the California Medical Legal Committee, a group of elite defense attorneys recognized for their excellence in medical malpractice defense.

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