



SISC

Self-Insured Schools
of California
Schools Helping Schools

**PROPERTY AND LIABILITY
BOARD OF DIRECTORS MEETING
SEPTEMBER 25, 2025
10:30 A.M.**

AGENDA

I. Consent Agenda

- A. Approval of Minutes for August 2025 Board of Directors Meeting Dave Ostash
- B. Approval of Payment of Student Insurance Claims in the Amount of \$68,937.64 and no Tackle Football Claims for the Month of August 2025 Dave Ostash

Moved _____ 2nd _____

Yes ____ No ____ Abstain ____ Roll Call Vote _____

II. Public Comment

III. Closed Session- Property and Liability Claims

The board may be required to adjourn to closed session for discussion of matters regarding a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability, authorized by Government Code 54956.95.

District	File Number	Claimant
Semi Tropic By Ryan Bourget	2025055223	Property
Standard School District By Hilda Hankins	2026056191	Property
Antelope Valley Union High School District By Hilda Hankins	2019035044	Brandon Smith-Bailey L-BI
Delano Union Elementary School District By Hilda Hankins	2023043854	Rene Monterrubio A-BI

IV. Reconvene To Open Session

A. Reports from Closed Session, if Required

V. Action Items

- A. Report of Property and Liability Claims in the Amount of \$1,250,039.62 for the Month of August 2025 and Ratification of Payment of this Amount Dave Ostash

Moved _____ 2nd _____

Yes _____ No _____ Abstain _____ Roll Call Vote _____

- B. Financial Report – Presentation of Financial Statements for the Month of August 2025 Will Be Submitted for Approval Kim Sloan

Moved _____ 2nd _____

Yes _____ No _____ Abstain _____ Roll Call Vote _____

VI. Information and Discussion Items

- A. CAJPA 2025 Case Law Update Dave Ostash
- B. SISC Defense Counsel Summit 2025 Dave Ostash
- C. SISC Communication Plan Presentation Alex Fisher
- D. Update on the Annual Board Meeting and Health Symposium Dave Ostash
- E. Comments from the Board of Directors Will Be Heard Dave Ostash
- F. Next Meeting: Dave Ostash
Thursday, October 16, 2025
1:00 p.m.
Lucia Mar Unified School District – Georgie O’Connor Board Room
602 Orchard Street, Arroyo Grande, CA 93420

- G. Adjournment Dave Ostash

Moved _____ 2nd _____

Yes _____ No _____ Abstain _____ Roll Call Vote _____

Any materials required by law to be made available to the public prior to a meeting of the Governing Board of the SISC II JPA can be inspected at the following address during normal business hours at:

2000 K Street, Bakersfield, CA. 93301

For more information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation to participate in the public meeting, please contact Kristy Comstock at 661-636-4682 or

krcomstock@siscschools.org

*The number of Board Members needed to form a quorum for this meeting is eight

PROPERTY & LIABILITY TERMINOLOGY

1. **AMERICANS WITH DISABILITIES ACT (ADA)** - A federal act designed to set standards to remove the barriers to employment, transportation, public accommodations, public services, and telecommunications that exist for those members of our society who have physical disabilities. The act encompasses aspects of everyday life and generates wide ranging implications for almost every business or service.
2. **CIVIL RIGHTS VIOLATIONS** - The term applied to tort claims involving issues of sexual harassment; wrongful termination; employment, age, gender or race discrimination; ADA; employment harassment. If Plaintiff prevails, even partially, this type of case entitles plaintiff to also collect attorney fees.
3. **CLAIM TYPES** – The internal coding systems for claims includes:

ABI – Auto Bodily Injury	BM – Boiler/Machinery	LPI – Liability Personal Injury
ACL – Auto Collision	CF – Crime/Fidelity	LPD–Liability Property Damage
ACP – Auto Comprehension	EP – Liability Employment Practices	P – Property
AGK – Auto Garage Keepers	LBI – Liability Bodily Injury	SE – Special Education
APD – Auto Property Damage	LEO – Liability Errors & Omission	SM – Liability – Sexual Misconduct
4. **CLASS ACTION** – A lawsuit in which one person or a small group of people represent the interests of an entire class of people in litigation.
5. **COMPARATIVE NEGLIGENCE** - A more modern system of allocating damages between two or more persons than the method of contributory negligence. Under comparative negligence, the damages collectible in relation to another person are diminished in proportion to one's degree of negligence. In most instances, damages cannot be collected at all if the claimant's negligence were greater than that of the other party. Currently, in a few instances, the courts have awarded both parties damages as a percent of the total damages, depending on respective degrees of fault.
6. **CROSS COMPLAINT** – A claim asserted by a defendant against another party to the action. Also termed (in some jurisdictions) *cross petition*. A claim asserted by a defendant against a person not a party to the action for a matter relating to the subject of the action.
7. **DECLARATORY RELIEF ACTION** - Remedy for the determination of a judicial controversy where a plaintiff or defendant is in doubt as to their legal rights. No consequential relief is awarded.
8. **ERRORS AND OMISSIONS (E&O)** - A form of Professional Liability insurance which provides coverage for mistakes made in a profession not involved with the human body (lawyers, architects, engineers) or for mistakes made in a service business (insurance, real estate, and others). Also a form of coverage for financial institutions protecting against loss to lending institutions which fail to effect insurance coverage.
9. **HEARSAY** – Testimony by a witness based not on his or her own observations but on what someone else said, offered in evidence to prove the truth of what was said.
10. **HOLD HARMLESS AGREEMENT** - A contractual arrangement whereby one party assumes the liability inherent in a situation, thereby relieving the other party of responsibility. Such agreements are typically found in leases and easements and construction contract agreements. Agreement or contract in which one party agrees to hold the other without responsibility for damage or other liability arising out of the transaction involved.
11. **INCURRED LOSSES** – The amount equal to paid losses and losses for which the insurer is liable but has not yet paid.
12. **INJUNCTIVE RELIEF ACTION** - Legal action filed for prohibitive or equitable relief. An action filed to forbid an act or to restrain someone from continuing an act which is considered unjust or injurious.
13. **MORAL HAZARD** – A condition that may lead a person to intentionally cause or exaggerate a loss.
14. **MOTION FOR SUMMARY JUDGMENT** - Rule of civil procedure permitting either side in a civil suit to move for dismissal when it is believed that there is no genuine issue of material fact that would allow the other side to prevail as a matter of law. The "motion" may include all or part of a claim.
15. **MOTION IN LIMINE** – A pretrial request that certain inadmissible evidence not be referred to or offered at trial.
16. **PERSONAL INJURY** - Injury, other than bodily injury, results from oral or written communication.
17. **PUNITIVE DAMAGES (Exemplary)** - Damages awarded separately and in addition to compensatory damages, usually on account of malicious or wanton misconduct, to serve as a punishment for the wrongdoer and, possibly, as a deterrent to others. Sometimes referred to as "exemplary damages" when intended to "make an example" of the wrongdoer. By law, government entities are immune from punitive damages.
18. **RESERVATION OF RIGHTS LETTER** – An insurer's letter that specifies coverage issues and informs the insured that the insurer is handling a claim with the understanding that the insurer may later deny coverage should the facts warrant it.
19. **SUBROGATION** - In insurance, the substitution of one party (insurer) for another party (insured) to pursue any rights the insured may have against a third party liable for a loss paid by the insurer.
20. **TORT** - A legal wrong arising from a breach of duty fixed by law, except under contract, causing injury to persons or property and redressible by legal action for damages. Government entities are ruled by the Tort Claims Act.
21. **VENUE** – The locale in which the lawsuit may be brought.



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**PROPERTY AND LIABILITY
BOARD OF DIRECTORS MEETING
AUGUST 21, 2025
10:30 A.M.**

MINUTES

The Regular Meeting of the Board of Directors of SISC II Property and Liability Program was called to order by Director Ostash at 10:30 a.m. on Thursday, August 21, 2025 in the SISC Board Room of the Larry E. Reider Building, 2000 K Street, Bakersfield, California 93301. The following individuals were in attendance:

MEMBERS PRESENT:

Dave Ostash
Ty Bryson
Rhonda Phinney
S. Aaron Resendez
Sue Lemon
Brad Pawlowski
Steve Torres
Robert Hughes
Jennifer Hedge (arrived at 10:32)
Katie Russell (arrived at 10:32)

ALTERNATES PRESENT:

Christian Shannon
Ramon Hendrix

OTHERS PRESENT:

Kim Sloan
Megan Hanson
Kristy Comstock
Rich Edwards
Fred Bayles
Robert Kretzmer
Ryan Bourget
Ty Taylor
Kerri Jones
Alex Fisher
Julio Perez

Consent Agenda

Motion was made by Director Lemon, seconded by Director Bryson and by roll call vote of 8-Yes, 0-No, and 0 Abstentions (8-0-0) to approve the Consent Agenda as follows:

Minutes

Approval of Minutes for July 2025 Board of Directors Meeting

Student Insurance and Tackle Football Claims

Approval of payment of Student Insurance Claims in the Amount of \$46,163.02 and Tackle Football Claims in the amount of \$301.82 for the month of July 2025.

Public Comment

None

Closed Session – Property & Liability Claims

The Board went into closed session at 10:32 a.m.

Reconvene to Open Session

The Board reconvened into open session at 10:36 a.m.

With respect to the claim filed by Semitropic School District after discussion, motion was made by Director Hughes, seconded by Director Russell and by roll call vote of 10-0-0 the board approved the payment of \$282,585.29 for emergency clean-up, demo and repair to cafeteria due to major water damage.

Action Items

Report of Property and Liability Claims – July 2025

Robert Kretzmer presented the Report of Property and Liability Claims. There were 47 new claims, 27 claims were closed and no claims reopened in July, resulting in 548 pending claims. Robert reviewed the check register for July 2025, reporting on nine checks that were in excess of \$50,000.00. After discussion, motion was made by Director Torres, seconded by Director Pawlowski and by roll call vote of 10-0-0, approving payment of Property and Liability Claims in the amount of \$3,598,827.23 for the month of July 2025.

Financial Report

Kim Sloan reviewed with the Board the Financial Report for the period ending July 31, 2025. Kim reported the LAIF rate for the month of July 2025 stayed the same as last month at 4.27%. After discussion, motion was made by Director Lemon, seconded by Director Phinney and by roll call vote of 10-0-0, approving the Financial Reports as submitted.

Information and Discussion Items

Review AB 218 Impact on Claims – Made Coverage Trend for JPA's

Robert Kretzmer reviewed an article on the impact of AB 218 on claims.

SISC Defense Counsel Summit

Robert Kretzmer gave a brief overview on details and what to expect at the Defense Counsel Summit on October 15th.

Heat Safety for Students

Kerri Jones reviewed heat safety for students with the Board referencing the June 2025 Quarterly Update Newsletter.

Fiscal Year Claims Count Review

Ty Taylor reviewed the fiscal year claims count for auto, liability, property and student insurance with the Board.

Comments from the Board

Director Ostash discussed a few possible changes with the Health Benefits Symposium and Annual Board meeting starting next year.

Adjournment

There being no further business to come before the Board, motion was made by Director Lemon, seconded by Director Hughes and by roll call vote of 10-0-0, adjourning the meeting at 11:26 a.m.

Next Meeting

The next meeting of the Board of Directors will be held **Thursday, September 25th at 10:30 a.m.** in the SISC Board Room, 4th Floor – Larry E. Reider Education Center, 2000 K Street, Bakersfield, CA 93301.

Robert Hughes, Secretary



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SUMMARY OF ACTIVITY
AUGUST 2025

	<u>STUDENT</u> <u>INSURANCE</u>	<u>TACKLE</u> <u>FOOTBALL</u>
Opened	44	11
Closed	6	9
Events	25	0
Total Open & Event claims	993	19
Amount Paid	\$ 71,437.64	\$ -
Credit	\$ (15.00)	\$ -
Net Paid Current Month	\$ 71,422.64	\$ -
Net Paid YTD	\$ 117,585.66	\$ 301.82



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**SISC - PROPERTY & LIABILITY
CLAIM AND LOSS MANAGEMENT SUMMARY
August 2025**

FILES REOPENED	0
FILES OPENED	40
FILES CLOSED	44
TOTAL PENDING CLAIMS	527
OPEN EVENT FILES	75
PENDING INDEMNITY RESERVES	\$51,047,902.11
PENDING EXPENSE RESERVES	\$11,892,752.61
	<hr/>
<i>TOTAL RESERVES</i>	\$62,940,654.72
INDEMNITY PAID, CURRENT MONTH	\$712,992.02
EXPENSES PAID, CURRENT MONTH	\$534,547.60
	<hr/>
<i>SUB-TOTAL</i>	\$1,247,539.62
PRIOR MONTH VOIDS (CREDITS)	(\$46,200.46)
RECOVERY	(\$207,917.07)
REFUNDS	(\$27,025.33)
	<hr/>
<i>NET PAID CURRENT MONTH</i>	\$966,396.76
INDEMNITY PAID YEAR-TO-DATE	\$3,896,958.09
EXPENSES PAID YEAR-TO-DATE	\$949,408.76
	<hr/>
<i>SUB-TOTAL</i>	\$4,846,366.85
CREDITS YEAR-TO-DATE	(\$47,100.46)
RECOVERY YEAR-TO-DATE	(\$249,801.39)
REFUNDS YEAR-TO-DATE	(\$27,025.33)
	<hr/>
<i>SUB-TOTAL</i>	(\$323,927.18)
<i>NET PAID YEAR-TO-DATE</i>	<hr/> \$4,522,439.67

Check Register - Property & Liability

Check Number	Check Date	Payee	Claim Number	Claim Type	Payment Type	Insured	Check Amount
609838	08/01/2025	CENTRAL COAST	2025055434	LBI	Medical	Delhi Unified	91.78
609862	08/05/2025	CARPENTER, ROTHANS &	2023047175	LBI	Attorney Fees	Antelope Valley	1,461.50
609863	08/05/2025	Merced Union High School	2025052729	ACL	Deductible	Merced Union High	5,000.00
609864	08/05/2025	CARPENTER, ROTHANS &	2022042589	LBI	Attorney Fees	Palmdale	1,043.08
609865	08/05/2025	CARPENTER, ROTHANS &	2022043595	LBI	Attorney Fees	Palmdale	90.00
609866	08/05/2025	CARPENTER, ROTHANS &	2024049983	LBI	Attorney Fees	Antelope Valley	476.00
609867	08/05/2025	MARK JENKINS	2025055844	APD	Vehicle Damage	Bishop Unified	1,500.06
609868	08/05/2025	MCCORMICK, BARSTOW,	2013006822	LBI	Attorney Fees	Taft Union High	540.00
609869	08/05/2025	MCCORMICK, BARSTOW,	2013006822	LBI	Attorney Fees	Taft Union High	3,845.25
609870	08/05/2025	HODSON PI LLC	2021039801	LBI	Legal-Other	Fairfax School	1,310.02
609871	08/05/2025	The Preferred Interpreting	2022042602	LBI	Legal-Other	Antelope Valley	1,295.00
609872	08/05/2025	BAYSIDE REPORTING	2022042602	LBI	Legal-Other	Antelope Valley	2,149.00
609873	08/05/2025	BAYSIDE REPORTING	2022042602	LBI	Legal-Other	Antelope Valley	1,845.00
609874	08/05/2025	MAGNA LEGAL SERVICES, LLC	2022042602	LBI	Attorney Fees	Antelope Valley	2,313.75
609875	08/05/2025	SIGNATURE RESOLUTION,	2022042602	LBI	Legal-Other	Antelope Valley	4,750.00
609876	08/05/2025	TYSON & MENDES LLP	2021039801	LBI	Attorney Fees	Fairfax School	15,753.35
609877	08/05/2025	TYSON & MENDES LLP	2024049003	LSM	Attorney Fees	Palmdale	1,368.00
609878	08/05/2025	TYSON & MENDES LLP	2023045998	LBI	Attorney Fees	Antelope Valley	6,087.00
609879	08/05/2025	TYSON & MENDES LLP	2023045998	LBI	Attorney Fees	Antelope Valley	4,827.00
609880	08/05/2025	HALL, HIEATT, CONNELLY &	2025054660	LBI	Attorney Fees	San Luis Coastal	302.50
609881	08/05/2025	HALL, HIEATT, CONNELLY &	2025053839	LBI	Attorney Fees	San Luis Coastal	1,155.00
609882	08/05/2025	HALL, HIEATT, CONNELLY &	2025053137	LBI	Attorney Fees	Lucia Mar Unified	1,310.71
609883	08/05/2025	HALL, HIEATT, CONNELLY &	2025053506	LBI	Adjusting	Lucia Mar Unified	1,485.00
609884	08/05/2025	ENTERPRISE RENT-A-CAR	2025055764	APD	Rental Vehicle	Brawley	579.90
609885	08/05/2025	ENTERPRISE RENT-A-CAR	2025055581	LPD	Rental Vehicle	Rosedale Union	2,669.57
609886	08/05/2025	HALL, HIEATT, CONNELLY &	2023043948	ABI	Attorney Fees	Paso Robles Joint	808.50
609887	08/05/2025	HALL, HIEATT, CONNELLY &	2023047327	LBI	Attorney Fees	Lucia Mar Unified	1,077.00
609888	08/05/2025	HALL, HIEATT, CONNELLY &	2024050873	LBI	Attorney Fees	Santa Maria-Bonita	1,001.50
609889	08/05/2025	SLATER SLATER SCHULMAN	2023044768	LBI	Trust Account -	Antelope Valley	190,000.00

Check Register - Property & Liability

Check Number	Check Date	Payee	Claim Number	Claim Type	Payment Type	Insured	Check Amount
609899	08/08/2025	HALLIWELL ENGINEERING	2025052077	P	Adjusting	Weaver Union	11,016.00
609900	08/08/2025	DEMARIA LAW FIRM, APC	2023044468	ABI	Attorney Fees	Merced County	12,191.89
609901	08/08/2025	DEMARIA LAW FIRM, APC	2023044042	LBI	Attorney Fees	Greenfield Union	121.50
609902	08/08/2025	DEMARIA LAW FIRM, APC	2023047512	LEP	Attorney Fees	Brawley	974.50
609903	08/08/2025	UNISOURCE DISCOVERY	2024049171	LBI	Legal-Other	Greenfield Union	118.00
609904	08/08/2025	UNISOURCE DISCOVERY	2024049171	LBI	Legal-Other	Greenfield Union	114.58
609905	08/08/2025	UNISOURCE DISCOVERY	2024049171	LBI	Legal-Other	Greenfield Union	139.10
609906	08/08/2025	UNISOURCE DISCOVERY	2024049171	LBI	Legal-Other	Greenfield Union	89.58
609907	08/08/2025	UNISOURCE DISCOVERY	2024049171	LBI	Legal-Other	Greenfield Union	120.76
609908	08/08/2025	UNISOURCE DISCOVERY	2023044381	LBI	Legal-Other	Lake Elsinore	107.28
609909	08/08/2025	UNISOURCE DISCOVERY	2023044381	LBI	Legal-Other	Lake Elsinore	152.94
609910	08/08/2025	UNISOURCE DISCOVERY	2023044381	LBI	Legal-Other	Lake Elsinore	118.49
609911	08/08/2025	UNISOURCE DISCOVERY	2024051297	LBI	Legal-Other	Delano Union	88.77
609912	08/08/2025	UNISOURCE DISCOVERY	2024051297	LBI	Legal-Other	Delano Union	106.38
609913	08/08/2025	UNISOURCE DISCOVERY	2024051297	LBI	Legal-Other	Delano Union	127.63
609914	08/08/2025	DEMARIA LAW FIRM, APC	2024050021	LBI	Attorney Fees	Merced Union High	749.00
609915	08/08/2025	DEMARIA LAW FIRM, APC	2024048665	LBI	Attorney Fees	Merced County	417.00
609916	08/08/2025	DEMARIA LAW FIRM, APC	2022043606	LBI	Attorney Fees	Delhi Unified	756.00
609917	08/08/2025	DEMARIA LAW FIRM, APC	2024047705	LBI	Attorney Fees	Merced County	480.00
609918	08/08/2025	DEMARIA LAW FIRM, APC	2023047252	LBI	Attorney Fees	Merced County	1,222.00
609919	08/08/2025	MC GROUP LAW, APC	2019034991	LBI	Attorney Fees	Santa Barbara	3,655.35
609920	08/12/2025	MC LAW GROUP, APC	2022043499	LEP	Attorney Fees	Carpinteria Unified	1,151.50
609921	08/12/2025	MC LAW GROUP, APC	2023043827	LBI	Attorney Fees	Santa Barbara	3,158.26
609922	08/12/2025	MC LAW GROUP, APC	2021040073	LBI	Attorney Fees	Santa Barbara	846.00
609923	08/12/2025	MC LAW GROUP, APC	2023046326	LEP	Attorney Fees	Santa Ynez Valley	5,136.94
609924	08/12/2025	MC LAW GROUP, APC	2022043429	LBI	Attorney Fees	Lucia Mar Unified	663.95
609925	08/12/2025	MC GROUP LAW, APC	2025052119	LPI	Attorney Fees	Santa Barbara	2,397.00
609926	08/12/2025	MC LAW GROUP, APC	2025052616	LPI	Attorney Fees	Santa Barbara	4,653.00
609927	08/12/2025	MC LAW GROUP, APC	2023044672	LPI	Attorney Fees	Santa Barbara	493.50
609928	08/12/2025	MC LAW GROUP, APC	2025053792	LPI	Attorney Fees	Santa Barbara	658.00
609929	08/12/2025	MC GROUP LAW, APC	2025053764	LEP	Attorney Fees	San Luis Obispo	705.00

Check Register - Property & Liability

Check Number	Check Date	Payee	Claim Number	Claim Type	Payment Type	Insured	Check Amount
609930	08/12/2025	MC GROUP LAW, APC	2026056031	LPI	Attorney Fees	Carpinteria Unified	470.00
609931	08/12/2025	MC GROUP LAW, APC	2026056030	LPI	Attorney Fees	Carpinteria Unified	728.50
609932	08/12/2025	CSI LITIGATION PSYCHOLOGY	2022040627	LBI	Legal-Other	San Luis Coastal	5,196.25
609933	08/12/2025	DEMARIA LAW FIRM, APC	2024048998	LBI	Attorney Fees	Tuolumne Cnty	1,933.50
609934	08/12/2025	DEMARIA LAW FIRM, APC	2022041736	LBI	Attorney Fees	Mammoth Unified	5,140.00
609935	08/12/2025	DEMARIA LAW FIRM, APC	2022042091	LPI	Attorney Fees	Amador County	346.00
609936	08/12/2025	HALL, HIEATT, CONNELLY &	2025053764	LEP	Attorney Fees	San Luis Obispo	2,365.00
609937	08/12/2025	HALL, HIEATT, CONNELLY &	2025053194	LPI	Attorney Fees	Lucia Mar Unified	259.40
609938	08/12/2025	HALL, HIEATT, CONNELLY &	2025054540	LPI	Attorney Fees	Lucia Mar Unified	4,015.00
609939	08/12/2025	HALL, HIEATT, CONNELLY &	2025054011	LEP	Attorney Fees	San Luis Coastal	3,294.21
609940	08/12/2025	HALL, HIEATT, CONNELLY &	2024051130	LPI	Attorney Fees	Los Olivos School	2,350.00
609941	08/12/2025	HALL, HIEATT, CONNELLY &	2022043429	LBI	Attorney Fees	Lucia Mar Unified	2,829.00
609942	08/12/2025	HALL, HIEATT, CONNELLY &	2022040627	LBI	Attorney Fees	San Luis Coastal	1,508.50
609943	08/12/2025	DEMARIA LAW FIRM, APC	2025055053	LEP	Attorney Fees	Amador COE (GL)	10,008.20
609944	08/12/2025	DEMARIA LAW FIRM, APC	2024050159	LBI	Attorney Fees	Chowchilla	10,373.50
609945	08/12/2025	HALL, HIEATT, CONNELLY &	2025053069	LEP	Attorney Fees	San Luis Coastal	5,115.00
609946	08/12/2025	HALL, HIEATT, CONNELLY &	2026055945	ADM	Attorney Fees	Kern County Supt	220.00
609947	08/12/2025	DEMARIA LAW FIRM, APC	2025052353	LEP	Attorney Fees	Lamont School	8,729.00
609948	08/12/2025	DEMARIA LAW FIRM, APC	2024050159	LBI	Attorney Fees	Chowchilla	986.00
609949	08/12/2025	MC LAW GROUP, APC	2024050742	LBI	Attorney Fees	Santa Maria Joint	2,256.00
609950	08/12/2025	DEMARIA LAW FIRM, APC	2025052285	LBI	Attorney Fees	Chowchilla	2,127.50
609951	08/12/2025	ELECTRICAL POWER	2023047319	P	Adjusting	Westside Union	4,562.00
609952	08/12/2025	HERR PEDERSEN &	2024048981	LBI	Attorney Fees	Bakersfield City	361.21
609953	08/12/2025	HERR PEDERSEN &	2018031218	LBI	Attorney Fees	Merced County	300.00
609954	08/12/2025	MCCUNE & HARBER LLP	2024050156	LBI	Attorney Fees	Antelope Valley	393.90
609955	08/12/2025	MCCUNE & HARBER LLP	2025051810	LEP	Attorney Fees	Antelope Valley	2,998.40
609956	08/12/2025	MC LAW GROUP, APC	2023043760	LBI	Attorney Fees	Santa Barbara	662.05
609957	08/12/2025	DEMARIA LAW FIRM, APC	2024051503	LBI	Attorney Fees	Panama-Buena	173.00
609958	08/12/2025	HERR PEDERSEN &	2022041435	LBI	Attorney Fees	Sierra Sands	148.00
609959	08/12/2025	HERR PEDERSEN &	2024048665	LBI	Attorney Fees	Merced County	56.15
609960	08/12/2025	HERR PEDERSEN &	2017027208	ABI	Attorney Fees	Delano Union	17,802.93

Check Register - Property & Liability

Check Number	Check Date	Payee	Claim Number	Claim Type	Payment Type	Insured	Check Amount
609961	08/12/2025	UNISOURCE DISCOVERY	2023044642	ABI	Legal-Other	Upland USD (GL)	190.54
609962	08/12/2025	CARPENTER, ROTHANS &	2022042589	LBI	Attorney Fees	Palmdale	270.00
609963	08/12/2025	CARPENTER, ROTHANS &	2022043595	LBI	Attorney Fees	Palmdale	472.50
609964	08/12/2025	CARPENTER, ROTHANS &	2024049983	LBI	Attorney Fees	Antelope Valley	6,938.40
609965	08/12/2025	ALACRITY PARENT LLC,	2025055483	APD	Adjusting	Santa Maria Joint	191.47
609966	08/12/2025	Bakersfield City School District	2026056157	ACL	Collision Loss	Bakersfield City	72.47
609967	08/12/2025	ROBINSON & KELLAR	2024050012	ABI	Attorney Fees	Bakersfield City	1,112.57
609968	08/12/2025	ROBINSON & KELLAR	2023045038	LBI	Attorney Fees	Lake Elsinore	2,463.10
609969	08/12/2025	ROBINSON & KELLAR	2024051297	LBI	Attorney Fees	Delano Union	778.00
609970	08/12/2025	ROBINSON & KELLAR	2023044381	LBI	Attorney Fees	Lake Elsinore	11,566.66
609998	08/15/2025	DAVIS, BENGSTON & YOUNG,	2022043495	LBI	Attorney Fees	Soulsbyville	27.50
609999	08/15/2025	ROBINSON & KELLAR	2023044642	ABI	Attorney Fees	Upland USD (GL)	423.50
610000	08/15/2025	MCCUNE & HARBER LLP	2024049889	ABI	Attorney Fees	Merced County	1,375.00
610001	08/15/2025	UNISOURCE DISCOVERY	2025053971	LBI	Adjusting	Goleta Union	259.35
610002	08/15/2025	JESSICA RUEDADELEON	2025055569	APD	Property	Santa Maria Joint	786.11
610003	08/15/2025	JON OTTERSON	2025055412	APD	Property	Sonora Union High	650.00
610004	08/15/2025	Santa Maria Joint Union High	2025055378	ACL	Deductible	Santa Maria Joint	2,570.08
610005	08/15/2025	FOZI DWORK & MODAFFERI,	2024047934	LBI	Attorney Fees	Lake Elsinore	4,931.00
610006	08/15/2025	Atascadero Unified School	2026056057	ACL	Collision Loss	Atascadero Unified	6,228.62
610007	08/15/2025	PEGASUS CLAIMS SERVICES,	2024048228	ABI	Legal-Other	Kern County Supt	1,262.50
610008	08/15/2025	ZIMMER & MELTON, LLP	2025051751	LEP	Attorney Fees	Mojave Unified	92.00
610009	08/15/2025	ZIMMER & MELTON, LLP	2024049789	LBI	Attorney Fees	Delano Jt Union	621.00
610010	08/15/2025	ZIMMER & MELTON, LLP	2025052353	LEP	Attorney Fees	Lamont School	1,647.66
610011	08/15/2025	ZIMMER & MELTON, LLP	2025051860	LBI	Attorney Fees	Bakersfield City	7,403.10
610012	08/15/2025	ZIMMER & MELTON, LLP	2025054390	LEP	Attorney Fees	Bakersfield City	1,920.00
610013	08/15/2025	ZIMMER & MELTON, LLP	2025054098	LBI	Attorney Fees	Di Giorgio School	690.00
610014	08/15/2025	Bakersfield City School District	2025055052	ACL	Collision Loss	Bakersfield City	28,701.73
610015	08/15/2025	VERITEXT CORP	2024050457	LBI	Legal-Other	Kern County Supt	692.25
610016	08/15/2025	CARPENTER, ROTHANS &	2023047175	LBI	Attorney Fees	Antelope Valley	721.50
610017	08/15/2025	CARPENTER, ROTHANS &	2025051977	LBI	Attorney Fees	Palmdale	495.00
610018	08/15/2025	CARPENTER, ROTHANS &	2024050162	LEP	Attorney Fees	Palmdale	1,782.50

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610019	08/15/2025	CARPENTER, ROTHANS &	2025053393	LEP	Attorney Fees	Palmdale	2,168.80
610020	08/15/2025	CARPENTER, ROTHANS &	2025052280	LPI	Attorney Fees	Upland USD (GL)	6,784.65
610021	08/15/2025	CARPENTER, ROTHANS &	2025054112	LEP	Attorney Fees	Antelope Valley	3,435.50
610022	08/15/2025	DEMARIA LAW FIRM, APC	2021039753	LBI	Attorney Fees	Bakersfield City	214.50
610023	08/15/2025	DEMARIA LAW FIRM, APC	2023043663	LBI	Attorney Fees	Greenfield Union	14,012.69
610024	08/15/2025	ABI DOCUMENT SUPPORT	2023044468	ABI	Legal-Other	Merced County	392.66
610025	08/15/2025	KITT NAY	2025055880	APD	Property	Paso Robles Joint	1,160.99
610026	08/15/2025	ZIMMER & MELTON, LLP	2023043661	LBI	Attorney Fees	Bakersfield City	92.00
610027	08/15/2025	ZIMMER & MELTON, LLP	2023043854	ABI	Attorney Fees	Delano Union	2,116.00
610028	08/15/2025	ZIMMER & MELTON, LLP	2024047710	LBI	Attorney Fees	Panama-Buena	276.00
610029	08/15/2025	ZIMMER & MELTON, LLP	2024049461	LEP	Attorney Fees	Wilsona School	1,403.00
610030	08/15/2025	ZIMMER & MELTON, LLP	2024049787	LBI	Attorney Fees	Fruitvale School	368.00
610031	08/15/2025	WALKER & KIRKPATRICK	2023047512	LEP	Attorney Fees	Brawley	3,533.09
610032	08/15/2025	WALKER & KIRKPATRICK	2024047702	LBI	Attorney Fees	Antelope Valley	3,984.39
610033	08/15/2025	DEMARIA LAW FIRM, APC	2025052053	LSM	Attorney Fees	Bakersfield City	128.00
610034	08/15/2025	CARPENTER, ROTHANS &	2024051274	LEP	Attorney Fees	Antelope Valley	1,201.45
610035	08/15/2025	CARPENTER, ROTHANS &	2024050163	LEP	Attorney Fees	Antelope Valley	4,896.90
610036	08/15/2025	CARPENTER, ROTHANS &	2023046823	LBI	Attorney Fees	Antelope Valley	626.45
610037	08/15/2025	CARPENTER, ROTHANS &	2023046821	ABI	Attorney Fees	Palmdale	45.00
610038	08/15/2025	CARPENTER, ROTHANS &	2024048761	LSM	Attorney Fees	Lake Elsinore	478.50
610039	08/15/2025	CARPENTER, ROTHANS &	2024049766	LPI	Attorney Fees	Palmdale	612.48
610040	08/15/2025	CARPENTER, ROTHANS &	2024048762	LBI	Attorney Fees	Lake Elsinore	1,609.58
610041	08/15/2025	CARPENTER, ROTHANS &	2022042882	LSM	Attorney Fees	Antelope Valley	90.00
610042	08/15/2025	CARPENTER, ROTHANS &	2023045606	LBI	Attorney Fees	Antelope Valley	90.00
610043	08/15/2025	CARPENTER, ROTHANS &	2023044769	LEP	Attorney Fees	Palmdale	12,347.38
610044	08/15/2025	CARPENTER, ROTHANS &	2023044768	LBI	Attorney Fees	Antelope Valley	3,009.75
610045	08/15/2025	CARPENTER, ROTHANS &	2022042602	LBI	Attorney Fees	Antelope Valley	945.00
610046	08/15/2025	BAUERMEISTER, LINDA, APC	2025055171	LBI	Attorney Fees	Palmdale	4,870.19
610047	08/15/2025	POLLAK, VIDA & BARER	2017027208	ABI	Attorney Fees	Delano Union	534.00
610048	08/15/2025	WALKER & KIRKPATRICK	2024048274	LBI	Attorney Fees	Palmdale	3,000.60
610049	08/15/2025	WALKER & KIRKPATRICK	2023045980	LBI	Attorney Fees	Antelope Valley	629.50

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610050	08/15/2025	SOUTH COAST FUNDING	2025055753	P	Vehicle Damage	Santa Barbara	11,053.65
610051	08/15/2025	DEMARIA LAW FIRM, APC	2023043915	LBI	Attorney Fees	Tehachapi Unified	10,682.00
610052	08/15/2025	DEMARIA LAW FIRM, APC	2023046256	LBI	Attorney Fees	Kern High School	1,267.50
610053	08/15/2025	DEMARIA LAW FIRM, APC	2024047833	LBI	Attorney Fees	Southern Kern	94.00
610054	08/15/2025	DEMARIA LAW FIRM, APC	2023047243	LBI	Attorney Fees	Fruitvale School	856.50
610055	08/15/2025	DEMARIA LAW FIRM, APC	2024049790	LBI	Attorney Fees	Bakersfield City	81.00
610056	08/15/2025	DEMARIA LAW FIRM, APC	2024050157	LEP	Attorney Fees	Amador County	60.50
610057	08/15/2025	DEMARIA LAW FIRM, APC	2024050276	LBI	Attorney Fees	Tehachapi Unified	113.50
610058	08/15/2025	DEMARIA LAW FIRM, APC	2024050744	LEO	Attorney Fees	Bakersfield City	363.00
610059	08/15/2025	DEMARIA LAW FIRM, APC	2025054595	LSM	Attorney Fees	Merced Union High	70.50
610060	08/15/2025	DEMARIA LAW FIRM, APC	2025053818	LBI	Attorney Fees	Reef-Sunset	3,600.50
610061	08/15/2025	DEMARIA LAW FIRM, APC	2022043321	LBI	Attorney Fees	Mojave Unified	462.00
610062	08/15/2025	ROBINSON & KELLAR	2025051864	LBI	Attorney Fees	Richland School	432.10
610086	08/19/2025	DULCE JUAREZ AS PARENT	2024051205	LBI	Full and Final	Pioneer Union	10,605.72
610087	08/19/2025	COUNTRYWIDE TRIAL	2024051205	LBI	Attorney Fees -	Pioneer Union	10,368.49
610088	08/19/2025	COUNTRYWIDE TRIAL	2024051205	LBI	Attorney Fees -	Pioneer Union	2,092.45
610089	08/19/2025	THE RAWLINGS COMPANY	2024051205	LBI	Medical	Pioneer Union	2,754.44
610090	08/19/2025	CMRE FINANCIAL SERVICES,	2024051205	LBI	Medical	Pioneer Union	100.00
610091	08/19/2025	HERR PEDERSEN &	2024048228	ABI	Attorney Fees	Kern County Supt	11,494.02
610092	08/19/2025	HERR PEDERSEN &	2023046609	ABI	Attorney Fees	Chowchilla	667.25
610093	08/19/2025	HERR PEDERSEN &	2025053073	LBI	Attorney Fees	Tulare COE (GL)	1,467.44
610094	08/19/2025	CITY OF BAKERSFIELD	2025054987	ACL	Adjusting	Bakersfield City	7.00
610095	08/19/2025	Merced County Office of	2025055315	ACP	Auto	Merced County	1,445.22
610096	08/19/2025	UNITED FINANCIAL CASUALTY	2025055817	APD	Property	Arvin Union School	4,988.01
610097	08/19/2025	PEGASUS CLAIMS SERVICES,	2025053324	ABI	Legal-Other	Greenfield Union	475.50
610098	08/19/2025	PEGASUS CLAIMS SERVICES,	2025055608	ACL	Adjusting	Maple School	244.50
610099	08/19/2025	STENO AGENCY, INC	2023045590	LBI	Legal-Other	Southern Kern	375.00
610100	08/19/2025	STENO AGENCY, INC	2023046256	LBI	Legal-Other	Kern High School	837.58
610101	08/19/2025	NETWORK DESPOSITION	2023045590	LBI	Legal-Other	Southern Kern	938.99
610102	08/19/2025	NETWORK DESPOSITION	2023045590	LBI	Legal-Other	Southern Kern	984.51
610103	08/19/2025	NETWORK DESPOSITION	2023045590	LBI	Legal-Other	Southern Kern	1,053.52

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610104	08/19/2025	HORVITZ & LEVY, LLP	2017027208	ABI	Attorney Fees	Delano Union	28,042.64
610105	08/19/2025	TYSON & MENDES LLP	2021039801	LBI	Attorney Fees	Fairfax School	3,000.00
610106	08/19/2025	MCCUNE & HARBER LLP	2024051160	ABI	Attorney Fees	Antelope Valley	577.50
610107	08/19/2025	WALKER & KIRKPATRICK	2024048606	LBI	Attorney Fees	Lake Elsinore	1,479.00
610108	08/19/2025	WALKER & KIRKPATRICK	2023044769	LEP	Attorney Fees	Palmdale	2,767.50
610109	08/19/2025	CARPENTER, ROTHANS &	2024049766	LPI	Attorney Fees	Palmdale	872.34
610110	08/19/2025	CARPENTER, ROTHANS &	2024048762	LBI	Attorney Fees	Lake Elsinore	2,092.00
610111	08/19/2025	CARPENTER, ROTHANS &	2022042882	LSM	Attorney Fees	Antelope Valley	45.00
610112	08/19/2025	CARPENTER, ROTHANS &	2023044768	LBI	Attorney Fees	Antelope Valley	3,244.95
610113	08/19/2025	CARPENTER, ROTHANS &	2022042602	LBI	Attorney Fees	Antelope Valley	180.00
610114	08/19/2025	CARPENTER, ROTHANS &	2022042882	LSM	Attorney Fees	Antelope Valley	45.00
610115	08/19/2025	CARPENTER, ROTHANS &	2023044768	LBI	Attorney Fees	Antelope Valley	404.00
610116	08/19/2025	CARPENTER, ROTHANS &	2024047835	LEP	Attorney Fees	Palmdale	723.95
610117	08/19/2025	CARPENTER, ROTHANS &	2024050163	LEP	Attorney Fees	Antelope Valley	1,213.50
610118	08/19/2025	CARPENTER, ROTHANS &	2024050162	LEP	Attorney Fees	Palmdale	824.00
610119	08/19/2025	CARPENTER, ROTHANS &	2025052280	LPI	Attorney Fees	Upland USD (GL)	3,837.21
610120	08/19/2025	CARPENTER, ROTHANS &	2025054112	LEP	Attorney Fees	Antelope Valley	2,866.04
610130	08/21/2025	CARPENTER, ROTHANS &	2025054112	LEP	Attorney Fees	Antelope Valley	5,313.52
610131	08/21/2025	CARPENTER, ROTHANS &	2025052280	LPI	Attorney Fees	Upland USD (GL)	1,200.00
610132	08/21/2025	CARPENTER, ROTHANS &	2024050162	LEP	Attorney Fees	Palmdale	2,076.48
610133	08/21/2025	CARPENTER, ROTHANS &	2024050163	LEP	Attorney Fees	Antelope Valley	1,215.00
610134	08/21/2025	CARPENTER, ROTHANS &	2023046823	LBI	Attorney Fees	Antelope Valley	100.50
610135	08/21/2025	CARPENTER, ROTHANS &	2024047835	LEP	Attorney Fees	Palmdale	2,231.95
610136	08/21/2025	CARPENTER, ROTHANS &	2024048762	LBI	Attorney Fees	Lake Elsinore	3,994.00
610137	08/21/2025	CARPENTER, ROTHANS &	2024049766	LPI	Attorney Fees	Palmdale	723.67
610138	08/21/2025	CARPENTER, ROTHANS &	2022043595	LBI	Attorney Fees	Palmdale	382.50
610139	08/21/2025	CARPENTER, ROTHANS &	2020036944	LBI	Attorney Fees	Antelope Valley	12.95
610140	08/21/2025	CARPENTER, ROTHANS &	2023044769	LEP	Attorney Fees	Palmdale	7,062.85
610141	08/21/2025	CARPENTER, ROTHANS &	2025053393	LEP	Attorney Fees	Palmdale	405.00
610142	08/21/2025	CARPENTER, ROTHANS &	2024048761	LSM	Attorney Fees	Lake Elsinore	1,011.95
610143	08/21/2025	CARPENTER, ROTHANS &	2025055171	LBI	Attorney Fees	Palmdale	2,742.85

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610144	08/21/2025	CARPENTER, ROTHANS &	2025051977	LBI	Attorney Fees	Palmdale	372.95
610145	08/21/2025	HERR PEDERSEN &	2024050912	LBI	Attorney Fees	Tehachapi Unified	142.75
610146	08/21/2025	HERR PEDERSEN &	2023045093	LPI	Attorney Fees	Pioneer Union	211.65
610147	08/21/2025	HERR PEDERSEN &	2025052349	LEP	Attorney Fees	Tehachapi Unified	1,051.37
610148	08/21/2025	HERR PEDERSEN &	2025054104	LBI	Attorney Fees	Reef-Sunset	466.34
610149	08/21/2025	HERR PEDERSEN &	2017024683	LBI	Attorney Fees	Merced County	598.00
610150	08/21/2025	ZIMMER & MELTON, LLP	2025053361	LEP	Attorney Fees	Panama-Buena	276.00
610151	08/21/2025	ZIMMER & MELTON, LLP	2024047711	LBI	Attorney Fees	Delano Jt Union	3,818.00
610152	08/21/2025	ZIMMER & MELTON, LLP	2024050301	LSM	Attorney Fees	Bakersfield City	598.00
610153	08/21/2025	ZIMMER & MELTON, LLP	2024051637	LEP	Attorney Fees	Standard School	1,731.51
610154	08/21/2025	ZIMMER & MELTON, LLP	2025052349	LEP	Attorney Fees	Tehachapi Unified	46.00
610155	08/21/2025	ZIMMER & MELTON, LLP	2024049364	ABI	Attorney Fees	Standard School	276.00
610156	08/21/2025	ZIMMER & MELTON, LLP	2024047744	ACP	Attorney Fees	Bishop Unified	69.00
610157	08/21/2025	ZIMMER & MELTON, LLP	2022043499	LEP	Attorney Fees	Carpinteria Unified	184.00
610158	08/21/2025	ZIMMER & MELTON, LLP	2025055633	LBI	Attorney Fees	Rosedale Union	736.00
610159	08/21/2025	ZIMMER & MELTON, LLP	2025055633	LBI	Attorney Fees	Rosedale Union	92.00
610160	08/21/2025	ROBINSON & KELLAR	2024051068	LBI	Attorney Fees	Panama-Buena	1,007.00
610161	08/21/2025	ROBINSON & KELLAR	2024050597	LSM	Attorney Fees	Beardsley School	4,566.40
610162	08/21/2025	ROBINSON & KELLAR	2023047399	LSM	Attorney Fees	Panama-Buena	598.75
610163	08/21/2025	FOZI DWORK & MODAFFERI,	2025051741	LBI	Attorney Fees	Brawley Union	5,285.20
610164	08/21/2025	Mojave Unified School District	2025055443	ACL	Deductible	Mojave Unified	2,000.00
610165	08/21/2025	PRINCIPIA ENGINEERING, INC.	2024048228	ABI	Legal-Other	Kern County Supt	4,095.00
610166	08/21/2025	San Luis Coastal Unified School	2026056217	P	Fire Loss	San Luis Coastal	19,775.00
610167	08/21/2025	OLVERA COURT REPORTING	2023044642	ABI	Legal-Other	Upland USD (GL)	1,445.00
610168	08/21/2025	Lucia Mar Unified School District	2026056036	P	Vehicle Damage	Lucia Mar Unified	5,503.42
610169	08/21/2025	Tulare COE (GL)	2025054408	P	District	Tulare COE (GL)	4,100.00
610170	08/21/2025	VERITEXT CORP	2023046256	LBI	Legal-Other	Kern High School	279.77
610171	08/21/2025	VERITEXT CORP	2023046256	LBI	Legal-Other	Kern High School	778.40
610172	08/21/2025	VERITEXT CORP	2023046256	LBI	Legal-Other	Kern High School	569.21
610173	08/21/2025	SANDERSON FIRM, PLLC	2024050813	LBI	Adjusting	Paso Robles Joint	290.00
610200	08/28/2025	MCCORMICK, BARSTOW,	2013006822	LBI	Attorney Fees	Taft Union High	10,229.50

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610201	08/28/2025	MCCORMICK, BARSTOW,	2013006822	LBI	Attorney Fees	Taft Union High	13,834.00
610202	08/28/2025	TYSON & MENDES LLP	2023045998	LBI	Attorney Fees	Antelope Valley	726.48
610203	08/28/2025	CARPENTER, ROTHANS &	2024048761	LSM	Attorney Fees	Lake Elsinore	498.00
610204	08/28/2025	BREMER WHYTE BROWN &	2024049889	ABI	Attorney Fees	Merced County	360.00
610205	08/28/2025	BREMER WHYTE BROWN &	2024051303	LSM	Attorney Fees	Upland USD (GL)	1,500.00
610206	08/28/2025	BREMER WHYTE BROWN &	2024051303	LSM	Attorney Fees	Upland USD (GL)	844.75
610207	08/28/2025	BREMER WHYTE BROWN &	2025053324	ABI	Attorney Fees	Greenfield Union	360.00
610208	08/28/2025	DEMARIA LAW FIRM, APC	2024047874	LPI	Attorney Fees	Kern County Supt	655.75
610209	08/28/2025	DEMARIA LAW FIRM, APC	2023044047	LPI	Attorney Fees	Muroc Joint Unified	655.75
610210	08/28/2025	WINET PATRICK GAYER	2024050243	LSM	Attorney Fees	Lake Elsinore	69.00
610211	08/28/2025	WINET PATRICK GAYER	2024048760	LSM	Attorney Fees	Lake Elsinore	209.07
610212	08/28/2025	WINET PATRICK GAYER	2025052491	LEP	Attorney Fees	Lake Elsinore	1,112.88
610213	08/28/2025	WINET PATRICK GAYER	2025052144	LBI	Attorney Fees	Central Union High	582.12
610214	08/28/2025	DENISON WERNER MACIAS	2023045998	LBI	Attorney Fees	Antelope Valley	1,182.50
610215	08/28/2025	DENISON WERNER MACIAS	2024050314	LBI	Attorney Fees	Beardsley School	193.50
610216	08/28/2025	DENISON WERNER MACIAS	2024050457	LBI	Attorney Fees	Kern County Supt	386.25
610217	08/28/2025	DENISON WERNER MACIAS	2024050458	LBI	Attorney Fees	Norris School	386.25
610218	08/28/2025	DENISON WERNER MACIAS	2024050975	LBI	Attorney Fees	Standard School	86.00
610219	08/28/2025	STENO AGENCY, INC	2024051651	LBI	Legal-Other	Kern High School	5,129.80
610220	08/28/2025	STENO AGENCY, INC	2025051741	LBI	Legal-Other	Brawley Union	1,588.15
610221	08/28/2025	Bakersfield City School District	2026056313	ACL	Collision Loss	Bakersfield City	30,408.47
610222	08/28/2025	ALACRITY PARENT LLC,	2026056313	ACL	Adjusting	Bakersfield City	193.25
610223	08/28/2025	Heron Tiburcio Rivera	2025055483	APD	Property	Santa Maria Joint	3,222.80
610224	08/28/2025	TREASURER OF UNITED	2022041753	ABI	Medical	Eastern Sierra	46,200.46
610225	08/28/2025	APPLEBY & COMPANY, INC.	2023044468	ABI	Legal-Other	Merced County	4,423.18
610226	08/28/2025	Santa Barbara Unified School	2025053994	CYB	Cyber	Santa Barbara	38,429.00
610227	08/28/2025	Kern County Supt of Schools	2025055129	ACL	Deductible	Kern County Supt	2,167.06
610228	08/28/2025	HAINES, TODD F.	2023047437	ACL	Attorney Fees	Tulare COE (GL)	36.95
610229	08/28/2025	ALACRITY PARENT LLC,	2026056343	ACL	Adjusting	Atascadero Unified	960.20
610230	08/28/2025	QWIK RESPONSE	2025055753	P	Vehicle Damage	Santa Barbara	822.00
610231	08/28/2025	CSI LITIGATION PSYCHOLOGY	2023047327	LBI	Legal-Other	Lucia Mar Unified	10,000.00

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Check Number	Check Date	Payee	Claim Number	Claim Type	Payment Type	Insured	Check Amount
610232	08/28/2025	CARPENTER, ROTHANS &	2022043595	LBI	Attorney Fees	Palmdale	472.50
610233	08/28/2025	MCKNIGHT AND MCKNIGHT	2025051860	LBI	Legal-Other	Bakersfield City	900.00
610234	08/28/2025	FRONTIER LAW CENTER	2024050163	LEP	Trust Account -	Antelope Valley	5,000.00
610235	08/28/2025	Antelope Valley Union High	2025054451	ACL	Deductible	Antelope Valley	2,425.00
610236	08/28/2025	Bakersfield City School District	2026056313	ACL	Adjusting	Bakersfield City	7.00
610237	08/28/2025	WINET PATRICK GAYER	2025054010	LBI	Attorney Fees	Lake Elsinore	3,328.29
610238	08/28/2025	HAINES, TODD F.	2025052548	ACL	Attorney Fees	Santa Maria Joint	109.00
610239	08/28/2025	WINET PATRICK GAYER	2025055510	LBI	Attorney Fees	El Centro	207.00
610240	08/28/2025	ANDERSON GROUP	2025055223	P	Water Loss	Semitropic School	242,268.53
610241	08/28/2025	MCKNIGHT AND MCKNIGHT	2025051860	LBI	Legal-Other	Bakersfield City	900.00
610242	08/28/2025	Semitropic School District	2025055223	P	Water Loss	Semitropic School	26,316.76
610243	08/28/2025	Semitropic School District	2025055223	P	Water Loss	Semitropic School	460.00
610244	08/28/2025	MEDICARE	2024050813	LBI	Medical	Paso Robles Joint	474.23

Total For Property & Liability Only

1,250,975.12

Number of Check: 290
 Number Of Payments: 290

First Check Number: 609838
 Last Check Number: 610244
 Check Sequence:

SISC II
INCOME STATEMENT
August 2025

	BUDGET	YEAR-TO-DATE	CURRENT MONTH
<u>REVENUES</u>			
8660.00 Interest-County Treasurer	\$1,400,000.00	\$0.00	\$0.00
8660.03 LAIF	\$306.00	\$0.00	\$0.00
8660.04 Investments	\$4,385,499.00	\$0.00	\$0.00
8660.05 Bank	\$160,000.00	\$42,948.97	\$20,434.05
8674.02 Premiums-Prop & Liab	\$61,214,771.00	\$10,436,704.88	\$5,208,775.09
8674.12 Student Ins	\$1,014,404.00	\$169,063.87	\$84,534.00
8674.13 Tackle Football	\$21,000.00	\$660.00	\$660.00
8674.14 Special Ed Defense	\$479,535.00	\$295,258.00	\$142,657.00
8699.06 Administrative Fees	\$100.00	\$0.00	\$0.00
TOTAL REVENUES	\$68,675,615.00	\$10,944,635.72	\$5,457,060.14
<u>EXPENSES</u>			
4300.00 Supplies	\$10,000.00	\$441.57	\$104.08
5200.00 Travel/Conference	\$15,000.00	\$164.51	\$164.51
5300.00 Dues and Memberships	\$133,200.00	\$47,782.33	\$269.55
5450.01 Insurance-Property & Fire	\$10,988,337.00	\$1,761,414.00	\$880,707.00
5450.02 Boiler & Machinery	\$228,475.00	\$36,088.00	\$18,047.00
5450.04 Crime	\$80,117.00	\$12,048.00	\$6,025.00
5450.06 Excess Liability	\$11,956,269.00	\$2,378,248.24	\$2,214,414.68
5450.17 Data Compromise	\$287,377.00	\$50,829.20	\$25,415.00
5450.18 Concussion Coverage	\$27,000.00	\$4,500.00	\$2,250.00
5450.19 Terrorism	\$41,168.00	\$6,534.00	\$3,267.00
5800.00 Miscellaneous	\$500.00	\$0.00	\$0.00
5800.01 Professional Services	\$82,826.00	\$73,770.47	\$28,400.02
5800.02 Audit	\$14,415.00	\$3,250.00	\$0.00
5800.10 Consulting	\$178,600.00	\$32,215.75	\$220.00
5800.15 Property Appraisals	\$196,940.00	\$0.00	\$0.00
5800.32 Bank Fees	\$4,000.00	\$0.00	\$0.00
5800.50 Administration - KCSOS	\$3,825,255.00	\$532,495.90	\$288,133.68
5800.55 Student Ins Claims	\$607,000.00	\$117,536.43	\$71,388.41
5800.56 Tackle FB Claims	\$25,000.00	\$301.82	\$0.00
5800.58 Spec Ed VCP	\$479,585.00	\$0.00	\$0.00
5800.66 Property Claims	\$3,989,994.00	\$516,418.61	\$285,592.61
5800.67 Liability Claims	\$16,718,330.00	\$3,712,665.73	\$581,185.84
5800.69 Auto Claims	\$3,018,510.00	\$455,189.78	\$99,251.14
5800.90 Bill Review	\$8,200.00	\$767.29	\$767.29
5800.94 Other Distributions	\$0.00	\$0.00	\$0.00
5800.95 Unpaid Claims Liab Adj	\$8,649,000.00	\$1,441,500.00	\$720,750.00
TOTAL EXPENSES	\$61,565,098.00	\$11,184,161.63	\$5,226,352.81
CHANGE IN NET ASSETS	\$7,110,517.00	(\$239,525.91)	\$230,707.33
NET ASSETS - BEGINNING	\$10,627,480.33	\$10,627,480.33	\$10,157,247.09
NET ASSETS - ENDING	\$17,737,997.33	\$10,387,954.42	\$10,387,954.42

SISC II
BALANCE SHEET
August 31, 2025

	July 1, 2025 BALANCE	August 31, 2025 BALANCE
<u>ASSETS</u>		
9110.00 Cash in County Treasury	\$18,305,679.58	\$42,486,226.82
9120.02 Bank Account-Claims Fund	\$7,899,095.86	\$6,126,409.54
9150.01 Local Agency Investment Fund	\$6,723.67	\$6,797.33
9150.03 Investments	\$87,822,548.32	\$87,822,548.32
9200.00 Accounts Receivable	\$2,238,996.15	\$1,193,629.08
9330.00 Prepaid Insurance	\$5,306,094.00	\$13,220,836.00
	<u>\$121,579,137.58</u>	<u>\$150,856,447.09</u>
TOTAL ASSETS	<u>\$121,579,137.58</u>	<u>\$150,856,447.09</u>
 <u>LIABILITIES</u>		
9500.00 Current Liabilities	\$800,657.25	\$812,148.67
9650.00 Deferred Income	\$0.00	\$28,063,844.00
9668.00 Unpd Clms Liab (90% Conf Lvl)	\$110,151,000.00	\$111,592,500.00
	<u>\$110,951,657.25</u>	<u>\$140,468,492.67</u>
TOTAL LIABILITIES	\$110,951,657.25	\$140,468,492.67
 NET ASSETS - Funding Stabilization Reserves	<u>\$10,627,480.33</u>	<u>\$10,387,954.42</u>
 TOTAL LIABILITIES AND NET ASSETS	<u>\$121,579,137.58</u>	<u>\$150,856,447.09</u>

 AUTHORIZED SIGNATURE

PREPARED BY: Nancy Russo

**SISC II
Investments
August 31, 2025**

24-HOUR LIQUID FUNDS

SISC II maintains much of its cash in the Kern County Treasury and Local Agency Investment Fund. Both agencies pool these funds with those of other entities in the state. These pooled funds are carried at cost which approximates market value.

AGENCY	BALANCE	RETURN	PERIOD	DATES
COUNTY OF KERN	\$42,486,226.82	3.41%	LAST QUARTER	APR-JUN 2025
		2.20%	5 YEAR AVERAGE	JUL 2020-JUN 2025
LOCAL AGENCY INVESTMENT FUND	\$6,797.33	4.25%	CURRENT MONTH	August, 2025
		4.40%	LAST QUARTER	APR-JUN 2025
		2.40%	5 YEAR AVERAGE	JUL 2020-JUN 2025

INVESTMENT MANAGEMENT ACCOUNTS

The investment securities portfolio is comprised of securities carried at fair market value.

The fair market value of the investment securities available for sale at June 30, 2025 was:

INVESTMENT FIRM	MARKET VALUE	QUARTERLY RETURN	ANNUALIZED RETURN	PERIOD	DATES
MADISON INVESTMENTS (SISC INVESTMENT POOL)	\$27,452,981.00	1.31%	5.25%	LAST QUARTER	APR-JUN 2025
			1.57%	5 YEAR AVERAGE	JUL 2020-JUN 2025
			3.90%	YIELD TO MATURITY	AS OF JUN 30, 2025
WELLS FARGO ADVISORS (RICH EDWARDS)	\$60,369,567.32	1.09%	4.39%	LAST QUARTER	APR-JUN 2025
			1.32%	5 YEAR AVERAGE	JUL 2020-JUN 2025
			2.19%	YIELD TO MATURITY	AS OF JUN 30, 2025
	<u>\$87,822,548.32</u>				

5-YEAR HISTORY OF RETURNS - ANNUALIZED

Quarter Ending:	Co of Kern	LAIF	INVESTMENT POOL	RICH WELLS FARGO	COMBINED WEIGHTED AVERAGE RETURN
6/30/2025	3.41%	4.40%	5.25%	4.39%	4.43%
3/31/2025	3.75%	4.48%	7.48%	5.27%	5.40%
12/31/2024	3.56%	4.62%	-0.76%	2.29%	2.13%
9/30/2024	3.53%	4.71%	11.61%	8.04%	7.16%
6/30/2024	3.46%	4.55%	3.67%	4.51%	4.12%
3/31/2024	3.37%	4.30%	1.19%	3.24%	2.76%
12/31/2023	3.15%	4.00%	10.98%	8.28%	7.37%
9/30/2023	2.91%	3.93%	2.14%	2.59%	2.60%
6/30/2023	2.65%	3.15%	-0.66%	-0.50%	0.42%
3/31/2023	2.42%	2.74%	6.06%	5.65%	4.63%
12/31/2022	2.16%	2.07%	3.47%	3.48%	2.89%
9/30/2022	1.06%	1.35%	-4.79%	-7.15%	-2.24%
6/30/2022	1.00%	0.75%	-2.22%	-2.88%	-1.35%
3/31/2022	0.95%	0.32%	-9.06%	-9.18%	-5.11%
12/31/2021	0.84%	0.23%	-2.39%	-2.02%	-0.55%
9/30/2021	1.24%	0.24%	-0.20%	0.26%	0.69%
6/30/2021	1.00%	0.33%	0.80%	0.00%	0.65%
3/31/2021	1.07%	0.44%	-1.86%	-0.90%	-0.47%
12/31/2020	1.16%	0.63%	0.18%	0.55%	0.72%
9/30/2020	1.30%	0.84%	0.43%	0.40%	0.83%
5-Yr Average	2.20%	2.40%	1.57%	1.32%	1.85%



[Home](#) ->> [PMIA](#) ->> PMIA Average Monthly Effective Yields



LOCAL AGENCY INVESTMENT FUND

PMIA Average Monthly Effective Yields

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1977	5.770	5.660	5.660	5.650	5.760	5.850	5.930	6.050	6.090	6.090	6.610	6.730
1978	6.920	7.050	7.140	7.270	7.386	7.569	7.652	7.821	7.871	8.110	8.286	8.769
1979	8.777	8.904	8.820	9.082	9.046	9.224	9.202	9.528	9.259	9.814	10.223	10.218
1980	10.980	11.251	11.490	11.480	12.017	11.798	10.206	9.870	9.945	10.056	10.426	10.961
1981	10.987	11.686	11.130	11.475	12.179	11.442	12.346	12.844	12.059	12.397	11.887	11.484
1982	11.683	12.044	11.835	11.773	12.270	11.994	12.235	11.909	11.151	11.111	10.704	10.401
1983	10.251	9.887	9.688	9.868	9.527	9.600	9.879	10.076	10.202	10.182	10.164	10.227
1984	10.312	10.280	10.382	10.594	10.843	11.119	11.355	11.557	11.597	11.681	11.474	11.024
1985	10.579	10.289	10.118	10.025	10.180	9.743	9.656	9.417	9.572	9.482	9.488	9.371
1986	9.252	9.090	8.958	8.621	8.369	8.225	8.141	7.844	7.512	7.586	7.432	7.439
1987	7.365	7.157	7.205	7.044	7.294	7.289	7.464	7.562	7.712	7.825	8.121	8.071
1988	8.078	8.050	7.945	7.940	7.815	7.929	8.089	8.245	8.341	8.397	8.467	8.563
1989	8.698	8.770	8.870	8.992	9.227	9.204	9.056	8.833	8.801	8.771	8.685	8.645
1990	8.571	8.538	8.506	8.497	8.531	8.538	8.517	8.382	8.333	8.321	8.269	8.279
1991	8.164	8.002	7.775	7.666	7.374	7.169	7.098	7.072	6.859	6.719	6.591	6.318
1992	6.122	5.863	5.680	5.692	5.379	5.323	5.235	4.958	4.760	4.730	4.659	4.647
1993	4.678	4.649	4.624	4.605	4.427	4.554	4.438	4.472	4.430	4.380	4.365	4.384
1994	4.359	4.176	4.248	4.333	4.434	4.623	4.823	4.989	5.106	5.243	5.380	5.528
1995	5.612	5.779	5.934	5.960	6.008	5.997	5.972	5.910	5.832	5.784	5.805	5.748
1996	5.698	5.643	5.557	5.538	5.502	5.548	5.587	5.566	5.601	5.601	5.599	5.574
1997	5.583	5.575	5.580	5.612	5.634	5.667	5.679	5.690	5.707	5.705	5.715	5.744
1998	5.742	5.720	5.680	5.672	5.673	5.671	5.652	5.652	5.639	5.557	5.492	5.374
1999	5.265	5.210	5.136	5.119	5.086	5.095	5.178	5.225	5.274	5.391	5.484	5.639
2000	5.760	5.824	5.851	6.014	6.190	6.349	6.443	6.505	6.502	6.517	6.538	6.535
2001	6.372	6.169	5.976	5.760	5.328	4.958	4.635	4.502	4.288	3.785	3.526	3.261
2002	3.068	2.967	2.861	2.845	2.740	2.687	2.714	2.594	2.604	2.487	2.301	2.201
2003	2.103	1.945	1.904	1.858	1.769	1.697	1.653	1.632	1.635	1.596	1.572	1.545
2004	1.528	1.440	1.474	1.445	1.426	1.469	1.604	1.672	1.771	1.890	2.003	2.134
2005	2.264	2.368	2.542	2.724	2.856	2.967	3.083	3.179	3.324	3.458	3.636	3.808
2006	3.955	4.043	4.142	4.305	4.563	4.700	4.849	4.946	5.023	5.098	5.125	5.129
2007	5.156	5.181	5.214	5.222	5.248	5.250	5.255	5.253	5.231	5.137	4.962	4.801
2008	4.620	4.161	3.777	3.400	3.072	2.894	2.787	2.779	2.774	2.709	2.568	2.353
2009	2.046	1.869	1.822	1.607	1.530	1.377	1.035	0.925	0.750	0.646	0.611	0.569
2010	0.558	0.577	0.547	0.588	0.560	0.528	0.531	0.513	0.500	0.480	0.454	0.462
2011	0.538	0.512	0.500	0.588	0.413	0.448	0.381	0.408	0.378	0.385	0.401	0.382
2012	0.385	0.389	0.383	0.367	0.363	0.358	0.363	0.377	0.348	0.340	0.324	0.326
2013	0.300	0.286	0.285	0.264	0.245	0.244	0.267	0.271	0.257	0.266	0.263	0.264
2014	0.244	0.236	0.236	0.233	0.228	0.228	0.244	0.260	0.246	0.261	0.261	0.267
2015	0.262	0.266	0.278	0.283	0.290	0.299	0.320	0.330	0.337	0.357	0.374	0.400
2016	0.446	0.467	0.506	0.525	0.552	0.576	0.588	0.614	0.634	0.654	0.678	0.719
2017	0.751	0.777	0.821	0.884	0.925	0.978	1.051	1.084	1.111	1.143	1.172	1.239
2018	1.350	1.412	1.524	1.661	1.755	1.854	1.944	1.998	2.063	2.144	2.208	2.291
2019	2.355	2.392	2.436	2.445	2.449	2.428	2.379	2.341	2.280	2.190	2.103	2.043
2020	1.967	1.912	1.787	1.648	1.363	1.217	0.920	0.784	0.685	0.620	0.576	0.540
2021	0.458	0.407	0.357	0.339	0.315	0.262	0.221	0.221	0.206	0.203	0.203	0.212
2022	0.234	0.278	0.365	0.523	0.684	0.861	1.090	1.276	1.513	1.772	2.007	2.173
2023	2.425	2.624	2.831	2.870	2.993	3.167	3.305*	3.434	3.534	3.670	3.843	3.929
2024	4.012	4.122	4.232	4.272	4.332	4.480	4.516	4.579	4.575	4.518	4.477	4.434
2025	4.366	4.333	4.313	4.281	4.272	4.269	4.258	4.251				

SISC II
INCOME STATEMENT
August 2025

	BUDGET	YEAR-TO-DATE	% OF BDG	Revised 9/11/25 CURRENT MONTH	CURRENT MONTH
REVENUES					
8660.00 Interest-County Treasurer	\$1,400,000.00	\$0.00	0.00%	\$0.00	\$0.00
8660.03 LAIF	\$306.00	\$0.00	0.00%	\$0.00	\$0.00
8660.04 Investments	\$4,385,499.00	\$0.00	0.00%	\$0.00	\$0.00
8660.05 Bank	\$160,000.00	\$42,948.97	26.84%	\$22,514.92	\$20,434.05
8674.02 Premiums-Prop & Liab	\$61,214,771.00	\$10,436,704.88	17.05%	\$5,227,929.79	\$5,208,775.09
8674.12 Student Ins	\$1,014,404.00	\$169,063.87	16.67%	\$84,529.87	\$84,534.00
8674.13 Tackle Football	\$21,000.00	\$660.00	3.14%	\$0.00	\$660.00
8674.14 Special Ed Defense	\$479,535.00	\$295,258.00	61.57%	\$152,601.00	\$142,657.00
8699.06 Administrative Fees	\$100.00	\$0.00	0.00%	\$0.00	\$0.00
TOTAL REVENUES	\$68,675,615.00	\$10,944,635.72	15.94%	\$5,487,575.58	\$5,457,060.14
EXPENSES					
4300.00 Supplies	\$10,000.00	\$441.57	4.42%	\$337.49	\$104.08
5200.00 Travel/Conference	\$15,000.00	\$164.51	1.10%	\$0.00	\$164.51
5300.00 Dues and Memberships	\$133,200.00	\$47,782.33	35.87%	\$47,512.78	\$269.55
5450.01 Insurance-Property & Fire	\$10,988,337.00	\$1,761,414.00	16.03%	\$880,707.00	\$880,707.00
5450.02 Boiler & Machinery	\$228,475.00	\$36,088.00	15.80%	\$18,041.00	\$18,047.00
5450.04 Crime	\$80,117.00	\$12,048.00	15.04%	\$6,023.00	\$6,025.00
5450.06 Excess Liability	\$11,956,269.00	\$2,378,248.24	19.89%	\$163,833.56	\$2,214,414.68
5450.17 Data Compromise	\$287,377.00	\$50,829.20	17.69%	\$25,414.20	\$25,415.00
5450.18 Concussion Coverage	\$27,000.00	\$4,500.00	16.67%	\$2,250.00	\$2,250.00
5450.19 Terrorism	\$41,168.00	\$6,534.00	15.87%	\$3,267.00	\$3,267.00
5800.00 Miscellaneous	\$500.00	\$0.00	0.00%	\$0.00	\$0.00
5800.01 Professional Services	\$82,826.00	\$73,770.47	89.07%	\$45,370.45	\$28,400.02
5800.02 Audit	\$14,415.00	\$3,250.00	22.55%	\$3,250.00	\$0.00
5800.10 Consulting	\$178,600.00	\$32,215.75	18.04%	\$31,995.75	\$220.00
5800.15 Property Appraisals	\$196,940.00	\$0.00	0.00%	\$0.00	\$0.00
5800.32 Bank Fees	\$4,000.00	\$0.00	0.00%	\$0.00	\$0.00
5800.50 Administration - KCSOS	\$3,825,255.00	\$532,495.90	13.92%	\$244,362.22	\$288,133.68
5800.55 Student Ins Claims	\$607,000.00	\$117,536.43	19.36%	\$46,148.02	\$71,388.41
5800.56 Tackle FB Claims	\$25,000.00	\$301.82	1.21%	\$301.82	\$0.00
5800.58 Spec Ed VCP	\$479,585.00	\$0.00	0.00%	\$0.00	\$0.00
5800.66 Property Claims	\$3,989,994.00	\$516,418.61	12.94%	\$230,826.00	\$285,592.61
5800.67 Liability Claims	\$16,718,330.00	\$3,712,665.73	22.21%	\$3,131,479.89	\$581,185.84
5800.69 Auto Claims	\$3,018,510.00	\$455,189.78	15.08%	\$355,938.64	\$99,251.14
5800.90 Bill Review	\$8,200.00	\$767.29	9.36%	\$0.00	\$767.29
5800.94 Other Distributions	\$0.00	\$0.00	N/A	\$0.00	\$0.00
5800.95 Unpaid Claims Liab Adj	\$8,649,000.00	\$1,441,500.00	16.67%	\$720,750.00	\$720,750.00
TOTAL EXPENSES	\$61,565,098.00	\$11,184,161.63	18.17%	\$5,957,808.82	\$5,226,352.81
CHANGE IN NET ASSETS	\$7,110,517.00	(\$239,525.91)	-3.37%	(\$470,233.24)	\$230,707.33
NET ASSETS - BEGINNING	\$10,627,480.33	\$10,627,480.33		\$10,627,480.33	\$10,157,247.09
NET ASSETS - ENDING	\$17,737,997.33	\$10,387,954.42		\$10,157,247.09	\$10,387,954.42

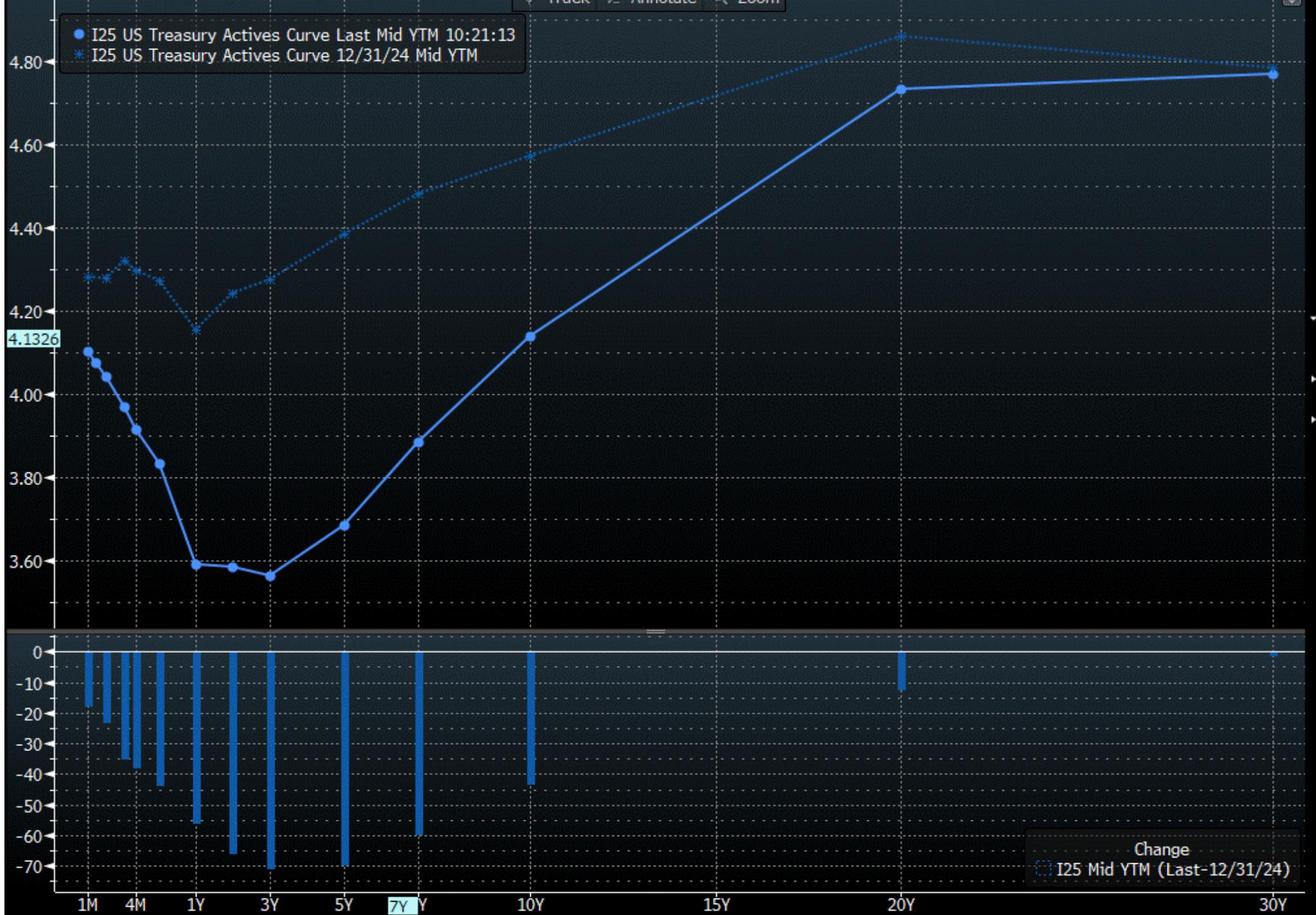
SISC II
BALANCE SHEET
August 31, 2025

	July 1, 2025 BALANCE	Revised 9/11/25 July 31, 2025 BALANCE	August 31, 2025 BALANCE
<u>ASSETS</u>			
9110.00 Cash in County Treasury	\$18,305,679.58	\$40,742,613.08	\$42,486,226.82
9120.02 Bank Account-Claims Fund	\$7,899,095.86	\$6,352,117.93	\$6,126,409.54
9150.01 Local Agency Investment Fund	\$6,723.67	\$6,797.33	\$6,797.33
9150.03 Investments	\$87,822,548.32	\$87,822,548.32	\$87,822,548.32
9200.00 Accounts Receivable	\$2,238,996.15	\$1,220,654.41	\$1,193,629.08
9330.00 Prepaid Insurance	\$5,306,094.00	\$6,793,412.00	\$13,220,836.00
	<u>\$121,579,137.58</u>	<u>\$142,938,143.07</u>	<u>\$150,856,447.09</u>
 <u>LIABILITIES</u>			
9500.00 Current Liabilities	\$800,657.25	\$768,547.84	\$812,148.67
9650.00 Deferred Income	\$0.00	\$21,140,598.14	\$28,063,844.00
9668.00 Unpd Clms Liab (90% Conf Lvl)	\$110,151,000.00	\$110,871,750.00	\$111,592,500.00
	<u>\$110,951,657.25</u>	<u>\$132,780,895.98</u>	<u>\$140,468,492.67</u>
TOTAL LIABILITIES	<u>\$110,951,657.25</u>	<u>\$132,780,895.98</u>	<u>\$140,468,492.67</u>
 NET ASSETS - Funding Stabilization Reserves	<u>\$10,627,480.33</u>	<u>\$10,157,247.09</u>	<u>\$10,387,954.42</u>
 TOTAL LIABILITIES AND NET ASSETS	<u>\$121,579,137.58</u>	<u>\$142,938,143.07</u>	<u>\$150,856,447.09</u>

AUTHORIZED SIGNATURE _____

PREPARED BY: Nancy Russo

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CAJPA 2025

CASELAW UPDATE

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JPA ADMINISTRATION AND COVERAGE CASES

By: Eric R. Brenneman & David Agosto of Demler Armstrong & Rowland, LLP

AIU Insurance Co. v. McKesson Corp. (Ninth Circuit Court of Appeals, Jan. 26, 2024) 2024 WL 302182 (Only the Westlaw citation is currently available).

Summary: Under California law, there is no duty to defend an insured in litigation where the underlying complaints allege only deliberate conduct and do not describe an “accident” within the meaning of a liability insurance policy.

Discussion: McKesson Corporation sought coverage under commercial liability insurance policies issued by National Union Fire Insurance Co. and ACE Property and Casualty Insurance Company for defense against numerous lawsuits (the “Exemplar Suits”) alleging McKesson’s role in the opioid crisis. The policies covered bodily injury caused by an “occurrence,” defined as an “accident.” McKesson argued that the underlying complaints alleged negligent conduct sufficient to trigger a duty to defend.

The Ninth Circuit rejected this argument and affirmed the district court’s grant of summary judgment in favor of the insurers. Applying California law, the court explained that an “accident” refers to unexpected or unforeseen consequences—not merely negligent conduct labeled as such. It found that the Exemplar Suits alleged exclusively intentional and deliberate conduct by McKesson, including knowingly flooding the market with opioids, disregarding legal obligations, and failing to prevent diversion of controlled substances.

Although the complaints included causes of action for negligence and used language like “should have known,” the Ninth Circuit emphasized that courts must look to the facts alleged—not the labels. Here, the facts alleged that McKesson acted intentionally, not inadvertently. The inclusion of negligence claims did not transform the deliberate acts into “accidents.”

The court also concluded that the complaints did not allege any “additional, unexpected, independent, and unforeseen happening” that would convert the deliberate conduct into an accident. Downstream actions by doctors, pharmacists, or drug users did not amount to intervening events under California law. The court relied heavily on *Travelers Prop. Cas. Co. of Am. v. Actavis, Inc.* (2017) 16 Cal.App.5th 1026 (“Actavis”), which held that deliberate efforts to expand opioid sales do not constitute accidents and are not covered by liability policies.

The Ninth Circuit noted that while McKesson pointed to differences between its case and *Actavis*, those differences were immaterial. It also rejected McKesson’s argument that the California Supreme Court’s decision in *Liberty Surplus Insurance Corporation v. Ledesma & Meyer Construction Company, Inc.* (2018) 5 Cal.5th 216, undermined *Actavis*, explaining that *Ledesma* was limited to negligent hiring and supervision, not applicable to McKesson’s claims. Because the Exemplar Suits did not allege an “occurrence,” the insurers had no duty to defend.

Rosenberg-Wohl v. State Farm Fire & Casualty Co. (2024) 16 Cal.5th 520

Summary: Under California law, the one-year limitations period in a standard fire insurance policy does not apply to claims brought under the Unfair Competition Law (UCL) seeking only prospective declaratory or injunctive relief on behalf of consumers. Instead, the UCL’s four-year statute of limitations governs.

Discussion: Katherine Rosenberg-Wohl filed a putative class action against her homeowner’s insurer, State Farm, under the UCL seeking declaratory and injunctive relief. The complaint alleged State Farm had a systemic practice of denying property insurance claims without adequate investigation and without clearly stating the basis for denials. Rosenberg-Wohl did not seek damages or policy benefits but instead sought to enjoin these claims-handling practices on behalf of all policyholders.

State Farm demurred, arguing that the claim was time-barred under the one-year limitations provision in the standard fire insurance policy and Insurance Code § 2071. The trial court sustained the demurrer without leave to amend, finding that although Rosenberg-Wohl did not seek damages, her claims were “on the policy” because they were grounded in State Farm’s denial of benefits. The Court of Appeal affirmed in a split decision.

The California Supreme Court reversed. It held that the one-year contractual limitations period did not apply because Rosenberg-Wohl was not bringing a suit to recover policy benefits, either directly or indirectly. Instead, she sought relief focused on general business practices and future conduct, which distinguished her claims from contract or tort claims seeking to recover on the policy.

The Court emphasized that actions under the UCL are governed by the four-year statute of limitations provided in Business and Professions Code § 17208, and this statutory framework “admits of no exceptions.” The Court also underscored that UCL claims are fundamentally different in nature and remedy from contractual claims, aiming instead to address broad, ongoing business practices harmful to the public.

Finally, the Court declined to conflate standing requirements under the UCL (which require loss of money or property) with the limitations period applicable to insurance claims. The Court concluded that a claim under the UCL seeking public injunctive relief is not governed by Insurance Code § 2071’s one-year period.

Molinar v. 21st Century Insurance Co. (2024) 99 Cal.App.5th 1228

Summary: Under California law, an insurer’s refusal to pay first-party policy benefits after arbitration does not give rise to tort liability for bad faith if the insurer had a reasonable basis for believing its payment obligations were not triggered. A finding of bad faith requires more than an incorrect legal position—it requires conduct that is unreasonable or without proper cause.

Discussion: Molinar was injured in an auto accident caused by an underinsured driver. She recovered the full policy limits from the at-fault driver’s insurer, then sought underinsured motorist (UIM) benefits from her own insurer, 21st Century Insurance. Her policy included mandatory arbitration for UIM disputes.

After arbitration, Molinar was awarded approximately \$167,000 in damages. 21st Century, however, refused to pay the full amount, deducting the amount she had received from the other driver’s insurer and asserting a right to apply that offset to economic damages only. Molinar sued for bad faith.

The trial court sustained 21st Century’s demurrer, and the Court of Appeal affirmed, holding that 21st Century’s refusal to pay did not constitute bad faith as a matter of law. The California Supreme Court affirmed.



JPA ADMINISTRATION AND COVERAGE CASES – CONTINUED

By: Eric R. Brenneman & David Agosto of Demler Armstrong & Rowland, LLP

The Court explained that while insurers can be liable in tort for bad faith denial of policy benefits, such liability arises only where the insurer's conduct is unreasonable or without proper cause. In this case, 21st Century had a legitimate dispute over how to interpret the offset provision, and its position—although ultimately incorrect—was not unreasonable or unfounded.

The Court distinguished cases where insurers ignored arbitration awards entirely or refused to pay without justification. Here, 21st Century's disagreement was legal in nature and made in reliance on a plausible interpretation of existing law. Therefore, the insurer's refusal to pay the full award did not rise to the level of actionable bad faith.

***Siino v. Foresters Life Insurance and Annuity Company* (9th Cir. 2025) 133 F.4th 936**

Summary: Under California law, a declaration that an insurer breached statutory notice requirements does not automatically entitle the insured to a declaration that their policy remains in force. Declaratory relief related to breach requires only proof of the statutory violation, but relief tied to contract enforcement requires proof of all breach elements, including causation.

Discussion: Siino sought declaratory relief against First Life Insurance and Annuity Company (FLIAC), arguing that the insurer violated California Insurance Code statutes requiring notice before terminating a policy and advising insureds of their right to designate a third-party recipient for such notices. The district court granted both parts of Siino's requested declaratory relief: (1) that FLIAC violated the applicable statutes, and (2) that Siino's life insurance policy remained valid despite FLIAC's termination.

The Ninth Circuit affirmed the first portion of the relief. It held that the district court did not abuse its discretion in entertaining declaratory relief, and it properly concluded that FLIAC breached statutory obligations by failing to send pre-termination notices and notices about designation rights. Because this declaration addressed only breach—not full contract liability—Siino was not required to prove causation or damages.

However, the Ninth Circuit reversed the second declaration. It found that the determination that Siino's policy remained in force effectively adjudicated her breach of contract claim. As a result, Siino was required to prove all elements of breach, including causation. The court found that FLIAC's statutory violations were not the legal cause of Siino's injury, as she had already purchased a replacement life insurance policy before receiving any reinstatement notice. The court emphasized that, under *Small v. Allianz Life Insurance Co. of North America* (9th Cir. 2024) 122 F.4th 1182, declaratory relief that mirrors a breach of contract claim must meet the same evidentiary burdens, including proof of causation. See *Small v. Allianz Life Insurance Co. of North America*,

The court rejected FLIAC's argument that it was denied the opportunity to present affirmative defenses like waiver or mitigation, holding that such defenses were irrelevant to the first declaration, which dealt only with breach, not liability.

Finally, the court did not reach arguments related to damages or specific performance, concluding those issues were unnecessary given the failure to establish causation.

***50 Exchange Terrace LLC v. Mount Vernon Specialty Insurance Co.* (9th Cir. 2025) 129 F.4th 1186**

Summary: An insured's claim against its property insurer for underpayment was not ripe and lacked Article III standing where the policy required appraisal to resolve disputes over loss valuation, and that appraisal process had not been completed.

Discussion: 50 Exchange Terrace LLC filed suit in California state court against its insurer, Mount Vernon Specialty Insurance Company, seeking additional compensation for water damage to its Rhode Island property. The dispute centered on the cost of repairs following a pipe burst. Although Mount Vernon made an initial payment under the policy, it invoked the appraisal provision to resolve the disagreement over the amount of the loss.

Rather than wait for the outcome of the appraisal, 50 Exchange filed a lawsuit alleging wrongful withholding of funds. Mount Vernon removed the case to federal court and moved to dismiss on forum non conveniens grounds. The district court requested supplemental briefing on ripeness and standing and ultimately dismissed the case for lack of both. 50 Exchange appealed.

The Ninth Circuit affirmed. Writing for the court, Judge Hamilton held that 50 Exchange had not suffered an "actual or imminent" injury because the contractually mandated appraisal had not yet concluded. Without a completed appraisal, the extent of Mount Vernon's payment obligation remained undetermined, rendering any alleged injury speculative. Accordingly, the court found the dispute not ripe for adjudication.

The court reiterated that Article III standing requires a concrete injury that is fairly traceable to the defendant's conduct and likely to be redressed by a favorable decision. Similarly, ripeness demands that the dispute present definite and concrete issues, not hypothetical or abstract ones. Here, the policy clearly required that any disagreement over the value of the loss be resolved through appraisal. The outcome of that process could determine whether 50 Exchange was injured at all. Thus, the court lacked jurisdiction to intervene.

The Ninth Circuit found the district court's decision consistent with other courts' treatment of similar appraisal provisions, including *Southeast Nursing Home, Inc. v. St. Paul Fire & Marine Ins. Co.* (11th Cir. 1985) 750 F.2d 1531, which held that no duty to pay arises until the appraisal process concludes.

Noting that this appeal raised a straightforward and settled legal issue, the Ninth Circuit chose to publish its decision in the hope of deterring premature litigation where appraisal is pending.

***Murphy v. Interinsurance Exchange of the Automobile Club* (2025) 108 Cal.App.5th 476**

Summary: An insured delivery driver's claim for collision coverage under his personal auto policy was barred by a clear and enforceable exclusion for vehicles used to transport property for compensation. The Court of Appeal affirmed summary judgment for the insurer, finding the exclusion unambiguous, sufficiently conspicuous, and not contrary to public policy.

Discussion: Andrew Murphy, a delivery driver for cannabis retailer Grassdoor used his personal vehicle to deliver products in exchange for hourly wages and mileage reimbursement. After being involved in

JPA ADMINISTRATION AND COVERAGE CASES – CONTINUED

By: Eric R. Brenneman & David Agosto of Demler Armstrong & Rowland, LLP

a collision while working, Murphy filed a claim under his personal auto policy issued by Interinsurance Exchange of the Automobile Club. The insurer denied coverage under a “compensated carrying” exclusion that barred coverage for vehicles used to transport property for compensation.

Murphy sued for breach of contract in California state court, arguing that the exclusion was ambiguous, should not apply to employees, and violated public policy. The insurer moved for summary judgment, asserting that the exclusion clearly applied. The trial court agreed and granted the motion. Murphy appealed.

The Court of Appeal affirmed. Writing for the court, Judge Moore held that the policy language was unambiguous: the exclusion applied whenever the insured vehicle was used to transport property “for a charge” or “any form of compensation.” The Court rejected Murphy’s argument that the exclusion only applied to independent contractors and not employees, noting that the exclusion was not limited by employment status and that compensation was plainly received in this case.

The Court also found the exclusion to be sufficiently conspicuous and understandable. It was included in an amendatory endorsement that clearly alerted policyholders to changes in the policy, and the exclusion was placed under a bold heading titled “WHAT IS NOT COVERED – EXCLUSIONS.”

As to Murphy’s public policy argument, the court observed that California Labor Code § 2802 already requires employers to indemnify employees for losses incurred in the course of employment. That statutory protection made the exclusion consistent with public policy rather than contrary to it.

Finally, the court rejected Murphy’s hypothetical examples (such as a parent receiving dinner as a thank-you for driving a child) as irrelevant. The case involved undisputed commercial use of a personal vehicle, which clearly fell within the exclusion’s scope.

City of Redondo Beach v. Independent Cities Risk Management Authority (2d Dist. Ct of Appeal, Nov, 15, 2024) WL 4799164 (Unpublished).

Summary: A city’s challenge to a financial assessment imposed by a joint powers insurance authority was improperly resolved based solely on stipulated facts and incomplete evidentiary review. The Court of Appeal reversed the trial court’s judgment in favor of the city, holding that a full evidentiary analysis was required to determine whether the assessment complied with the authority’s governing documents.

Discussion: The City of Redondo Beach filed suit against Independent Cities Risk Management Authority (ICRMA), a joint powers authority of which the City was a member for over three decades. The City challenged a \$2 million assessment levied against it following its withdrawal from ICRMA, alleging that the assessment was not conducted in accordance with ICRMA’s Joint Powers Agreement, general bylaws, and the specific bylaws governing its Liability Program.

After a bench trial based on stipulated facts and evidence, the Los Angeles Superior Court ruled in favor of the City. The court found that ICRMA had failed to perform the required actuarial soundness review of the Liability Program as a whole before imposing the 2016 assessment. It rejected ICRMA’s waiver and estoppel arguments based on the City’s prior approval of the assessment, reasoning there was no evidence the City’s representative knew the process violated the bylaws. The court

entered judgment for the City, enjoined enforcement of the assessment, and awarded attorney fees and costs.

ICRMA appealed, contending that it followed the required procedures and that the City was estopped from challenging the assessment after voting for it. The Court of Appeal reversed. Writing for the court, Judge Zudin held that the trial court erred by issuing its decision based on an incomplete record. Although the court stated it relied solely on stipulated evidence, it referenced outside declarations and data subject to unresolved evidentiary objections. Because the trial court failed to rule on these objections or fully evaluate whether the governing documents had been followed, the appellate court found that it could not meaningfully review the trial court’s findings or the lawfulness of the assessment.

The Court emphasized that interpretation of governing documents is a legal issue subject to de novo review, but factual determinations—such as whether an actuarial review occurred—require a complete evidentiary record. Without that record, the appellate court declined to resolve questions about ICRMA’s compliance, or whether waiver or estoppel applied.

Accordingly, the judgment was reversed and remanded for a full evidentiary analysis and proper resolution of evidentiary objections. The appellate court also vacated the award of attorney fees and costs, leaving the issue open for reconsideration after remand.

Hughes v. Farmers Ins. Exchange (2024) 107 Cal.App.5th 73

Summary: The Court of Appeal affirmed summary judgment for Farmers Insurance Exchange, holding that the agent who procured a California FAIR Plan policy for the insured was not an actual agent of Farmers with respect to that policy, and that the insured was not entitled to amend her complaint.

Discussion: In *Hughes*, the California Court of Appeal affirmed a summary judgment in favor of Farmers Insurance Exchange, holding that a licensed insurance agent who helped the plaintiff obtain a California FAIR Plan policy was neither an actual nor ostensible agent of Farmers with respect to that policy, and that the trial court did not abuse its discretion by denying the plaintiff leave to amend her complaint.

The plaintiff, Erin Hughes, owned a home in Malibu and, in December 2020, purchased two insurance policies: one from the California FAIR Plan Association (covering fire-related loss) and a separate homeowner’s policy from Farmers Insurance Exchange (covering non-fire perils). The Farmers policy included a FAIR Plan Companion Endorsement, which excluded coverage for fire damage, even if the insured failed to obtain or maintain a FAIR Plan policy. Maritza Hartnett, a licensed insurance agent affiliated with Farmers, assisted Hughes in obtaining both policies. In 2021, after Hughes’s property suffered approximately \$3 million in damage due to a wildfire, Farmers denied coverage based on the fire exclusion and directed her to claim under her FAIR Plan policy, which only covered \$1.2 million.

In response, Hughes filed suit against Hartnett for negligence, negligent misrepresentation, and breach of fiduciary duty, and sued Farmers for negligence and vicarious liability, asserting that Hartnett acted as Farmers’ agent when arranging the FAIR Plan coverage. Farmers moved for summary judgment, asserting that Hartnett acted independently in



JPA ADMINISTRATION AND COVERAGE CASES – CONTINUED

By: Eric R. Brenneman & David Agosto of Demler Armstrong & Rowland, LLP

procuring the FAIR Plan policy and lacked authority to bind Farmers to it. Hughes attempted to amend her complaint the night before the hearing to assert new claims, but the trial court denied that request and granted summary judgment in favor of Farmers.

The appellate court agreed with the trial court's finding that there was no actual agency. Farmers produced evidence that Hartnett's agency agreement only allowed her to transact insurance on behalf of Farmers and its affiliates, not the California FAIR Plan. Hartnett confirmed that she acted as an independent broker when securing FAIR Plan coverage, and the policy itself listed her as an "Insurance Broker." Hughes offered no evidence that Farmers had authorized Hartnett to act on its behalf with respect to the FAIR Plan policy, so the court concluded that no actual agency existed.

On the issue of ostensible agency, the court held that Hughes failed to show that Farmers' own conduct created a reasonable belief that Hartnett was acting on its behalf in arranging the FAIR Plan policy. While Hartnett used Farmers' branding and email in other contexts, this was not enough. Ostensible agency requires conduct by the principal (Farmers) that would lead a reasonable person to believe the agent was authorized to act on its behalf in the transaction at issue. Because the FAIR Plan exists specifically to cover risks that standard insurers like Farmers cannot or will not underwrite, and the endorsement in Farmers' policy clearly excluded fire coverage, the court found no basis to infer ostensible authority.

Finally, the Court upheld the denial of leave to amend. Hughes had filed her request to amend just one day before the summary judgment hearing without good cause. The trial court found this timing prejudicial to Farmers and unjustified. The appellate court agreed, holding that the denial was not an abuse of discretion.



WORKERS' COMPENSATION CASES

By: Brenna Hampton, Work Comp By Design

Hunt v. California Highway Patrol, ADJ13285870 (RIV), Jan. 19, 2024, Opinion Denying Reconsideration

Summary: The 100% cap (*Labor Code §4664(c)*) on permanent disability (PD) indemnity for injury to body regions previously injured applied, even though the parties had agreed that several safety officer presumptions applied in the case, resulting in Applicant's current award being limited to 43%PD after subtraction of prior 64% PD award.

Discussion: Applicant claimed a 3/13/97 – 5/13/2020 cumulative trauma (CT) injury to his low back, heart, hypertension, psyche, abdomen/groin (in the form of prostate cancer and urinary incontinence), hemorrhoids, hiatal hernia, and GERD, while working as a California Highway Patrol (CHP) officer. He had previously sustained a 3/13/97 – 1/20/2012 CT injury to his heart and hypertension and obtained a 64 % PD award in December 2013.

The WCJ agreed that applicant qualified for the safety officer presumptions—meaning that apportionment was not permitted under §4663—but that applicant's having sustained prior injury to the heart and hypertension brought into play the "lifetime cap" for an award under *§4664(c)(1)(G)*. *§4664(c)(1)* provides that the accumulation of PD awards for any of designated regions of the body cannot exceed 100 %, with the regions of the body enumerated as: (A) hearing, (B) vision, (C) mental and behavioral disorders, (D) the spine, (E) the upper extremities, including shoulders, (F) the lower extremities, including hips, and (G) a "catch-all" of the head, face, cardiovascular system, respiratory system, and "all other systems and regions of the body" not listed.

Other than the lumbar spine and psyche, all applicant's injuries involved the same body region, and applicant's prior 66 % award permitted a maximum of 34 % for the various other body parts. The WCJ arrived at a 43 % PD award by combining the 34 % remaining after application of the *§4664(c)(1)* cap with 13 % PD for the lumbar spine and 0 % PD for the psychological injury.

Applicant appealed and argued that he was entitled to a 100% award in the current case, despite his prior stipulated award due to the anti-attribution clause in LC 4663. Defendant responded that *§4664(a)* and *(b)* related to apportionment while *(c)* related to the lifetime cap, so it is not an apportionment issue in the case—a position echoed by the judge. The Board upheld the determination, citing that multiple prior cases held the anti-attribution clause of 4663 does not limit the application of *4664(c)(1)* because *4664(c)(1)* is not an apportionment statute.

Pollard v. Lemstra Cattle Co./Zenith Ins. Co., ADJ10675931 (FRE), June 18, 2025, Decision After Removal

Summary: Defendant was allowed to provide surveillance videos to QME and the reporting of the primary treating physician was allowed into evidence over Applicant's objection because the WCAB panel found there was no violation of any statutory duty.

Discussion: At the time of injury on 10/20/2016, Applicant sustained industrial injury while working as an equipment operator. In 2023, the QME was deposed. Approximately 5 weeks later, Defendant provided surveillance video to Applicant's attorney with a proposal to send the video to the QME. Applicant's attorney timely objected. Defendant sent the videos to the primary treating physician, who issued a report commenting on the video and applicant's work restrictions. Applicant made a motion to strike the videos and PTP report from evidence at trial.

Their main argument was that it was improper to withhold the video until after the QME deposition. The trial judge agreed.

Defendant appealed via a petition for removal, contending they had complied with all applicable statutes. The panel agreed there was no question the surveillance videos constituted information and therefore, per *Labor Code §4062.3(b)*, had to be sent to the applicant attorney 20 days prior to being sent to the QME. This had been done by Defendant. The panel further noted that once applicant attorney objected to videos being sent to the QME, the WCJ had the authority to issue a decision regarding the discovery dispute, pursuant to *Allison v. WCAB* (1999) 72 CA4th 654, 27 CWCR 129, 64 CCC 624, and *Hardesty v. McCord & Holdren* (1976) 41 CCC 111. The Board further noted that Defendant had not taken Applicant's deposition in this case. When an Applicant's deposition is pending, case law has allowed a defendant to withhold surveillance video until the Applicant's deposition is completed. *Downing v. City of Hayward* (1988) 16 CWCR 76, and *Gonzalez v. ADP TotalSource Group et al./AIU Ins. Co.* (2024) ADJ 189836354 (AHM), 90 CCC 323.

Most interesting within this case, which was resolved in Defendant's favor, is that the panel rejected the WCJ's concerns about providing the QME with the PTP's report, as a possible "end around" to allow defendant to get the surveillance video indirectly to the QME. The panel observed that applicant had failed to cite any statute or rule precluding the sending of the PTP's report to the QME. Further, given the panel's conclusion that the QME could be directly provided with the surveillance videos, there was no basis to exclude the PTP's report from being entered into evidence. When a party objects to "information" being provided to a QME, the objecting party must provide some evidence to challenge the accuracy or authenticity of the information. It is not clear Applicant did so in this case, weakening their grounds for objection.

Bravo v. Natural Selection Foods, LLC, dba Earthbound Farms/Travelers Property Cas. Co. of America, ADJ11117589 (SAL), June 13, 2025, Order Denying Reconsideration

Summary: Agreed medical evaluator's (AME's) analogy-based impairment finding constituted substantial evidence and had not been rebutted by the reporting of Applicant's vocational expert. The panel underscored *Labor Code §4660.1* evidentiary standards for rebutting PD ratings and confirmed the limits of a vocational rehabilitation expert (VRE) report that did not appear to be supported by logical analysis and factual grounding.

Discussion: Applicant, a forklift operator, suffered industrial injuries to his thoracic and lumbar spine on April 26, 2017. In 2019, the parties resolved this initial claim by a 27 % stipulated PD award and future medical treatment. On June 17, 2020, applicant petitioned to reopen, alleging new and further disability that would increase his 27% PD to 100% permanent total disability. Applicant had submitted to AME evaluation, whose reporting the judge upheld. The AME had identified appropriate AMA Guides-based impairment for the spine and utilized an Almaraz-Guzman rating by analogy within the four corners of the Guides to identify 15% whole person impairment for the lumbar spine by analogy to a part-time use of a cane under the lower extremities tables and 15% whole person impairment for the thoracic spine under Table 6-9, generally applicable to hernia injuries).



WORKERS' COMPENSATION CASES – CONTINUED

By: Brenna Hampton, Work Comp By Design

The Board found the AME report was substantial medical evidence. On the other hand, Applicant's vocational evaluator's reporting was found to be speculative and unsupported. First, he had failed to provide rationale for why part-time use of a cane would render the applicant unable to be retrained, despite having completed an online training course and being capable of seated computer work. Additionally, Applicant's vocational expert failed to account for significant factors such as language skills, education, or prior job history (ie: transferable skills).

Applicant appealed and the Board denied their appeal. The Board has discretion to weigh the evidence, but an AME opinion will generally carry great weight unless it is not substantial evidence. Furthermore, the Board prefers medical evidence when valid. Because Applicant failed to meet his burden of proof to demonstrate permanent total disability, Defendant prevailed.

Aikens v. Child Abuse Prevention/State Comp. Ins. Fund, ADJ94855504 (SAC), Apr. 22, 2025, Decision After Reconsideration

Summary: The Board concluded that defendant's apportionment evidence, based on reports from an orthopedic agreed medical evaluator (AME) and a psychiatric AME were not sufficiently substantial medical evidence to reduce an applicant's PD award. The panel remanded the case for further development of Defendant's apportionment claims.

Discussion: Applicant, while working for the Child Abuse Prevention Council of Sacramento as a clerk, tripped in the parking lot on August 7, 2009, sustaining injuries to multiple body parts and psyche. An October 7, 2020 trial was set on issues of her claimed head injury, PD, apportionment, occupational group classification (group 214 v. 211), attorney fees, and whether the psychiatric rating should be added to or combined with the orthopedic disability. The workers' compensation judge (WCJ) admitted medical reports from orthopedic AME Joel Renbaum, M.D., and psychiatric AME James Cole, Ph.D.

AME Renbaum's February 2020 report rated multiple impairments with reference to the *American Medical Association Guides to the Evaluation of Permanent Impairment 5th edition (AMA Guides)*, taking "into account the *Almaraz/Guzman II* decision." He assessed impairments to the cervical and lumbar spine, right shoulder, carpal tunnel, right hip, and both knees. Notably, the applicant underwent a left total knee replacement in 2011 after conservative care failed. The AME apportioned 15 % of the cervical spine, right shoulder, right hip, and bilateral knee impairments to nonindustrial degenerative changes. No apportionment was found for the lumbar spine or carpal tunnel due to lack of degenerative findings.

AME Cole reported that applicant suffered psychiatric disability stemming from the industrial injury but also noted substantial nonindustrial contributing factors such as a 1985 psychiatric injury, emotional stress from family deaths post-injury, and personality testing results. Dr. Cole apportioned 50 % of the psychiatric disability to the 2009 injury and 50 % to nonindustrial factors. He also deferred to Dr. Renbaum's orthopedic findings where relevant. Noting that the orthopedic AME's reports were brief and terse ("not a model of thorough reporting"), the WCJ viewed the orthopedic AME's apportionment conclusions as nonetheless supported by medical evidence and review of diagnostic studies. Despite the lack of detailed discussion, the WCJ accepted both

reports as substantial evidence, with apportionment %ages reasonable under the circumstances.

The Board notes its authority to order additional medical record development when existing medical evidence is inadequate or when fairness or due process requires it. The preferred approach is to ask the physicians who have already evaluated the case to clarify or expand on their opinions. If that is not possible, the parties should try to choose other AMEs and if that fails, a §5701 evaluator will be appointed by the judge.

The reliance on another doctor's apportionment—without justification—is "pass-through" apportionment which, says the panel, is not permitted under California law. Medical evaluators must independently assess apportionment for the body systems within their expertise. They cannot simply adopt another physician's apportionment conclusions without explaining their own basis.

DiPiero v. City of Campbell, ADJ15251480 (SFO), June 3, 2025, Opinion Granting Reconsideration (Note: further proceedings may be ongoing at this time).

Summary: The Board concluded that it has exclusive jurisdiction to award advanced disability pension payments (ADPP) under *Labor Code §4850.4*, distinguishing the power over awarding IDR and the power of awarding ADPP. The latter is solely within the Board's jurisdiction as it constitutes "compensation" under Division 4 of the Labor Code.

Discussion: Applicant, a police officer, claimed a cumulative trauma (CT) injury to his lumbar spine for a period ending February 26, 2021, and received §4850 payments for some months, including after he had returned to modified duties followed by permanent disability (PD) payments. After was arrested for alleged domestic violence and placed on administrative leave, he refused to answer questions about the arrest during a deposition or otherwise, which demonstrated, defendant contended, violation of applicant's §4850.4(d) obligation to provide medical information to support further entitlement to ADPP benefits.

The QME issued a 2022 report finding Applicant was unable to continue his duties as a police officer. On January 30, 2023, applicant applied for industrial disability retirement (IDR), which CalPERS rejected. Applicant's appeal of that denial was still pending at the time of trial of his ADPP claim. Also pending was applicant's appeal of his employment termination after a "Skelly" hearing. The trial judge found that they lacked jurisdiction to award ADPP. On appeal, and citing *Gage v. WCAB (2016) 6 CA5th 1128, 44 CWR 265, 81 CCC 1127* at length, the commissioners observed that public employees are covered by workers' compensation benefits, and certain employees may be entitled to special benefits under §4850, including a leave without loss of salary, and that counties subject to the County Employees Retirement Law of 1937 (as amended in 2002) are required to make ADPP payments of no less than 50 % of the highest average annual compensation during the three consecutive years of employment before the date of a disability retirement unless there is no injury arising out of and in the course of employment issue present or fraud is involved. Payments under §4850.4 should begin no later than 30 days after the last payment of wages, salary, §4850 benefits, or sick leave. *Gage* ruled these were benefits under *Labor Code Division 4*, meaning the WCAB would have exclusive jurisdiction to resolve controversies.

WORKERS' COMPENSATION CASES – CONTINUED

By: Brenna Hampton, Work Comp By Design

The panel rejected defendant's contention that Gage conflicted with *Government Code* §§21156, 21157, and 21166, which govern whether applicant qualifies for an IDR. The panel distinguished those sections as opposed to §4850.4, because they related to applicant's entitlement to a disability retirement itself versus entitlement to ADPP, which statutorily mandates such payments to applicant unless exceptions, not present here, apply.

Vazquez v. Inocensio Renteria/Zenith Ins. Co., ADJ11017003 (SAL), May 19, 2025, Decision After Reconsideration (en banc), 90 CCC 514

Summary: The WCAB used a five-factor "balancing test" to determine whether granting or denying the request for a replacement QME would cause substantial prejudice or result in irreparable harm. The Board observed that the WCAB alone has jurisdiction to determine whether a QME replacement panel is or is not valid or appropriate. The decision was expressly intended to be applied prospectively to avoid reopening past cases on this issue.

Discussion: Applicant, a seasonal agricultural worker represented by counsel, claimed a 3/17/17 injury to his left ankle and left calf with claimed injury to psyche, hypertension, diabetes, and hyperlipidemia. Internal medicine QME Ira Fishman, M.D., evaluated applicant in May 2021 and issued a supplemental report in May 2022. In July 2024, applicant requested a reevaluation and QME Fishman's office provided a date 127 days later. Defendant requested a replacement QME panel because the reevaluation would be more than 120 days after the date of the request, citing *QME Rule 31.3*. Applicant objected, contending that the time limit applies only to initial evaluations, not subsequent examinations, which defendant disputed. The Division of Workers' Compensation (DWC) Medical Unit issued a replacement panel.

After a trial, the judge ruled that a replacement panel was appropriate due to the QME's inability to set an appointment within 120 days. Applicant petitioned for removal, arguing that the time limits in the regulations should not be used to compel a replacement panel. On appeal, the Board cited its *en banc* decision in *Dennis v. State Dept. of Corrs. & Rehab. Inmate Claims* (2020) 48 CWCR 1, 85 CCC 389, with its reference to *Labor Code* §111, which found that only the WCAB has jurisdiction to determine whether a replacement panel is valid or otherwise appropriate, given that the Board has the power in disputes relating to workers' compensation, while the AD has the powers of supervision of personnel and coordinating the work of the Division of Workers' Compensation (DWC). A QME's failure to meet a timeline, however, is not by itself sufficient to require the naming of a replacement panel. Rather, the Board continues, a WCJ should apply the balancing test set forth in *Corrado, supra*, which requires analysis of multiple such factors as:

- 1) The length of delay caused by the QME's unavailability;
- 2) The amount of prejudice caused by the delay in availability versus the amount of prejudice caused by restarting the QME process;
- 3) What efforts, if any, have been made to remedy the QME's availability;
- 4) Case-specific factual reasons that justify replacing or keeping the current QME, including whether a party may have waived its objection; and
- 5) The Appeals Board's constitutional mandate to "accomplish substantial

justice in all cases expeditiously, inexpensively, and without incumbrance of any character." (*Cal. Const., art. XIV, §4*).

Kuo v. Dublin Unified School Dist., Court of Appeal, 1st App. Dist., Div. 4, Mar. 12, 2025, No. A169912, published, 109 CA5th 662, 90 CCC 271

Summary: An appellate court panel relied on *Labor Code* 3364.5 to affirm a superior court dismissal on summary judgement of a civil damages lawsuit brought by the estate and survivors of a decedent who was killed while serving as a volunteer in a school district food distribution program during the COVID-19 pandemic.

Discussion: Decedent, having volunteered to help in a school district's food distribution program, was killed when crushed between two automobiles in a district parking lot. She had been standing between two parked vehicles as a district employee directed their unloading when one vehicle unexpectedly and suddenly lurched forward, pinning decedent between it and another car.

Her survivors and estate sued the district (apparently for wrongful death and survivors' damages) asserting causes of action for negligence and premises liability. Defendant district moved for summary judgment, citing a district resolution stating that "in accordance with [§3364.5], volunteers shall be entitled to Workers' Compensation benefits for any injury sustained by him/her while in the performance of any service under direction and control of the District Superintendent." Summary judgement was granted and plaintiff appealed.

Labor Code 3362.5 provides that a school district "volunteer . . . be deemed an employee of the district . . . and be entitled to . . . workers' compensation benefits . . . for any injury sustained by him while engaged in the performance of any service under the direction and control . . . of the school district." The panel discussion supports that death comes within the *Labor Code* definition of "any injury" and rejected plaintiff's argument that civil damages were appropriate based on the fact that the district did not treat decedent or other volunteers as employees. Exclusive remedy provisions required the suit to be heard within the workers' compensation appeals board.

Morris (Bertino, guardian ad litem) v. City of Hope Nat. Med. Center; San Antonio Regional Medical Center; Pomona Valley Hospital Med. Center, ADJ13610807 (MF); ADJ13610806 (SBR), Feb. 3, 2025 Decision After Reconsideration

Summary: The WCAB affirmed that a trial judge was correct in finding that applicant's sudden cardiac arrest caused at least a heart injury that had arisen out of and in the course of her employment (AOE/COE) as supported by two qualified medical evaluators (QMEs), despite an apparently contrary view expressed in an academic study mentioned by the cardiology QME.

Discussion: Applicant, a registered nurse, claimed a specific May 14, 2020 injury and a cumulative trauma (CT) injury ending that same date, to her brain, circulatory system, respiratory system, upper extremities, lower extremities, nervous system, bladder, bowel, psyche, and sudden "cardiac arrest." Applicant alleged she had suffered a brain injury, cognitive impairment, mental incapacity and quadriplegia after her cardiac arrest. In the year prior to May 14, 2020, applicant worked for three separate healthcare facilities during the alleged cumulative trauma



WORKERS' COMPENSATION CASES – CONTINUED

By: Brenna Hampton, Work Comp By Design

period: City of Hope infusion center, San Antonio Regional Medical Center, and Pomona Valley Hospital Medical Center.

Reportedly, cardiopulmonary resuscitation (CPR) had not been started for at least seven minutes after the initial arrest, although applicant had told her supervisor at the City of Hope infusion center she was not feeling well and had complained of other issues; her supervisor had taken her blood pressure, she had gone into cardiac arrest, and the supervisor, mistaking her condition as a seizure, had called 911.

Cardiology QME Stuart Fischer, M.D., and neurology QME Pedram Navab, D.O., both noted that applicant's brain had received no oxygen for a significant period of time, causing loss of brain tissue and of neurologic function, leaving applicant with numerous deficits such that she required 24/7 care and was totally disabled. They noted reports that applicant had been concerned about contracting COVID-19 and was otherwise "stressed" in the early days of the pandemic. Numerous witnesses testified that applicant had been under intense stress. Dr. Navab had initially concluded applicant's injury had not arisen out of employment as it had not resulted from COVID-19, but allowed that if applicant was under stress, then her preexisting cardiovascular disease could have been worsened and caused the cardiac event. He requested psychiatric evidence of this, rather than just applicant's mother's testimony her daughter was stressed. Dr. Fischer opined that stress was the only reasonable cause of applicant's cardiac event, noting prior physicians had not determined any etiology of the cardiac arrest. QME Fischer, citing an article by Phillip Podrid, M.D., noted applicant had no other common etiologies for a cardiac event, noting that the issues therefore could have been psychosocial (i.e., stress). He felt there was at least 1 % industrial causation present, based on a reasonable medical probability. QME Navab, even after reviewing QME Fischer's report, revised his own opinion, placing more weight on the deposition testimony of applicant's co-employees concerning applicant's stress. In another supplemental report, he further agreed applicant's worries about COVID-19 reported in her psychotherapy notes supported industrial causation.

Defendants, in addition to other evidence and over applicant's objection, relied on Dr. Podrid's article as evidence that applicant's sudden cardiac arrest and death would not have been caused by stressors, even though he had not reviewed any of the QME reports and did not claim he knew California workers' compensation law.

With regard to injury AOE/COE, the panel—citing *Rosas v. WCAB* (1993) 16 CA4th 1692, 21 CWCR 156, 58 CCC 313—emphasized that a finding of injury "does not require applicant to provide causation by scientific certainty." Rather, per *McAllister v. WCAB* (1968) 69 C2d 408, 33 CCC 660, and *South Coast Framing v. WCAB* (Clark) (2015) 61 C4th 291, 43 CWCR 113, 80 CCC 489, applicant is only required to prove injury by a preponderance of evidence, which may be done by presenting medical evidence that industrial causation was reasonably probable. The commissioners agreed with the judge that the opinions of QME Fischer and QME Navab were sufficient.

On its change from "cardiac arrest" to "heart," the panel notes that both QMEs referred to applicant's injury as cardiac arrest. But applicant's burden is to prove AOE/COE injury to a "body part," which the heart is, but cardiac arrest is not.

Mora v. Frontier Communications/American Zurich Ins. Co., ADJ12630887 (SBO), Feb. 3, 2025, Decision After Reconsideration

Summary: The Board allowed an Applicant to conduct further discovery after she failed to meet her burden of proof at trial related to diabetes and psyche claims.

Discussion: Applicant originally claimed physical injury to multiple body parts and the circulatory system during a cumulative trauma (CT) period from December 2, 1996, through September 12, 2019. Then, in December 2023, the injured worker amended her application to claim injury in the form of diabetes and injury to the psyche as work-related. In a January 2024 amended answer, defendant accepted injuries to the neck and right shoulder, but denied injury to any other claimed body parts, including injury to the psyche, and in the form of diabetes. On February 1, 2024, a few weeks after applicant's amended application was filed, defendant filed a declaration of readiness to proceed (DOR).

Applicant timely objected to the DOR, claiming the need for additional QME specialty panels to evaluate industrial causation of the newly added body part injuries. The case was set for trial over Applicant's objection based on the need to do additional discovery, with the objection deferred to the trial judge. Prior to the trial date, Applicant filed a petition seeking two additional panel QMEs. At the trial date, Applicant renewed her objection to trial.

The trial judge then ruled that (1) applicant had not sustained her burden of proving injury to her right arm, circulatory system, diabetes, or psyche, and (2) the record did not require further development. The WCJ further stated that "without applicant's testimony, a determination as to the disputed parts of body cannot be made," and, though a trial judge has a duty to develop the record where it is inadequate to enable a decision, the WCJ stated that this duty "does not permit a judge to rescue a party from their obligation of developing their own case."

On appeal, the Board panel determined Applicant had established good cause for the issuance of additional panel QME lists, and that the record as submitted did not "adequately address the issue[s] specifically raised and submitted for decision by the parties." In distinguishing this case from *McKernan*, the case cited by the judge, the Board noted the Applicant's consistent and timely objections to trial, and that no party had adequately developed the record on the issues. In the instant case, the majority reasoned that the record contained neither "substantial medical evidence nor witness testimony" to address the issues "framed and submitted for decision by the parties" and that the trial judge had a "duty to develop an adequate record."

The dissenting opinion would have affirmed the trial judge's Findings and Award on the basis that Applicant had the burden of proof and failed to submit substantial medical evidence as well as failed to testify on her own behalf.

Acevedo v. Georgia Pacific, ADJ10393295 (RIV), Jan. 23, 2024, Decision Denying Reconsideration

Summary: An award of Applicant's attorney fees in a life pension case based on DEU's calculation applying a 3% "default rate" was upheld, despite Applicant's attorney seeking 4.18% based on state average weekly wage increases (SAWW).

WORKERS' COMPENSATION CASES – CONTINUED

By: Brenna Hampton, Work Comp By Design

Discussion: Applicant's cumulative injury through September 25, 2015, was resolved by a 6/29/22 findings and award at 83 % permanent disability (PD). The award included attorney fees, stating that "applicant attorney is entitled to 15% of impairment awarded and/or commuted and 15% of the net temporary total disability benefits due to applicant after deduction of payments by defendant and EDD." The award did not order that SAWW be used to commute the fee award and neither party sought reconsideration.

On July 28, 2022, DEU issued a Commutation Calculation of Life Pension. On November 21, 2022, applicant's attorney filed a petition for commutation calculation. asking DEU to calculate attorney fees on the life pension award under two scenarios: (1) a default 3 % SAWW, and (2) a 4.18% SAWW increase. DEU adopted the 3% calculation.

The panel noted that Labor Code §5100 states that the WCAB, either on its own or in response to a petition, "may commute the compensation payable under this division to a lump sum and order it to be paid forthwith," under certain circumstances, including, but not limited to: (1) the ability of the applicant to live without periodic payments and discharge preinjury debts; (2) the necessity of the person so entitled; (3) the best interest of the applicant; and (4) to avoid undue hardship to the applicant, taking into account concerns that the payor may become insolvent.

The panel cited the Board's *en banc* decision in *Paquette v. City of Ventura* (1978) 6 CWCR 229, 43 CCC 1129 for the proposition that all commutations should be cautious, narrow, and in the best interest of the applicant.





CIVIL RIGHTS CASES

By: Attorney Noah G. Blechman, Esq., McNamara Law Firm, Pleasant Hill, CA

Barnes v. Felix, 2025 U.S. LEXIS 1834, 145 S. Ct. 1353

Summary: In resolving Fourth Amendment excessive force claims, courts may not apply the so-called “moment of threat” rule because it fails to take into account the totality of the circumstances. To determine whether an officer acted reasonably, a court must consider all of the relevant circumstances, including facts and events leading up to the climactic moment.

Discussion: Ofc. Felix initiated a traffic stop on a vehicle with outstanding toll violations and the driver, Barnes, then pulled over and turned off the vehicle. The officer smelled marijuana and the driver said his license may be in the trunk so popped the trunk. Ofc. Felix ordered Barnes out of the car. The driver opened his door, but did not exit. Ofc. Felix had his firearm out at this point. Barnes then started the vehicle and as the car started to move forward, Ofc. Felix jumped on the doorsill, shouted for Barnes not to move and then shot two shots inside, hitting Barnes and killing him. Only five seconds elapsed from when the car started moving to when it stopped (after the shooting), and within that period, only two seconds passed from the moment Ofc. Felix stepped on the doorsill and the moment he fired his first shot. Barnes’ mother filed suit against Ofc. Felix asserting an excessive force claim under the Fourth Amendment.

The district court granted summary judgment in favor of the officer and the decision was affirmed by the Fifth Circuit base on the “moment of the threat” analysis. The Supreme Court reversed, noting that the “moment of the threat” analysis is too narrow and that the Fourth Amendment analysis looks at the totality of the circumstances of an incident, not just the limited time leading up to the climactic moment, which applies in non-deadly and deadly force matters. The Supreme Court did not express an opinion as to the legality of this shooting, but only remanded for the lower courts to apply this analysis. Notably, concurring Justice Kavanaugh highlighted in detail the great dangers and unpredictability that officers face during traffic stops.

Williams v. City of Sparks (9th Cir. 2024) 112 F.4th 635

Summary: The Ninth Circuit reversed and remanded the district court’s denial of summary judgment on the excessive force, municipal liability, and battery claims. The Ninth Circuit found there was no constitutional violation in the officers’ use of force because their actions were objectively reasonable in light of Plaintiff’s attempt to flee and the threat he posed to both the officers and the public. As a result, the officers were entitled to qualified immunity. The Ninth Circuit further held that because there was no constitutional violation, the City cannot be held liable under *Monell*. The state law battery claim also failed since the force the officers used was held to be reasonable.

Discussion: After stealing alcohol from a gas station and vandalizing a vehicle in the parking lot, Plaintiff Joseph Williams led officers on a 42-minute pursuit. Williams proceeded to run multiple red lights and drove into a dead-end street. When the officers ordered him to exit the vehicle, Williams refused, revved his engine and drove through a chain link fence to continue fleeing. Following the officers’ failed pursuit intervention technique (PIT), Williams ran additional red lights, entered the freeway into light oncoming traffic, and reached speeds between 55 and 70 miles per hour. After spikes were successfully deployed, Williams exited the freeway, ran two stop signs, and re-entered the freeway with a flat tire and no headlights. He drove briefly on the wrong side before crossing the dirt median. Eventually, the officers successfully executed another PIT

maneuver. Despite being stopped, Williams’s engine continued revving loudly. The officers’ body camera recordings showed Williams attempting to accelerate and flee before the officers opened fire for approximately 14 seconds until the revving ended. Williams was struck by several non-fatal shots, then was placed in handcuffs and transported to the hospital after paramedics arrived.

The Ninth Circuit held the officers were entitled to qualified immunity on the excessive force claim, finding their use of deadly force objectively reasonable under the *Graham* factors and relying on the Supreme Court’s case in *Plumhoff v. Rickard* (2014). The *Monell* claims failed as the force was not unconstitutional and that the state law claim for battery also failed because the force used was not unreasonable.

Chinaryan v. City of Los Angeles (9th Cir. 2024) 113 F.4th 888

Summary: The Ninth Circuit upheld the district court’s decision in favor of the City of Los Angeles and the LAPD, but reversed the grant of summary judgment in favor of the individual officers. The officers were not entitled to qualified immunity because it was clearly established that officers could not conduct a high-risk vehicle stop based only on the suspicion that the vehicle was stolen.

The Ninth Circuit held that the City of Los Angeles and the LAPD were not liable under *Monell* for failing to train the officers. However, it rejected the argument that this verdict rendered the earlier error in dismissing the claims against the individual officers as harmless. The jury never had the chance to evaluate the officers’ individual claims under *Monell*, and the Court therefore remanded. The Ninth Circuit further reversed the district court’s summary judgment in favor of the individual officers on the state law claims under the California Bane Act because a jury could conclude that the officers acted with requisite reckless disregard towards the Plaintiff’s rights.

Discussion: On June 14, 2019, a black Chevrolet Suburban limousine was stolen while parked overnight. The next day the vehicle’s LoJack tracker signal was picked up near an industrial area. On June 16th, Plaintiff Hasmik Chinaryan was driving her daughter and their friend home. Their vehicle was also a black Chevrolet Suburban limousine that belonged to Chinaryan’s husband. LAPD Sgt. Cueto spotted their vehicle less than half a mile from where the stolen Suburban’s LoJack signal had been detected earlier. Suspecting it might be the stolen car, Sgt. Cueto radioed in the license plate. Dispatch told him the plate was registered to a Dodge Ram, but that the vehicle had not been reported stolen. This mix-up was due to the Department of Motor Vehicles issuing Chinaryan the wrong license plates. Sgt. Cueto, unaware of the error, suspected Chinaryan’s Suburban to be cold plated (had plate different than registered plate) and called for backup, including a helicopter. He followed the vehicle for about 10 minutes during which Chinaryan drove normally. Officers Gonzalez and Meneses approached from the opposite direction and could not pick up a LoJack signal. However, because LoJack devices can be disabled, the officers did not rule the vehicle out as the stolen car. Around twelve police vehicles were then in pursuit.

Chinaryan, noticing the police cars, pulled to the side. The officers then proceeded to turn on their sirens. Chinaryan was ordered to turn the car off, throw the keys out the window, get out, lie on her stomach, and stretch her arms out horizontally. Several of the officers pointed their guns at or near her. Officer Gonzalez then ordered the two girls out of the car and

CIVIL RIGHTS CASES – CONTINUED

By: Attorney Noah G. Blechman, Esq., McNamara Law Firm, Pleasant Hill, CA

pointed firearms in their direction. The three were handcuffed and sat on the side of the road. The officers checked all the Vehicle Identification Numbers and realized the mix-up. Chinarian and the girls were uncuffed, the plates from the Suburban were removed, and Chinarian was instructed to contact the DMV.

The Ninth Circuit held the officers' use of force was a clearly established violation of the Plaintiffs' rights per the Fourth Amendment under several precedents. Additionally, the Court held the officers acted with reckless disregard for the Plaintiffs' rights. Although the Court held the City of Los Angeles and the LAPD were not liable for failing to properly train the officers, dismissing the claims against the officers under that matter was not a harmless error as the jury never had the opportunity to decide whether the individual officers violated LAPD's official policy when they conducted the stop. Accordingly, Plaintiffs are entitled to a trial on their Fourth Amendment claim against the individual officers including as to the Bane Act claims.

Napouk v. Las Vegas Metro P.D. (9th Circ. 2024) 123 F. 4th 906

Summary: The Ninth Circuit affirmed the district court's granting of summary judgment in favor of two Las Vegas M.P.D. officers in a fatal shooting case. The panel held that the officers were entitled to qualified immunity on the Fourth Amendment excessive force claim because the totality of the circumstances demonstrated that the decedent posed an immediate threat. The court also rejected the Fourteenth Amendment familial association claim, finding no evidence of conduct unrelated to legitimate law enforcement objectives, and held that the *Monell* and state law claims failed as a matter of law.

Discussion: Sergeant Kenton and Officer Gunn responded to late-night reports of a man walking through a residential neighborhood carrying what appeared to be a machete, approaching cars and houses. For several minutes, the officers issued commands, but the man, Lloyd Napouk, refused to comply and repeatedly advanced toward them with the object in his hand. When Napouk closed to within approximately nine feet of Sergeant Kenton, the officers opened fire, killing him. The object was later discovered to be a plastic toy fashioned to look like a blade.

The Ninth Circuit concluded that the officers' use of deadly force was reasonable because Napouk posed an immediate threat, his weapon appeared real, and he ignored repeated commands to stop. Even if the force had been unconstitutional, the court held that the officers were entitled to qualified immunity because no clearly established law prohibited their actions. The court further rejected the Fourteenth Amendment claim, finding no evidence of conduct intended to harm for reasons unrelated to legitimate law enforcement, and dismissed the *Monell* and state law claims because there was no underlying constitutional violation and the officers were protected by discretionary-function immunity under Nevada law.

Estate of Aguirre v. County of Riverside (9th Cir. 2025) 131 F.4th 702

Summary: The Ninth Circuit affirmed the district court's denial of qualified immunity as raised in a renewed motion for judgment as a matter of law following a \$10 million dollar verdict for Plaintiffs, finding excessive deadly force. The Ninth Circuit found that it is clearly established

law that deadly force against a suspect who poses no immediate threat to an officer or others violates the suspect's Fourth Amendment rights, denying, post-verdict, qualified immunity. This case was also in front of the Ninth Circuit after the initial denial of qualified immunity on summary judgment.

Discussion: Officer Ponder responded to a call about a suspect, Clemente Najera-Aguirre, destroying property with a bat or club. Najera did not comply with Officer Ponder's commands to drop the bat and subsequently moved toward the street where Officer Ponder stood. When Najera was 10 to 15 feet away, Officer Ponder attempted to pepper spray him, but the spray blew away and was ineffective. Najera remained 10 to 15 feet away from Officer Ponder, facing him, without winding up to swing or throw the bat. Officer Ponder then pointed his gun at Najera. Within seconds, and without warning, Officer Ponder fired six shots in two volleys, with a thirty-second pause in between volleys. Najera collapsed where he stood and died. An autopsy revealed the two fatal shots struck Najera's back, suggesting he was turned away with his back to Officer Ponder. Officer Ponder's own statement also indicated that Najera turned away from him after the first three shots. Based on previous case precedent, the Ninth Circuit held Officer Ponder was not entitled to qualified immunity, as it was clearly established that deadly force is not justified when the suspect does not pose an imminent threat to the officer or others.

D'Braunstein v. California Highway Patrol (9th Cir. 2025) 131 F.4th 764

Summary: The district court found that while the officer's failure to get medical care was an objectively unreasonable violation of the Fourth Amendment, the officer was entitled to qualified immunity because the law was not clearly established for injuries sustained prior to arrest. The Ninth Circuit reversed the district court's decision, holding: (1) A jury could find that the officer's failure to summon prompt medical aid for someone in obvious distress after a major car accident was objectively unreasonable; (2) The constitutional duty to provide objectively reasonable medical care to an injured detainee was clearly established, regardless of whether the officer's own actions caused the injury; and (3) An officer is not entitled to qualified immunity for a mistake of fact (i.e., mistaking a stroke for drug impairment) if that mistake was itself objectively unreasonable under the circumstances, which is a question for the jury to decide.

Discussion: After Steven D'Braunstein was involved in a serious single-vehicle accident, CHP Officer Durazo arrived on the scene. She observed that D'Braunstein was disoriented, sweating profusely, had slurred speech, poor balance, and constricted pupils. Believing he was under the influence of drugs, Officer Durazo arrested him without summoning medical assistance. Hours later, after a jail nurse found he had high blood pressure and denied him admittance, Durazo transported him to a hospital where he was diagnosed with a stroke. The delay in securing medical treatment allegedly led to permanent injuries for D'Braunstein.

The Ninth Circuit established that an unreasonable mistake of fact does not provide the basis for qualified immunity. The core issue was not whether the officer could perfectly diagnose a stroke versus drug use, but whether a reasonable officer, seeing the aftermath of a violent crash and a person with a "serious condition," would have recognized the obvious risk of serious harm and summoned medical help. The court firmly



CIVIL RIGHTS CASES – CONTINUED

By: Attorney Noah G. Blechman, Esq., McNamara Law Firm, Pleasant Hill, CA

rejected the argument that the duty to provide medical care is limited to injuries caused by police use of force. The court held that the Fourth and Fourteenth Amendments' obligations to provide objectively reasonable care for a serious medical need is a broad, well-established principle, and did not require a prior case involving the exact same facts to put the officer on notice of her duty.

Judge Lee dissented in part, arguing that Officer Durazo should not be denied qualified immunity because there was no clearly established law requiring her to distinguish between symptoms of drug use and a stroke in the absence of obvious signs of a major physical injury and expecting law enforcement officers to make complex medical decisions at accident scenes is unreasonable.

Mayfield v. City of Mesa (9th Cir. 2025) 131 F.4th 1100

Summary: The Ninth Circuit affirmed the district court's dismissal of the case on the Rule 12 motion. The Ninth Circuit held (1) the suit was not barred by *Heck v. Humphrey*, contrary to the district court's findings, because claims did not necessarily imply the invalidity of conviction, but (2) dismissal was proper because written notes, lipreading, and physical gestures were reasonable accommodations during the DUI traffic stop of the deaf driver, given the urgent, safetycritical nature of DUI enforcement.

Discussion: Alison Mayfield, a deaf individual who primarily communicates through American Sign Language ("ASL") brought suit against the City of Mesa alleging that the city's police officers violated the Americans with Disabilities Act ("ADA") and the Rehabilitation Act by failing to provide her with an ASL interpreter during a traffic stop and a subsequent blood-draw. Mayfield was pulled over for weaving while driving and requested an ASL interpreter, but the officer instead used a combination of handwritten notes, cell phone messages, lip-reading, and physical gestures to communicate. She was charged with DUI-related offenses, but these charges were dropped when she pleaded guilty to reckless driving.

The Ninth Circuit held that the district court's application of the *Heck* bar was inapplicable as Mayfield's conviction for reckless driving could have been based solely on the officer's observation of her weaving before the stop, meaning a successful ADA claim would not necessarily invalidate her conviction. Nonetheless, the court concluded that the officers did not violate the ADA because the exigent circumstances of a DUI stop made it unreasonable to require them to wait for an interpreter, and the alternative methods used constituted effective communication, as Mayfield was able to understand and complete the tasks at hand, including the sobriety tests and signing consent forms. Importantly, the case could be challenged on Rule 12 motion as body worn camera video evidence was referred to and incorporated into the complaint so the courts could consider it as part of the motion and appeal

Alves v. County of Riverside (9th Circ. 2025) 135 F.4th 1161

Summary: The Ninth Circuit affirmed the district court's denial of defendants' Rule 50(b) motion for judgment as a matter of law following a jury's mixed verdict in an action under § 1983 and California law. The jury found that the deputies did not use excessive force under the Fourth Amendment, but were negligent under California law. The Ninth Circuit held that these verdicts were reconcilable because California's "reasonable care" standard is broader and distinct from the Fourth

Amendment's reasonableness standard, and therefore a jury may reach different conclusions under each standard.

Discussion: Deputies Keeney and Gomez responded to 911 calls regarding Kevin Niedzialek, who was unarmed, bleeding from the head, and acting erratically in an apartment complex. Believing he was under the influence or experiencing a mental health crisis, the deputies deployed a Taser twice before handcuffing him. After he was restrained, Niedzialek continued kicking and flailing. While restraining him with handcuffs, the deputies failed to move him into a recovery position, monitor his breathing, or perform CPR, then he became unresponsive and later died.

The Ninth Circuit, citing *Hayes v. County of San Diego*, held that California negligence law allows consideration of the totality of the circumstances, including post-restraint conduct, and therefore the jury could find negligence even though the force used was not excessive under the Fourth Amendment.

A.B. v. County of San Diego (2025) 112 Cal.App. 5th 404

Summary: A California appellate court found that summary judgment was not appropriate in a wrongful death type matter as a jury could find, based on the totality of circumstances, that a prone restraint could have caused detainee's death from asphyxiation and sudden cardiac death, and the court also resurrected direct claims against the Sheriff for negligence per the Government Code.

Discussion: A store manager called the police as Decedent Bircher was in the store and may have been having a mental health crisis. Bircher had not committed any crimes, other than being suspected of being under the influence of drugs. When confronted by officers, Bircher fled into the parking lot and then was brought to the ground by several deputies who double-cuffed his hands behind his back, secured his ankles together, tied his ankles to a cord around his waist and applied body weight pressure to his back while lying on the pavement. Bircher called out that he could not breathe and then stopped moving after several minutes. By the time paramedics arrived, he was no longer breathing and was dead from asphyxiation and sudden cardiac arrest.

Bircher's daughter was unsuccessful in federal court (qualified immunity for officers) so she then refiled her state law claims in state court after the state claims were not adjudicated in federal court. Defendants prevailed at summary judgment in the trial court. However, the appellate court found that there were triable issues of material fact as to whether or not excessive force was used during the forcible prone restraint with bodyweight compression and a negligence training claim against the Sheriff could continue as well.

EMPLOYMENT CASES

By Derek Haynes and Dylan De Wit, Porter Scott

Osborne v. Pleasanton Auto. Co. (2024) 106 Cal.App.5th 361

Summary: A supervisor cannot pursue an action against an employee for defamation based on the employee's internal complaint of supervisor misconduct because that complaint is protected under the litigation privilege if made in anticipation of litigation and qualifies as protected activity for purposes of California's Anti-Slapp statute.

Discussion: Plaintiff sued her employer and a supervisor for discrimination, retaliation, harassment, and related claims based on misconduct she allegedly experienced over four years as the supervisor's executive assistant. Plaintiff detailed that misconduct in an internal letter to Human Resources months before she filed her lawsuit. Therein she accused the supervisor of making misogynistic remarks, forcing Plaintiff to carry heavy water containers while pregnant, pressuring her to use her credit card for his purchases and to loan him money, demanding personal favors like slicing food and cleaning up after his dog and making her accompany him to a hospital.

After Plaintiff filed the lawsuit, the supervisor filed a Cross-Complaint against Plaintiff for defamation based on the allegations Plaintiff made in her pre-litigation letter to Human Resources. Plaintiff responded to the Cross-Complaint with an Anti-Slapp Motion under C.C.P. § 425.16. That statute allows litigants to file a motion seeking early dismissal of claims that target protected speech. The motion involves a two-step process. The moving party must first establish that the claims arise from protected speech. If the moving party meets that burden, the claims must then be dismissed unless the responding party offers admissible evidence establishing a probability of success on the merits of the claims.

At the first step in the analysis, the supervisor argued that Plaintiff's statements in the HR letter do not qualify as "protected" speech under the statute because they were false and offered to extort him, making the statements criminal in nature. The Court held that certain speech that is criminal in nature may not be "protected," but that "criminal speech" exception is "narrow." It only applies when the person who engaged in the speech "concedes, or the evidence conclusively establishes" that the speech is "illegal as a matter of law." Here, the supervisor failed to prove that Plaintiff's letter to HR amounted to criminal extortion as a matter of law. Thus, the "criminal speech" exception did not apply and Plaintiff's letter qualified as protected speech.

The Court then moved to the second step of the analysis – analyzing whether the supervisor met his burden of proving a probability of success on his defamation claim in order to avoid dismissal. The Court found the supervisor could not meet that burden because Plaintiff's speech was protected by the absolute privilege under Civil Code § 47. That statute provides an absolute privilege for statements made "in a judicial proceeding." Courts interpreting that language have extended the privilege to pre-litigation communications made "in furtherance of the objects of litigation."

Plaintiff offered evidence indicating that she was contemplating litigation before sending the HR letter, including a Declaration from Plaintiff confirming that she was contemplating litigation and an email Plaintiff exchanged with a lawyer where the lawyer sent Plaintiff a retainer agreement. That was enough to prove Plaintiff was at least contemplating litigation when she sent the HR letter. Therefore, the absolute privilege provided under Civil Code § 47 applied, precluding the supervisor from

proving a probability of success on the merits of his defamation claim. As a result, the Court granted Plaintiff's Anti-Slapp Motion and dismissed the supervisor's Cross-Complaint.

Wawrzenski v. United Airlines, Inc. (2024) 106 Cal.App.5th 663

Summary: Disciplining an employee for social media activity may create a triable issue of material fact on a discrimination cause of action if other employees with different protected characteristics are not disciplined for similar activity.

Discussion: Plaintiff was a flight attendant for United Airlines. She was terminated after the company received an anonymous report that Plaintiff's social media account included suggestive pictures of Plaintiff in uniform together with a link to her OnlyFans account.

Plaintiff alleged that during United's investigative interview with Plaintiff, the interviewer "insinuated" she was a prostitute by stating that her photographs were suggestive, that she was "selling" herself and that she "had too much skin showing." At the end of the meeting, United directed Plaintiff to remove all photos of herself in a United uniform and then ultimately terminated her employment. The termination letter emphasized that using photos of herself in uniform to promote her OnlyFans account conflicted with United's ethics and social media policies.

Plaintiff filed suit asserting a variety of claims, including one for gender discrimination under the FEHA. United moved for summary adjudication of the discrimination cause of action. The trial court granted that motion, finding United offered evidence that it terminated Plaintiff for legitimate reasons related to Plaintiff violating company policies and Plaintiff failed to counter that with sufficient evidence of pretext.

Plaintiff appealed and the Court of Appeal reversed, finding Plaintiff offered sufficient evidence of pretext. The Court focused on evidence of social media posts by Plaintiff's male co-workers. Three such co-workers posted pictures of themselves in uniform and in "suggestive" poses, but received lesser discipline or no discipline at all. That evidence was enough to defeat summary adjudication because a jury could rely on it to conclude that United treated male employees more favorably than female employees.

Miller v. California Dep't of Corr. & Rehab. (2024) 105 Cal. App. 5th 261

Summary: An act that is not designed to return an employee to work is not an "accommodation" that must be offered under the FEHA; and merely becoming disabled does not constitute protected activity to support a retaliation claim.

Discussion: Plaintiff worked as a correctional officer for the California Department of Corrections and Rehabilitation (CDCR). In 2016, she suffered an industrial injury that resulted in a lengthy medical leave of absence. In August 2018, Plaintiff's doctor declared her condition permanent and stationary. Plaintiff's permanent physical restrictions precluded her from performing many of the essential functions of her job.

In 2019, CDCR offered to demote Plaintiff to an alternative position that could accommodate her restrictions. Plaintiff initially agreed to that demotion, but failed to show up for multiple orientation meetings. Plaintiff then advised CDCR that she was suffering from a previously undisclosed



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mental health disability and her psychologist told her that she “was not supposed to be anywhere near CDCR” while receiving treatment. Therefore, Plaintiff remained on a leave of absence.

In 2020, Plaintiff filed suit asserting a variety of claims under the FEHA. The trial court granted CDCR’s Motion for Summary Judgment. Plaintiff appealed and the Court of Appeal affirmed the trial court’s ruling.

One of the essential elements of Plaintiff’s disability discrimination and failure-to-accommodate claims is that Plaintiff could perform the essential functions of the job with or without accommodation. CDCR argued that Plaintiff could not meet that burden given her psychologist declared that she could not be “anywhere near CDCR.” Plaintiff countered, arguing that CDCR could have offered to file an application for disability retirement with CalPERS on Plaintiff’s behalf as a form of accommodation. The Court rejected that argument, finding that does not qualify as an “accommodation” under the FEHA. An “accommodation” is designed to help an employee return to work, while an application for disability retirement separates an employee from work. There is no obligation under the FEHA for employers to help an employee separate from work. Thus, the trial court was correct in dismissing Plaintiff’s disability discrimination and failure-to-prevent causes of action.

The issue on Plaintiff’s retaliation cause of action was whether she engaged in “protected activity” under the FEHA. In her Complaint, Plaintiff alleged that her protected activity was “the involuntary act of becoming disabled.” The Court found that does not qualify as a protected activity under the FEHA. “Protected activity” is defined as opposing an act that is forbidden under the FEHA, filing a complaint, testifying or assisting in a FEHA-based proceeding or requesting an accommodation for a disability. The Court noted that simply becoming disabled or even disclosing a disability to an employer does not rise to that level. The employee must actually ask the employer to accommodate that disability in order to engage in protected activity.

Although Plaintiff in the *Miller* case did request an accommodation, the Court could not consider that when evaluating her retaliation cause of action because her Complaint specifically alleged that her protected activity was “becoming disabled” and the Complaint defines the issues for summary judgment.

Howell v. State Dep’t of State Hosps. (2024) 107 Cal. App. 5th 143

Summary: Plaintiffs are not entitled to damages for lost medical benefits stemming from an unlawful termination without offering evidence of any out-of-pocket losses stemming from those lost benefits.

Discussion: Plaintiff worked for the California Department of Corrections (CDCR) as a certified nursing assistant. In 2017 she was the victim of a sexual assault by an inmate that caused PTSD, injuries to her nervous system, panic attacks, trouble breathing and shortness of breath that resulted in her taking a lengthy medical leave of absence.

While Plaintiff was still on leave from CDCR, she applied for a pre-licensed psychiatric technician position with Defendant Department of State Hospitals (DSH). During the health screening process for that position, Plaintiff answered “no” to questions asking whether she had any nervous system disorders, lung or respiratory issues or shortness of breath.

DHS then hired Plaintiff on January 2, 2020. Plaintiff did not notify CDCR of the new position. In fact, on January 3, 2020, she provided CDCR a medical note continuing her leave of absence. CDCR ultimately discovered Plaintiff’s new job with DSH a few weeks later. CDCR communicated that to DHS. At that point, DSH learned that Plaintiff was on a leave of absence from CDCR for injuries to her nervous system, even though Plaintiff answered “no” to questions about any such injuries during the health screening process. DSH then terminated Plaintiff, citing Plaintiff’s dishonesty.

Plaintiff subsequently filed suit against DSH asserting five causes of action under the FEHA. The jury found for Plaintiff on one, for mental disability discrimination, and awarded Plaintiff \$28,941 in lost earnings and \$7,810.25 in lost health insurance benefits. Plaintiff moved for attorney’s fees in the amount of \$1,750,000, but the trial court only awarded \$135,102. The trial court subsequently granted DSH’s motion for judgment notwithstanding the verdict striking the award for lost health insurance benefits. Plaintiff appealed that ruling and the trial court’s reduced attorney’s fees award.

The Court of Appeal upheld the trial court’s order striking the award of damages for lost health insurance benefits. Although it was undisputed that Plaintiff lost her health insurance benefits as a result of what the jury found was an unlawful termination, the Court of Appeal held that does not necessarily warrant awarding Plaintiff the value of those lost benefits. The Court noted that “a damages award should compensate the plaintiff for actual losses caused by the discrimination.” Plaintiff failed to offer evidence indicating that she suffered any out-of-pocket losses stemming from the loss of health insurance benefits. She did not pay for any replacement benefits, nor did she pay for any medical services that would have been covered by those benefits had she not lost them. Therefore, she did not suffer any actual monetary losses from the loss of those benefits.

The Court then went on to address the attorney’s fees award. The Court pointed to a few key considerations in affirming the trial court’s decision to reduce that award, including the fact that Plaintiff only prevailed on one of her five causes of action. The Court also found that Plaintiff’s counsel spent a “shocking” amount of time on certain matters, including 62 hours unsuccessfully opposing DSH’s motion for a mental examination. One additional key consideration was Plaintiff’s counsel’s disclosure in a pretrial Mandatory Settlement Conference Statement. There, she indicated that her fees were only \$123,101. The Court found it was not unwarranted for the trial court to then question Plaintiff’s counsel request for \$1,750,000 in fees through trial, particularly when her billing entries were block-billed.

Ames v. Ohio Department of Youth Services (2025) 145 S.Ct. 1540

Summary: Majority-group plaintiffs are not required to meet heightened evidentiary standard of showing “background circumstances” to satisfy their initial *prima facie* burden.

Discussion: Plaintiff Marlean Ames (“Ames”), a heterosexual female, worked for the Ohio Department of Youth Services since 2004. She started off as an executive secretary and was eventually promoted to program administrator. In 2019, the agency interviewed Ames for a new management position but ultimately hired another candidate—a lesbian woman.

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Shortly thereafter, Petitioner was removed from her program administrator role and demoted to her former secretarial position, which came with a substantial pay cut. The agency subsequently hired a gay man to replace her as program administrator. Ames filed a Title VII lawsuit, alleging that both the denial of the promotion and her demotion were motivated by discrimination based on her sexual orientation.

The District Court analyzed Ames' claims under *McDonnell Douglas Corp. v. Green*, which established the traditional framework for evaluating disparate treatment discrimination claims relying primarily on circumstantial evidence. At the first step of that framework, the plaintiff must make a *prima facie* showing that the employer acted with a discriminatory motive.

Here, the District Court granted summary judgment to the agency, concluding that Ames failed to make that showing because she had not presented evidence of "background circumstances" suggesting that the agency was the rare employer who discriminates against members of a majority group. The Sixth Circuit Court of Appeals affirmed, reasoning that Ames, as a straight woman, was required to make this showing in addition to the usual ones for establishing a *prima facie* case, by presenting evidence that a member of the relevant minority group (here, gay people) made the employment decision at issue, or with statistical evidence showing a pattern of discrimination against members of the majority group. The Sixth Circuit's decision reinforced a Circuit split as to whether majority-group plaintiffs are subject to a different evidentiary burden than minority-group plaintiffs at *McDonnell Douglas's* first step.

Plaintiff appealed to the United States Supreme Court. The Supreme Court overturned the Sixth Circuit's decision, holding that the additional "background circumstances" requirement was not consistent with Title VII's text or case law construing the statute.

The Court wrote, "Discriminatory preference for any Group, minority or majority, is precisely and only what Congress has proscribed in Title VII." Accordingly, "[t]he standard for proving disparate treatment under Title VII does not vary based on whether or not the plaintiff is a member of a majority group." The Court vacated the judgment below and remanded for application of the proper *prima facie* standard.

Brown v. City of Inglewood (Cal., July 7, 2025, No. S280773) 2025 WL 1860244 1133

Summary: Elected officials are not employees for purposes of whistleblower protection under Labor Code section 1102.5.

Discussion: Wanda Brown, elected City Treasurer of Inglewood since 1987, alleged that city officials retaliated against her for exposing financial misconduct by the City. Specifically, Brown raised concerns in late 2019 and early 2020 about a \$77,000 overpayment to a contractor, which she claimed constituted a violation of California law. Brown claimed she suffered retaliatory measures: loss of her seat at City Council meetings, exclusion from several committee proceedings, reduction of her investment authority from multi-million dollars to \$50,000, restrictions on her use of investment software, deactivation of her computer, improper exclusion from City property based on COVID-19 testing requirements, removal from her role as General Auditor, loss of access to City financial documents, removal of approval authority for certain vendor requests, and reduction of her monthly salary as treasurer from \$8,000 to \$1,404.

Brown sued the City, its mayor, and its council members for whistleblower retaliation under Labor Code section 1102.5, which prohibits employers from retaliating against employees for reporting the employer's illegal activities.

The City responded by filing an Anti-SLAPP motion, asserting that as an elected official, Brown was not an "employee" under the statute. The trial court denied the motion, finding that the statute did not apply to the city's governance-related speech, and therefore did not trigger Anti-SLAPP protection. The Court of Appeal reversed in part, holding that Brown's retaliation claims against individual officials arose from protected conduct and, more importantly, that Brown was not an "employee" under section 1102.5 because the statute did not include elected officials.

On appeal, the California Supreme Court held that elected officials are not covered by section 1102.5's whistleblower protections.

California law defines "employee" for purposes of section 1102.5 as "including, but not limited to, any individual employed by" various public entities such as cities, counties, and districts. The Court found that this language did not explicitly include elected officials, nor did the phrase "not limited to" suggest an intent to include them. Looking at the legislative history, the Court reasoned that there was no indication that the legislature intended to extend these protections to elected officials. The Court emphasized that elected officials, unlike ordinary employees, are answerable to voters rather than supervisors.

Accordingly, Brown could not prevail on a whistleblower retaliation claim against the City.

Okonowsky v. Garland (9th Cir. 2024) 109 F.4th 1166

Summary: A coworker's social media posts that "occurred" outside of work could be considered when assessing the totality of circumstances surrounding the employee's Title VII claim for hostile work environment

Discussion: Lindsay Okonowsky, a staff psychologist in a federal prison, discovered that a corrections Lieutenant with whom she worked, and who was responsible for overseeing the safety of guards, prison staff, and inmates, operated an Instagram account with overtly sexist and sexually offensive content, some of which was directed at her. Other posts about women in the workplace were denigrating, suggestive of violence, and often encouraged or made light of workplace sexual harassment. The Lieutenant specifically posted about Okonowsky's all-male coworkers "gang banging" her and described her in vulgar sexual terms. The account was followed by more than one hundred prison employees.

Okonowsky reported the account to prison management. Her concerns were dismissed or trivialized. Moreover, after she voiced her complaints, she was increasingly targeted, on the Instagram page, with content she perceived as intimidation and retaliation. The Lieutenant began posting content aimed to humiliate and intimidate Okonowsky for reporting his conduct to management, and he called for his "soldiers" to rally in support of him after Okonowsky's complaints to management.

In early April 2020, two months after Okonowsky first complained of the Lieutenant's conduct, a new warden arrived at the prison. The new warden made a team investigate the matter, which concluded that the Lieutenant's social media activity constituted impermissible "harassing conduct" and violated prison's standards of conduct for supervisors and law enforcement officers.

On April 16, 2020, the prison issued the Lieutenant a cease-and-desist letter stating that his posts on social media appeared to have violated the prison's Anti-Harassment Policy, but the Lieutenant did not stop posting sexually explicit conduct targeting Okonowsky.



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On January 24, 2021, Okonowsky requested to be transferred to a new facility in Texas. She claimed that she was forced to request the transfer because of the Lieutenant's ceaseless inappropriate behavior. She filed a lawsuit on September 22, 2021, asserting sex discrimination under Title VII.

The District Court granted summary judgment in favor of the prison, concluding that Okonowsky had failed to establish that she was subjected to an objectively hostile work environment because (a) the prison had taken reasonable action to address and prevent the conduct and (b) the five social media posts targeting Okonowsky could not constitute workplace harassment because they did not occur within the physical workplace.

The Ninth Circuit reversed and remanded, holding that the District Court impermissibly failed to consider the totality of the circumstances. The Court clarified that in evaluating a hostile work environment claim, all relevant conduct must be considered, including conduct that occurred online, outside of the physical workplace, and not specifically directed at the plaintiff.

The Ninth Circuit found that the social media activity, although not physically occurring in the workplace, directly related to and affected Okonowsky's workplace. Thus, a jury could reasonably find that the social media activity was threatening, menacing, and significantly undermined Okonowsky's feeling of safety in the work environment, especially given that the Lieutenant and other employees were responsible for keeping Okonowsky safe during her work.

Ashcroft v. Southern California Permanente Medical Group (S.D. Cal. 2025) 763 F.Supp.3d 1133

Summary: Employee sufficiently pleaded facts establishing that she held a sincerely held religious belief that would exempt her from her employer's COVID-19 vaccination mandate.

Discussion: Defendant, a private health care organization, employed Plaintiff as an office assistant. In the past, Defendant granted the Plaintiff with an exemption for the flu and tetanus vaccinations because of her purported religious beliefs supposedly preventing her from injecting her body with vaccines.

Following the COVID-19 pandemic outbreak, Defendant issued a mandate requiring that all employees receive COVID-19 vaccinations before September 31, 2021 or, otherwise, obtain a medical or religious exemption. Plaintiff refused to receive the vaccine, claiming that her Christian faith prevented her from being vaccinated. Defendant provisionally approved Plaintiff's exemption request. However, later, Defendant requested additional information from Plaintiff, expressing concerns that employees were using standardized templates and "chat groups" to exempt themselves from receiving the COVID-19 vaccine under the guise of religious accommodation.

Defendant therefore requested Plaintiff provide answers to a nine-question questionnaire explaining her religious belief purportedly preventing her from receiving the COVID-19 vaccine. Therein, Plaintiff confirmed that she had received vaccinations in the past, but her "views have changed" and her "religious convictions no longer allow [her] to defile [her] body in a way that modifies the design of [her] immune system." The questionnaire asked Plaintiff whether she had put her belief into practice in other areas

of her life, to which she vaguely responded, "My sincerely held religious beliefs are put into practice every day. All that I do, is done to glorify God." Plaintiff then wrote:

I have declined vaccines and will continue to do so due to my sincerely held religious beliefs. My body is a temple of the Holy Spirit and it is against my religious creed to defile my body with a vaccine that alters my God given immune system.

Notably, even though the questionnaire asked Plaintiff for information regarding her refusal to receive the vaccine on grounds that they involved the use of fetal stems in some way, Plaintiff merely wrote, "I have NEVER knowingly taken anything that included those substances." She did not communicate why she believed this, or that she held a religious objection to fetal stem cell-based vaccines due to her anti-abortion beliefs.

Soon after, Defendant informed Plaintiff that she was not in compliance with its COVID-19 policy and that it was therefore placing her on unpaid leave. Defendant also informed her that failure to comply with its vaccine policy would result in termination of her employment. On or about January 10, 2022, Defendant terminated Plaintiff for failing to comply with its vaccine policy.

Plaintiff then filed a lawsuit claiming Defendant discriminated against her based on her religious belief and failed to accommodate her religious belief.

Motions to Dismiss Complaint and First Amended Complaint

Defendant filed motions to dismiss Plaintiff's Claims for Relief for religious discrimination and failure to accommodate religious beliefs in both her initial Complaint and subsequent First Amended Complaints. The District Court granted both motions to dismiss on grounds that Plaintiff failed to establish that she held a "bona fide religious belief," the practice of which would conflict with an employment duty; that is, the vaccination mandate.

In her initial Complaint, Plaintiff only pleaded vague references to her religion and her inability to receive a vaccine. In dismissing her initial Complaint, the Court found that Plaintiff's allegations supporting her religious discrimination claims failed because she merely "allege[d] vague references to phrases such 'as my body is a temple of the Holy Spirit,' safety concerns regarding the vaccine as a 'biological substance' that would 'alter the design of [her] immune system' and refusal to participate in 'pharmakeia,' conscience-based justifications, assertions of 'Constitutional' privileges, and 'Christian faith' buzz words.

According to the Court, "cursorily invoking the 'Christian faith' is insufficient to identify any religious tenet or teaching that conflicts with a COVID-19 vaccine policy." In other words, Plaintiff, in both her lawsuit and prior reports to Defendant during the interactive process, failed to provide more than vague conclusory assertions supporting her contention that her religious beliefs interfered with the vaccine policy.

In her First Amended Complaint, Plaintiff added additional allegations relating to her anti-abortion beliefs, claiming that these beliefs interfered with her ability to receive a vaccine that she believed to have been derived from fetal stems.

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The Court granted Defendant’s motion to dismiss Plaintiff’s First Amended Complaint, as well, this time holding that Plaintiff failed to establish she had actually *communicated* these pro-life beliefs to Defendant during the interactive process. In fact, all Plaintiff wrote in the questionnaire was that she had never knowingly taken a vaccine derived from stem cells. She did not communicate why she believed this, or that she held a religious objection to fetal stem cell-based vaccines due to her anti-abortion beliefs. The District Court held that this was insufficient to establish that she had communicated her beliefs to her employer. It therefore dismissed her First Amended Complaint, but provided Plaintiff another opportunity to amend her pleadings to correct the deficiencies.

Second Amended Complaint

Finally, in April 2025, Plaintiff filed a Second Amended Complaint. To address the prior deficiencies, Plaintiff’s Second Amended Complaint included allegations regarding the supposed initial request email Plaintiff sent to Defendant’s administration, which stated:

I am writing to request a religious exemption from vaccines because these are violations of my sincerely held religious beliefs. ‘Do you not know that your bodies are temples of the Holy Spirit, who is in you, whom you have received from God?’ (1 Cor 6:19). As a Christian and a member of the Body of Christ, my sincerely held religious beliefs are an all-encompassing aspect of my life. My religious beliefs are protected and guaranteed by the US Constitution and the Constitution of this state. My sincerely-held Christian beliefs DO NOT ALLOW ME to have a biological substance injected into my body. My blood is sacred and life is found in the blood. My own salvation was bought and paid for by the blood of Jesus Christ and I CANNOT taint my blood with vaccines. The Bible warns against this type of pharmakeia, and I will not violate my sincerely-held Christian beliefs. The body is the temple of the Holy Spirit and as such, should not be used for such medical treatments.

This time, the District Court denied Defendant’s motion to dismiss the Second Amended Complaint. Ultimately, the District Court held that although the prior iterations of Plaintiff’s lawsuit had failed to provide sufficient facts establishing a bona fide religious belief, the Second Amended Complaint’s quoted language from Plaintiff’s initial request email communicated “not isolated moral teachings, but rather part of a comprehensive system of beliefs about fundamental or ultimate matters” sufficient to plead a claim for religious discrimination and failure to accommodate religious beliefs.

This case provides a barometer measuring the pleading burden for an employee-plaintiff seeking to plead claims for religious discrimination and failure to accommodate religious beliefs. Employers should take steps to obtain additional necessary information from employees requesting religious accommodations to ensure that the employee has provided sufficient detail regarding their supposed bona fide religious belief interfering with a particular job duty or requirement.





DANGEROUS CONDITION, IMMUNITIES AND AFFIRMATIVE DEFENSES, CLAIM PRESENTATION, AND MUNICIPAL GOVERNMENT ADMINISTRATION CASES

By: Maria Nozzolino, Kellen Crowe, Nicholas D. Syren, D. David Steele, Dana K. Oium, and Kelsey J. Moe, of Allen, Glaessner, Hazelwood & Werth LLP

IMMUNITIES & AFFIRMATIVE DEFENSES

Tindall v. County of Nevada (2025) 112 Cal.App.5th 78

Summary: This dangerous condition case arises from a slip and fall accident. Plaintiff, Rhonda Tindall, was walking in a parking lot owned by the County of Nevada when she slipped on a layer of ice and injured her knee. She alleged the icy parking lot was a dangerous condition of public property within the meaning of Government Codes sections 830 and 835. The trial court granted the County's motion for summary judgment, ruling it was entitled to "weather immunity." As articulated in Government Code section 831, which provides that a public entity is not liable for "an injury caused by the effect of the use of streets and highways of weather conditions as such." The Court of Appeal affirmed.

Discussion: On appeal, Plaintiff contended the trial court erred in granting summary judgment because (1) section 831 immunity does not apply to parking lots; (2) even if section 831 immunity did apply to parking lots, it did not apply in the instant case because the dangerous condition resulted from a combination of other factors; and (3) the County did not carry its burden to show a reasonably careful person would have anticipated the potential existence of slippery ice in the parking lot.

The Court rejected Plaintiff's argument that section 831 did not apply to parking lots outright, finding it was not persuasive. Plaintiff's main argument was that parking lots were not "streets" within the meaning of section 831. Plaintiff argued that parking lots were merely places to "park a vehicle" not for vehicular traffic itself. The Court noted, however, that such a distinction was nonsensical. Liberally construing section 831, the Court emphasized that when construing the Government Claims Act, courts properly may consider the interplay of Government Code immunity provisions with definitions found in other codes. In this case, the Court did just that by relying on California Vehicle Code section 590 which defines the word "street" as a "a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular traffic." [emphasis in original] Parking lots, the Court determined, were places where "one drives a car into and through ... maneuvers the car into a clearly designated place; and then gets out and walks." As such, the Court found a parking lot was a "place" – of any nature – publicly maintained and open to the public for use of vehicular traffic. Because it was not disputed that the patch of ice where Plaintiff fell was an effect of weather conditions, the Court upheld the County's immunity under section 831.

The Court did not consider either of Plaintiff's remaining arguments on appeal. In opposition to the County's motion for summary judgment, Plaintiff – for the first time – argued that section 831 did not apply to the instant case because the alleged dangerous condition arose not only from the weather conditions, but also as a result of installed solar panels which created an area of shade that magnified the icy condition. Because Plaintiff did not plead this theory of liability, the Court found she could not bring it up on opposition to attempt to defeat summary judgment. Similarly, for the first time during oral argument, Plaintiff argued the County had not carried its burden to show a reasonably careful

person would have anticipated the potential existence of slippery ice in the parking lot. Here, the Court found merely mentioning this argument during oral argument had not sufficiently preserved it for appeal.

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

Summary: A former foster child sued County's social services agency for negligence arising out of alleged sexual abuse by a foster parent. The Fourth District Court of Appeal reversed the Trial Court's grant of summary judgment, holding that reports by a child that "bad people are hurting me" was sufficient evidence to make it reasonably foreseeable that ongoing abuse was occurring, thereby raising a triable issue of fact as to the defense of discretionary act immunity.

Discussion: In 1972, Plaintiff D.G. (age three) and his siblings were placed in the home of foster parents Howard and Ann Graubner. The Graubners were licensed foster parents without a criminal history or known history of sexual abuse. At the time, social workers were required to check in with children once every three months, and there was one annual court hearing. Starting at age 5, D.G. began telling the social worker "the bad people were hurting" him. He did not clarify who the bad people were. D.G. also developed a bedwetting problem and received medical treatment for it. Another child had previously told the social worker they felt "weird" showering with the father. Despite these facts, the social worker never followed up, and the County continued to place children with the Graubners.

In 1984, D.G. was arrested for bringing a gun to school. Two years later, he told a juvenile hall therapist about sexual abuse from his foster father, and the therapist reported the abuse to the County. Years later, the foster father admitted to abusing multiple children, including D.G.

In 2021, D.G. filed suit, alleging negligence against the County. The Trial Court granted the County's motion for summary judgment on two grounds. First, the County did not have a legal duty to protect D.G. from "unforeseeable criminal conduct." Second, the complaint was barred by discretionary act immunity under Government Code section 820.2. The Court of Appeal overturned the decision on both grounds.

As to duty, the Appellate Court found that the connection between a foster agency and the children in its care created a special relationship that provided an exception to the general rule that a defendant has no duty to protect a plaintiff from the criminal conduct of a third party. The Appellate Court applied the factors set forth in *Rowland v. Christian*, (1968) 69 Cal.2d 108, and found that sexual abuse by Howard Graubner was reasonably foreseeable given the information available to the County. The Court of Appeal rejected the Trial Court's requirement of actual knowledge of abuse.

The Court of Appeal similarly overturned the Trial Court's finding of discretionary act immunity. In doing so, the Appellate Court applied a two-part analysis. First, it differentiated between discretionary and ministerial acts. In this case, the decision by a child welfare agency regarding potential abuse of a foster child was a subjective discretionary act that was "incidental to the employees' investigations." Second, the Appellate Court analyzed whether D.G.'s social worker "actually

DANGEROUS CONDITION, IMMUNITIES AND AFFIRMATIVE DEFENSES, CLAIM PRESENTATION, AND MUNICIPAL GOVERNMENT ADMINISTRATION CASES – CONTINUED

By: Maria Nozzolino, Kellen Crowe, Nicholas D. Syren, D. David Steele, Dana K. Oium, and Kelsey J. Moe, of Allen, Glaessner, Hazelwood & Werth LLP

reached a considered decision knowingly and deliberately encountering the risks that give rise to the legal claims alleged. In other words, the social worker must have made a “policy decision, consciously balancing risks and advantages.” In this instance, there was no evidence that the social worker considered the underlying reporting and made a judgment call about whether the agency should investigate potential abuse. Therefore, the County was not entitled to immunity.

K.C. v. County of Merced (2025) 109 Cal.App.5th 606

Summary: A former foster care recipient sued the County for negligent acts or omissions by social workers that proximately caused her to experience sexual assault. The Trial Court sustained a demurrer without leave to amend, dismissing the case. The Fifth District Court of Appeal affirmed the judgment.

Discussion: In 1971, Plaintiff K.C. (age four) was placed in foster care by the County of Merced. According to the complaint, Plaintiff experienced daily sexual assault for five years perpetrated by the nephew of her foster parents. In 1976, the County moved K.C. to a second foster home. For two years, K.C. was the victim of sexual assault from her foster brother in the second home. Plaintiff told her social worker about the abuse she experienced. She also informed a teacher, resulting in her foster mother punishing her.

In deciding to uphold the demurrer, the Court of Appeal considered whether the County was immune pursuant to Government Code section 820.2. This section protects public entities from liability for acts or omissions that are “the result of the exercise of the discretion vested in” their employees. As the court noted, immunity depends on whether the act or omission was “discretionary.” A discretionary act is one which requires the exercise of judgment and involves a policy or planning decision.

The Court of Appeal held the decision to act on a report of sexual abuse was a discretionary act. Both the decisions of whether to investigate reports and whether to move foster children both involved the necessary level of discretion. The court distinguished other cases involving section 820.2. For example, the court said that “continued administration of the child’s welfare” was a simple and ministerial act. However, the specific decision whether to investigate a report of abuse required discretion and gave immunity to the employees and agencies involved.

Kabatova v. Dep’t of Transportation (2024) 107 Cal. App. 5th 651

Summary: A bicyclist was struck and killed by a car, while crossing a marked, non-signalized crosswalk at a freeway on-ramp. The Parents brought an action against the Department of Transportation and the City of Irvine, among others, asserting liability under the Government Claims Act for dangerous condition of public property. The Court of Appeal held that the Department established discretionary approval of plan or design prior to construction of the on-ramp, as an element of design immunity, and the Department lacked notice of an alleged dangerous condition of the on-ramp. The Court of Appeals upheld the grant of summary judgment in favor of the Department and the City.

Discussion: On the morning of July 11, 2020, Hernan Javier Dell Aquila (“Dell Aquila”) was driving his car westbound on Jeffrey Road in Irvine, heading toward the northbound I-405 onramp from Jeffrey Road (the Jeffrey onramp). The Jeffrey onramp crosswalk allowed bicyclists and pedestrians to cross. There are two pedestrian crossing signs facing traffic approaching the Jeffrey on-ramp. One sign is located about 150 feet ahead of the crosswalk. The other is at the north end of the crosswalk. Directly below was an arrow sign pointing down and toward the foot of the crosswalk. The crosswalk within the Jeffrey on-ramp is not signalized, but the crosswalk within the off-ramp from the I-405 freeway northbound at Jeffrey Road is signalized.

At the same time Dell Aquila was driving, Plaintiffs’ daughter, Barbora Kabatova (“Decedent”) was bicycling in the area. As Dell Aquila entered the Jeffrey on-ramp, he struck Decedent as she was crossing the Jeffrey on-ramp crosswalk.

The Jeffrey on-ramp was part of a larger I-405 freeway interchange that was owned and controlled by Caltrans. The interchange was originally constructed and completed shortly in about 1967 by the predecessor agency to Caltrans, formerly known as the State of California Division of Highways, based upon plans (the 1967 plans). The interchange underwent improvements twice, once based on plans completed in 2006 (the 2006 plans) and most recently based on plans completed in 2015 (the 2015 plans).

Plaintiffs sued Dell Aquila, Caltrans, the City, and others for the wrongful death of Decedent. The sole cause of action asserted against the public entities was liability for dangerous condition of public property under section 835 et seq. Plaintiffs argued that had the public entities “installed a proper traffic signal, placed proper warning signals and proper posted speed limits, Dell Aquila would have observed the traffic signal, the proper warning signals, and the speed limit and would not have struck and killed Decedent.

The Trial Court found that Caltrans established the second element of design immunity, discretionary approval, through expert testimony and documents showing state engineers approved the 1967 plans, the 2006 plans, and the 2015 plans. The Appellate Court agreed and held that, as a matter of law, Caltrans met its initial burden of showing discretionary approval of the plan or design prior to construction. “Discretionary approval need not be established with testimony of the people who approved the project. Testimony about the entity’s discretionary approval custom and practice can be proper even though the witness was not personally involved in the approval process.” (*Dobbs v. City of Los Angeles* (2019) 41 Cal.App.5th 159, 161 (*Dobbs*)).

Additionally, Plaintiff could not present a triable issue as to constructive notice as it was undisputed that a query of the Caltrans database for an approximate ten-year period before and including the day of the accident in the area of the Jeffrey onramp showed no substantially similar accidents, i.e., involving a bicyclist during the same time of day, as the subject accident.



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

Summary: Plaintiff, a minor student at El Segundo Middle School during the 2017–2018 school year, experienced persistent bullying from classmates. The bullying involved verbal harassment, social media abuse, and physical aggression, which Plaintiff and her parents repeatedly reported to school officials, including the principal and counselor. Despite these reports, the El Segundo Unified School District (District) allegedly failed to effectively implement its anti-bullying policies, leading Plaintiff to suffer severe emotional distress, including self-harm, PTSD, and depression. After a jury trial, Plaintiff was awarded \$1 Million in damages, after the trial court rejected the District's immunity defense claim under Government Code section 820.2, ruling that the school's failure to address the bullying involved operational decisions, not discretionary policy decisions. The California Court of Appeal, Second Appellate District affirmed the decision.

Discussion: Government Code section 820.2 provides: "Except as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused."

Immunity under Government Code section 820.2 is reserved for "basic policy decisions" that have been expressly committed to coordinate branches of government, and "as to which judicial interference would be 'unseemly.'" (*Barner v. Leeds* (2000) 24 Cal.4th 676, 685 (*Barner*)). That immunity does not extend to "lower level decisions that merely implement a basic policy already formulated." (*Ibid.*) Indeed, "not all acts requiring a public employee to choose among alternatives entail the use of 'discretion' within the meaning of [Government Code] section 820.2." (*Id.* at 684–685, citing *Caldwell v. Montoya* (1995) 10 Cal.4th 972, 981 (*Caldwell*)).

In *Barner*, the Supreme Court held that a deputy public defender is not immune from civil liability under Government Code section 820.2 for his or her acts or omissions in representing a criminal defendant. (*Barner, supra*, 24 Cal.4th at pp. 679–680, 686–692.) The court explained that while a deputy public defender's decision to represent a particular client may qualify as an immune "discretionary" act, "once the employee undertakes to render such services, he or she is not immune for the negligent performance of professional duties that do not amount to policy or planning decisions." (*Id.* at 686.) That is, "legal representation provided by a deputy public defender entails operational (as opposed to policy) decisions that are incident to the normal functions of the office of the public defender." (*Id.* at 680.)

Here, the Appellate Court affirmed the lower court's determination that that bullying in question, and the District's negligent failure to protect Plaintiff from such bullying was not a "policy" per se, falling within the statutory protection for discretionary decisions.

The Supreme Court also identified other public employees who are not immune from liability for certain acts that they perform in the scope of their employment, even though some of those acts may involve some

level of discretionary decision making. For instance, government medical doctors are not immune from liability when they act negligently during an "examination or diagnosis performed for the purpose of treating [an] individual." (*Barner, supra*, 24 Cal.4th at 687–688.) Likewise, government psychologists "are not immune from liability under [Government] Code section 820.2 for the failure to warn a third person of a risk of harm posed by a patient," even though the decision whether to disclose such a risk "may require the exercise of considerable judgmental skills." (*Id.* at 686, citing *Tarasoff v. Regents of University of California* (1976) 17 Cal.3d 425.) Such decisions are not insulated from liability because they do "not rise to the level of a basic policy decision for which the statute provides immunity." (*Barner* at 686.)

Ultimately, the Appellate Court found that the District cited no authority that such conduct (negligent failure to protect a student from bullying) qualified as "quasi-legislative policy-making" entitled to immunity under Government Code section 820.2. (See *Barner, supra*, 24 Cal.4th at 685; *Caldwell, supra*, 10 Cal.4th at 981.)

INVERSE CONDEMNATION

***Shehyn v. Ventura Cnty. Pub. Works Agency* (2025) 108 Cal. App. 5th 1254, [review filed](#) (Mar. 26, 2025)**

Summary: An avocado orchard owner, Steve Shehyn, brought action against Ventura County Public Works Agency and Ventura County Waterworks District No. 1 (collectively "District") for breach of contract, negligence, and inverse condemnation, alleging that sediment from District's water delivery system permanently damaged pipes used to irrigate his orchard. The Trial Court sustained the District's demurrer without leave to amend as to the inverse condemnation claim. However, the Court of Appeals reversed, concluding that Shehyn could pursue his claim for inverse condemnation against the District.

Discussion: Shehyn owned a 20-acre orchard in Moorpark with approximately 2000 mature avocado trees. The District is a publicly owned utility that provides water to Shehyn and other property owners in Ventura County. Shehyn's property was at the end of a branch line in the District's system. He alleged that the amount of sediment in his water "is vastly and grossly disproportionately greater than other properties" served by the District. He claimed the excess sediment damaged his irrigation pipes and orchard. The Trial Court found Shehyn could not state a cause of action for inverse condemnation because he "invited" District water onto his property. The Appellate Court disagreed and reversed.

A cause of action for inverse condemnation lies where damage to real property is substantially caused by an inherent risk presented by the deliberate design, construction, or maintenance of a public improvement. Cal. Const. art. 1, § 19. The inherent risk approach to inverse condemnation focuses on whether damage to real property is substantially caused by an inherent risk of the design, construction, or maintenance of a public improvement. This arguably protects private property owners by allocating financial losses resulting from the public improvements across the community and provides public entities with an incentive to internalize the reasonable risks of their public improvements. Cal. Const. art. 1, § 19.

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The Court found that Shehyn stated a claim for inverse condemnation against County by alleging that the County's water delivery system, working as it was "deliberately designed, constructed and maintained," delivered an amount of sediment that was vastly and grossly disproportionately greater than delivered to other properties, and that the sediment damaged pipes used to irrigate orchard. Cal. Const. art. 1, § 19. Whether Shehyn caused or contributed to the problem of alleged damage to his irrigation pipes from sediment-laden water in the District's water delivery system by voluntarily allowing sediment-laden water into his irrigation system went to the merits of his inverse condemnation claim against County, not to its viability at the pleading stage. Cal. Const. art. 1, § 19.

MANDATORY DUTY

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

Summary: Plaintiff R.H. ("Plaintiff") sued the County of Butte, alleging it breached mandatory duties under Government Code section 815.6 related to the evaluation, investigation, and cross-reporting of a child abuse referral. Plaintiff claimed the County failed to conduct an "in-person" investigation or cross-report the abuse allegations, leading to years of abuse and psychological harm. The County argued its employee exercised discretion in deciding to "evaluate out" the referral without further investigation, thus invoking discretionary immunity. The Trial Court granted summary judgment in favor of the County, concluding that the County's employee was exercising discretion protected by immunity when deciding to close the referral without an "in-person" investigation or cross-reporting. The court found no mandatory duty was breached, and the County was not liable under Government Code section 815.6. The California Court of Appeal, Third Appellate District, reversed the Trial Court's decision. The Appellate Court held that the County had a mandatory duty under section 11166, subdivision (j), to cross-report the child abuse referral to law enforcement and other agencies. The Court determined that the duty to cross-report was triggered by the receipt of a mandated child abuse report and did not involve discretionary judgment. The Court found a triable issue of fact regarding whether the County breached this mandatory duty by failing to cross-report the referral, thus reversing the summary judgment and remanding the case for further proceedings.

Discussion: The Child Abuse and Neglect Reporting Act (CANRA; Pen. Code, § 11164 et seq.) was enacted to protect children from abuse and neglect through a comprehensive reporting scheme aimed at identifying and protecting children who are being abused or neglected. (*B.H. v. County of San Bernardino* (2015) 62 Cal.4th 168, 174 (*San Bernardino*); *Ferraro v. Chadwick* (1990) 221 Cal.App.3d 86, 90; §§ 11166.3, subd. (a), 11164, subd. (b).) To achieve its purpose, CANRA imposes a mandatory reporting requirement on certain individuals, known as "mandated reporters," whose duties bring them into contact with children on a regular basis. (*San Bernardino*, at 178, 185; § 11165.7, subd. (a).) Under section 11166(a), a mandated reporter must make a report to a law enforcement agency or a county welfare department "whenever the mandated reporter, in [a] mandated professional capacity or within the

scope of . . . employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect." (§ 11166 (a).)

During his adolescence, Plaintiff lived in Butte County, California, under the care and supervision of his "abusive parents." In 2004, when Plaintiff was 12 years old, his father "began a pattern of physically and emotionally abusing [Plaintiff's] mother . . . in the presence of [Plaintiff]. This included striking [her] with fists, shouting at her, using insults and vulgar and abusive language, and other forms of physical and emotional abuse." In 2006, when Plaintiff was 14 years old, "his parents began . . . a pattern of physical abuse against [him]," which included "striking him with fists, attempting to kick him, other physical abuse, and threatening him with violence and retaliation." Plaintiff was subjected to such abuse for approximately two years until 2008.

On May 8, 2006, the County's Health and Human Services Agency received a report of suspected child abuse from Plaintiff's teacher (the May 2006 referral or report), a mandated reporter under section 11165.7, subdivision (a)(1). Plaintiff alleged that, based on the allegations in the report, the County welfare department should have conducted some form of an "in-person" investigation. Instead, the County "evaluated out" the May 2006 referral, without any investigation. The complaint alleged two causes of action under Government Code section 815.6, which renders a public entity liable for injury caused by its failure to discharge a mandatory duty. The first cause of action claims that the County negligently failed to perform a mandatory duty under Welfare and Institutions Code sections 328 and 16504 to evaluate and investigate the "substantiated" report of child abuse. The second cause of action alleged that the County breached a mandatory duty under section 11166, subdivision (j), by failing to cross-report the allegations of abuse to local law enforcement and the district attorney's office. As a proximate result of these violations, the complaint alleged that Plaintiff suffered "years of physical and emotional abuse."

Enacted in 1963, the Claims Act is a comprehensive statutory scheme governing the liabilities and immunities of public entities and employees. (*Quigley v. Garden Valley Fire Protection Dist.* (2019) 7 Cal.5th 798, 803.) "Government Code section 815 is the 'policy cornerstone' of the act." (*Churchman v. Bay Area Rapid Transit Dist.* (2019) 39 Cal. App.5th 246, 250.) It establishes the general rule that public entities are immune from tort liability except as provided by statute. (Gov. Code, § 815, subd. (a); *San Bernardino*, *supra*, 62 Cal.4th at 179.) Relevant here, Government Code section 815.6 provides a statutory exception to the general rule of public entity immunity. (*San Bernardino*, *supra*, 62 Cal.4th at p. 179.) It provides: "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty." (Gov. Code, § 815.6; see Gov. Code, § 810.6 [defining enactment].) As the Supreme Court has explained, Government Code section 815.6 has three discrete requirements that must be met to impose public entity liability: (1) an enactment must



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impose a mandatory duty; (2) the enactment must be meant to protect against the kind of injury suffered by the plaintiff; and (3) breach of the mandatory duty must be a proximate cause of the injury suffered. (*San Bernardino*, 62 Cal.4th at 179.)

Whether an enactment creates a mandatory duty within the meaning of Government Code section 815.6 is a question of statutory interpretation for the courts. (*Creason v. Department of Health Services* (1998) 18 Cal.4th 623, 631.) In divining legislative intent, the Court begins with the words of the statute because they usually provide the most reliable indicator of its purpose. (*Nunn v. State of California* (1984) 35 Cal.3d 616, 624; *Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554, 567.)

Ultimately, the Appellate Court followed *San Bernardino*, which unequivocally held that determining whether a reported incident meets the definitions of abuse or neglect is a ministerial or operational function, not a discretionary activity. (*San Bernardino, supra*, 62 Cal.4th at 181.) Accordingly, even if social workers are required to cross-report only those allegations determined to meet the definitions of abuse or neglect, there was still a triable issue of fact in this case as to whether the County violated a mandatory duty by failing to cross-report the referral. (*Id.* at 180-186 [failure to cross-report can be the basis for imposing civil liability].) Given this triable issue of fact, the lower court order granting the Motion for Summary Judgment was reversed.

SIX MONTH CLAIM DEADLINE

McCurdy v. County of Riverside, (2024) 106 Cal.App.5th 1103

Summary: Plaintiff's claim for legal malpractice by a public defender was subject to the Government Claims Act's six-month presentation requirement for personal injury claims and the failure to present a timely claim was not due to mistake, inadvertence, surprise, or excusable neglect.

Discussion: In 2018, Plaintiff Donald McCurdy pleaded guilty to burglary and corporal injury of a spouse and was sentenced to 5 years in prison. However, the sentence was suspended in favor of probation. In August 2020, the district attorney alleged McCurdy violated his probation. McCurdy was unable to meet with a public defender in the weeks leading up to the probation revocation hearing but was finally able to meet with one about one hour before the hearing, which occurred in October 2020. The trial court found that McCurdy violated his probation, revoked his probation and imposed the previously stayed five-year prison sentence. After filing an appeal, in April 2021, the Court of Appeal affirmed the judgment. At about the same time, McCurdy petitioned the Court of Appeal for a writ of habeas corpus on grounds of ineffective assistance of counsel during his probation violation hearing. On June 16, 2022, the Court of Appeal granted the habeas petition finding that McCurdy had been denied effective assistance of counsel and, on August 17, 2022, issued a remittitur on the writ of habeas corpus on.

On June 30, 2023, McCurdy presented a claim to the County of Riverside for damages of person or property based on his ineffective assistance of counsel, claiming that he had been wrongly imprisoned for 600 days. The County denied the claim finding it was not presented within six months of

accrual pursuant to Government Code section 911.2. McCurdy applied for leave to file a late claim which was also denied.

McCurdy filed an application to present a late claim with the Court one week later on July 18, 2023 because the asserted cause of action was not a result of death or injury to person to personal property, and argued that he was prevented from presenting the claim earlier because he had trouble finding an attorney. The County denied the claim because it did not meet the criteria for leave to present a late claim under section 911.6(b).

McCurdy then filed a petition for relief from the notice requirement in the trial court. He asserted his claim did not accrue until August 2022 when remittitur was issued on the writ of habeas corpus, and that he had one year from that date to present a claim under section 911.2 because the claim arose out of contract as opposed to tort or personal injury. Alternatively, he asserted three different attorneys advised him the one-year claim period applied, and any failure to present a claim within six months was the result of mistake, inadvertence, surprise or excusable neglect. The trial court rejected his assertion and denied the petition. McCurdy appealed and the Court of Appeal concluded his claim arose in tort and therefore fell under the six-month claims period in section 911.2. The Court also found the trial court did not abuse its discretion in finding that he did not show mistake, inadvertence, surprise or excusable neglect.

In reviewing the case, the Court found that McCurdy did not present a claim within the timeline of section 911.2. It analyzed the Code of Civil Procedure section 340.6 which sets the limitation of one year for a claim based on attorney negligence after the plaintiff discovers or reasonable should have discovered, the wrongful act. In 2009, the statute was amended, and language was added to address the impact of postconviction exoneration. Here, the Court found that McCurdy's claim against the County was a claim for legal malpractice which is a claim for personal injury, not contract, and was subject to the six-month limitation in section 911.2. McCurdy did not present his claim until 11 months after the remittitur issued on the writ of habeas corpus directing the trial court to reinstate his probation. Even if the court assumed the claim did not accrue until August 17, 2022, when remittitur issued, McCurdy still did not comply with the requirement in section 911.2. The Court further found that the trial court did not abuse its discretion by concluding that McCurdy did not establish mistake, inadvertence, surprise or excusable neglect to establish a right to relief under section 946.6. The evidence McCurdy submitted did not provide details or support regarding his own attempts to obtain an attorney in the 11 months after his release, or the other attorneys he consulted to support his assertion of mistake, inadvertence, surprise or excusable neglect. As such, McCurdy did not present a timely claim under section 911.2.

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CONSTRUCTIVE NOTICE – DANGEROUS CONDITION

Maksimow v. City of South Lake Tahoe (2024) 106 Cal.App.5th 514

Summary: A vehicle owner brought a personal injury action against the City of South Lake Tahoe after she slipped and fell on a patch of ice in a city parking lot, alleging that the ice patch was a dangerous condition. The trial court granted summary judgment for the City because the City had actual notice of icy condition in city parking lot, and the City's constructive notice of snow accumulation around an abandoned vehicle in public parking lot was not sufficient evidence that, 11 days later, the City had constructive notice of a dangerous ice condition. The Court of Appeal affirmed.

Discussion: In March 2020, Plaintiff Lorenza Maksimow spent several days in Lake Tahoe. She went to retrieve her car at a public parking lot on March 26, 2020, in the City of South Lake Tahoe, and slipped and fell on an ice patch, which required ankle surgery. She did not see the ice patch before her fall. Afterwards, she saw an ice patch (approximately three feet by four feet), located near a parked Mitsubishi sedan. Maksimow sued the City for a dangerous condition of public property under Government Code section 835.

The City moved for summary judgment arguing that Maksimow could not establish the existence of a dangerous condition. Specifically, the trial court found that Maksimow failed to raise a genuine issue of material fact as to whether the City had actual or constructive knowledge of the alleged dangerous condition.

On appeal, the Court of Appeal found that Maksimow failed to meet her burden to show that a triable issue of fact was established that the City had actual notice. Evidence of snowfall that occurred between March 12 and March 15, 2020, was not enough to establish the City had actual notice of a dangerous condition as of the date of the incident which was 11 days later. The Appellate Court reasoned that while the City may have had general knowledge notice of actual snowfall before the incident, and that snow fall could create ice on the ground, that is not enough to establish that City employees had actual knowledge that ice had formed and caused a dangerous condition. The Appellate Court also found that while City employees may have anticipated that the parked Mitsubishi could have interfered with snow removal operations, it did not establish they knew an ice patch would form near the parked car to establish actual notice of a dangerous condition.

As for constructive notice, Maksimow failed to meet her burden to show a triable issue that the dangerous condition was obvious and existed for a sufficient period of time, prior to the injury. Again, the Appellate Court looked at the snowfall between March 11 and 15, 2020 and found it would be speculative to assume ice was in the parking lot 11 days later, on March 26, 2020, and caused her to fall. The Court found there was no evidence of an obvious danger that had existed for an adequate period of time before the accident permitting a City employee to exercise due care to discover and remedy the situation before the accident.

DANGEROUS CONDITION – NOTICE

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

Summary: Skateboarder's wheel got caught in a large crack, causing her to fall and sustain an arm injury. Skateboarder alleged that the City was negligent in maintaining the street and had sufficient notice of the dangerous condition. The City moved for summary judgment on numerous grounds, including that it had neither actual nor constructive notice of the alleged dangerous condition. The First District Court of Appeal affirmed summary judgment for the City, finding that there was no evidence the City had actual or constructive notice of the dangerous condition.

Discussion: In early March 2021, Plaintiff Jennifer Restivo was skateboarding on Noriel Lane in Petaluma, following her son, who was also skateboarding, on their way to a neighborhood park. Plaintiff alleged that the wheels of her skateboard caught in a deep crack/pothole in the street surface, which catapulted her off her skateboard. She described the crack/pothole as approximately 6-9 inches in length, 1-2 inches deep, and 4-7 inches wide. She further described the crack/pothole as obvious and very clear. However, she had never seen the crack/pothole before, despite living about a block away, and having travelled the street "hundreds of times before." Plaintiff did not take any photos of the street at or near the time she fell. Two months later Plaintiff took a number of cell phone photos of the street. The photos showed a roadway laced with cracks that had sealant in/on them. Plaintiff was unable to point out the precise spot where she fell, and in the trial court, claimed it was because the City had filled the crack with "slurry."

At the time of the incident, the City maintained records of complaints about City streets for more than 10 years, and during that time, received no complaints about Noriel Lane. The City also submitted a declaration from its engineer rejecting Plaintiff's claim that the City had covered the alleged condition with "slurry" between the time Plaintiff fell and when she took photos two months later. The City's engineer explained that what was depicted in the photos was not "slurry" but "crack sealant for minor cracks, and that crack sealant would not be used to remediate a crack/pothole the size described by Plaintiff. The City's engineer also found no work orders or requests for any road work on Noriel Lane during the two months between Plaintiff's fall and the day she took the photos.

The engineer further stated that in June 2021, the City resurfaced Noriel Lane, as well as the adjacent Turtle Creek Way, with high volume "slurry seal." This work was done pursuant to a 2019 Pavement Management Budget Options Report commissioned by the Bay Area Metropolitan Transportation Commission. The commission contracts with vendors to perform inspections of the city's streets and prepare such a report every two years. The report, which is a "very high level look" city wide, did not identify specific cracks or potholes in any street. The report also included numerous appendices, one of which included a map of Noriel Lane shaded in orange, indicating "poor" condition. After the City received a Pavement Management Report, it conducted its own inspection of the streets to assess the reported conditions and determine what maintenance can be done within the City's budget. The City inspected Noriel Lane and concluded the street was in good-fair condition and application of "high volume slurry seal" would extend the life of the road. In conducting



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the City inspection, employees were required to report any significant problems or concerns they observe, and there were no reports made about Noriel Lane.

Plaintiff submitted an expert declaration in opposition, arguing that the City knew or should have known of the condition because the Metropolitan Transportation Commission conducted the pavement condition index inventory in September 2019, and that the City undertook its own assessment in the area as early as September 2017 and as late as July 2019. Plaintiff also contended that the City was “generally aware” of the cracks in the road because of the appendix of maps to the Pavement Management Report which showed Noriel Lane shaded in orange, and in “poor” condition. Plaintiff also pointed to the fact that the City admitted that it applied a crack seal to the pavement which stops water intrusion but does not fill potholes, and that after her injury the City finally repaved the street using a slurry seal for evidence of notice.

The Court of Appeal rejected Plaintiff’s argument, holding that Plaintiff had failed to put forward any evidence that the City had actual or constructive notice. The Court emphasized that Plaintiff’s assertion that the City “was generally aware” of cracks in the street did not establish that the City had notice of the large/crack pothole. Nor did the Pavement Manager Report demonstrate that the City had actual or constructive notice. The City provided uncontradicted evidence that the pavement reports provide an overall assessment of City streets and do not identify specific problems. The Court also emphasized that the City’s subsequent inspection of Noriel Lane did not reveal the specific crack/pothole that allegedly caused Plaintiff’s fall. The fact that the City applied crack sealant to the cracks in the street prior to Plaintiff’s fall, or the fact that it applied slurry seal to the entire roadway after Plaintiff fell, also did not raise a triable fact that the City had notice of the crack/pothole. The Court held that there was no evidence that the slurry seal was applied because the City had prior notice of any dangerous condition on the street, let alone due to the large crack/pothole described by Plaintiff.

AFFIRMATIVE DEFENSES – RELEASE

Whitehead v. City of Oakland, 17 Cal.5th 735 (2025)

Summary: A bicyclist suffered a head injury while cycling after his front tire struck a pothole on Skyline Boulevard in Oakland while riding as part of a training exercise for a charity fundraiser. Before the ride, Plaintiff signed a release and waiver of liability. The California Supreme Court reviewed the case and held that the bicyclist’s claim against the City was not barred by the release.

Discussion: In March 2017, Plaintiff, Ty Whitehead (“Plaintiff”) suffered a head injury, while participating in a group training ride for AIDS/LifeCycle. Plaintiff was riding downhill on Skyline Boulevard in Oakland when his front tire hit a large, deep pothole near the center of the lane, causing him to stop abruptly, flip forward over the front of the bike, and hit his head on the pavement. Prior to the ride, Plaintiff, and the other participants, had signed a release and waiver of liability, which included a provision discharging the City and the other entities, from any liability for negligence.

Plaintiff sued the City under Government Code section 825 et seq., alleging that the public roadway was in a dangerous condition. The trial

court granted the City’s motion for summary judgment on the grounds that the release was valid and enforceable and barred Plaintiff’s claim. That same day, the trial court denied Plaintiff’s motion for summary adjudication of the City’s release defense. In its decision, the trial court assessed whether the release implicated the public interest using the multifactor test outlined in *Tunkl v. Regents of University of California* (1963) 60 Cal.2d. 92 (“*Tunkl*”), which evaluated the validity of a release of common law negligence claims. The Court of Appeal affirmed, also relying on the *Tunkl* factors.

The sole issue before the Supreme Court was whether the release relieved the City of liability for a harm allegedly caused by maintaining a public roadway in a dangerous condition in violation of Government Code section 835. The Court held that the release was against public policy under Civil Code section 1668, which prohibits contracts that exempt a party from responsibility for their own fraud, willful injury, or violation of law.

In its analysis, the Court reviewed previous precedent involving release agreements which exculpate a party for future violations of the law, primarily the decision in *Tunkl, supra*, and *City of Santa Barbara v. Superior Court* (2007) 41 Cal.4th 747. The Court distinguished between cases involving a claim for future ordinary or gross negligence under the common law, and a claim alleging a violation of a statutory duty. The Supreme Court held that the parties, and the appellate court, had incorrectly applied *Tunkl* to sustain the release here against an asserted breach of statutory duty, when *Tunkl* involved only a common law negligence claim. The Court declined to apply *Tunkl* and instead reviewed California precedent and case law in other jurisdictions addressing the validity of anticipatory releases in cases of a violation of a statutory duty, as opposed to common law negligence.

With this framework, the Court reversed the judgment of the Court of Appeal and held that an agreement to exculpate a party for future violations of a statutory duty designed to protect public safety is against the policy of law under Civil Code section 1688, and thus unenforceable. The case was remanded for further proceedings, allowing the City to argue the doctrine of primary assumption of risk on remand.



Agenda Items

11:30 a.m. – 11:45 a.m.	Opening remarks	Dr. David Ostash, CEO SISC
11:45 a.m. – 12:30 p.m.	Lunch	Provided by McCormick Barstow LLP & the DeMaria Law Firm
12:30 p.m.– 1:30 p.m.	How does Sacramento really work?	Senator Dave Cortese/15 th Senate District/California Legislature
1:30 p.m. – 2:30 p.m.	Current appellate issues involving schools	Peder Batalden/Horvitz & Levy LLP
2:30 p.m. – 2:45 p.m.	Break	
2:45 p.m. – 3:45 p.m.	What is our message and how do we send it?	David George, CEO/Schools Excess Liability Fund & Leilani Aguinaldo, Senior Director/School Services of California Inc.
3:45 p.m. – 4:30 p.m.	Panel Discussion	An esteemed panel will lead us in a discussion of significant issues
4:30 p.m.	Closing Remarks	Robert Kretzmer, Executive Director Property & Liability

Communications Plan

2026-2029



SISC

Self-Insured Schools
of California
Schools Helping Schools

PURPOSE

The purpose of SISC communications is to unify our message, strengthen trust, and equip our members with clear, consistent, and accessible information that reflects our mission of ***schools helping schools.***

This plan is designed to guide SISC employees, managers, directors, and executives in creating communication practices that will:

- Increase member awareness and appreciation of SISC programs and benefits.
- Position SISC as a trusted, stable, competitive, and innovative partner in California education.
- Equip CBOs, HR leaders, superintendents, risk managers, and school board members with timely and accurate resources.

GOALS

1. Create a cohesive, professional, and branded experience that reflects our values, mission, and story
2. Enhance Symposium by integrating SISC I and SISC II, increasing engagement, visibility, and value for members while showcasing our mission of **schools helping schools**
3. Increase SISC's presence at conferences, in publications, and through speaking opportunities
4. Create a comprehensive content library with presentation templates, videos, brochures, and other materials, showcasing our products and strong brand
5. Enhance SISC's online presence