



Authority for California Cities Excess Liability
Litigation Review and Update
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Summary

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Cases and Analysis

SIGNIFICANT UPDATE ON USE OF PEREMPTORY CHALLENGES

Section 231.7 of the California Code of Civil Procedures governs the grounds upon which an attorney may dismiss a potential juror from service and has always prohibited dismissal based on race, ethnicity, gender, gender identity, sexual orientation, national origin, religious affiliation, or membership in any of those groups.

Section 231.7 was updated effective 1/1/2026 by Senate Bill 645. The amended section now prohibits use of a Peremptory Challenge to dismiss potential jurors on the following additional grounds:

- (1) Expressing a distrust of or having a negative experience with law enforcement or the criminal legal system.
- (2) Expressing a belief that law enforcement officers engage in racial profiling or that criminal laws have been enforced in a discriminatory manner.
- (3) Having a close relationship with people who have been stopped, arrested, or convicted of a crime.
- (4) A prospective juror's neighborhood.
- (5) Having a child outside of marriage.
- (6) Receiving state benefits.
- (7) Not being a native English speaker.
- (8) The ability to speak another language.
- (9) Dress, attire, or personal appearance.

(10) Employment in a field that is disproportionately occupied by members listed in subdivision (a) or that serves a population disproportionately comprised of members of a group or groups listed in subdivision (a).

(11) Lack of employment or underemployment of the prospective juror or prospective juror's family member.

(12) A prospective juror's apparent friendliness with another prospective juror of the same group as listed in subdivision (a).

(13) Any justification that is similarly applicable to a questioned prospective juror or jurors, who are not members of the same cognizable group as the challenged prospective juror, but were not the subject of a peremptory challenge by that party. The unchallenged prospective juror or jurors need not share any other characteristics with the challenged prospective juror for peremptory challenge relying on this justification to be considered presumptively invalid.

LIABILITY FOR BUSES AS COMMON CARRIERS - LIMITATIONS

Agustin v. Golden Empire Transit Dist.

Docket: F088135(Fifth Appellate District)

Opinion Date: November 26, 2025

Judge: Donald R. Franson Jr.

Areas of Law: Personal Injury

Summary Rules:

While public bus operations are subject to a higher standard as a common carrier, they do not become an insurer of passenger safety. Normal bus movements which lead to injury do not establish liability.

Facts:

The plaintiff, an experienced bus rider, was injured when she fell while standing on a public bus operated by a transit district. She had stood up and moved toward the rear door in anticipation of her stop, holding a bag in one hand and a phone in the other. Security camera footage showed she was not holding onto a railing at the time the bus made a routine turn, lost her balance, and fell. The driver was not alleged to have made any unusual maneuver, nor did other passengers appear affected. The plaintiff claimed the driver operated the bus negligently and failed to warn her to hold on or sit down.

After the incident, the plaintiff filed a lawsuit in the Superior Court of Kern County, asserting causes of action for motor vehicle negligence against both the driver and the transit district (the latter on a vicarious liability theory). The defendants moved for summary judgment, relying heavily on the bus's video recording to argue that the bus's movement was ordinary and that the plaintiff's own actions were the proximate cause of her injury. The plaintiff argued that factual disputes remained, that the heightened duty of care for common carriers was not met, and that expert opinion and the doctrine of *res ipsa loquitur* created triable issues for the jury. The Superior Court granted summary judgment for the defendants, concluding there was no evidence of negligence by the driver and that the plaintiff's own conduct was the sole proximate cause of her injury.

Holding and Analysis:

On appeal, the Court of Appeal of the State of California, Fifth Appellate District, reviewed the case de novo. The court affirmed the lower court's judgment, holding that, while common carriers owe a heightened duty of care, that duty does not make them insurers of passenger safety for ordinary vehicle movements. The court further held that evidence, including the video, established the driver did not breach the applicable duty, and the plaintiff's own negligence was the sole proximate cause of her injury. The court also ruled that neither comparative negligence nor *res ipsa loquitur* doctrines applied under these facts. Judgment for the defendants was affirmed.

NEGLIGENT SUPERVISION LIABILITY

Rancho Cucamonga Central School Dist. v. Superior Ct.

Docket: E084855(Fourth Appellate District)

Opinion Date: December 3, 2025

Judge: Michael J. Raphael

Areas of Law: Personal Injury

Summary Rules:

A claim of negligent supervision by a public agency requires knowledge of the person's dangerous propensities.

Facts:

A former student alleged that the director of his school's childcare program sexually abused him during the 2001-2002 school year, both on campus and at her residence. The childcare program was operated by West End YMCA on the school's campus, and the director was employed by West End YMCA, not by the school district. The student, as plaintiff, brought suit against several parties, including the school district, asserting multiple causes of action related to negligence and abuse.

The Superior Court of San Bernardino County reviewed the district's motion for summary judgment or summary adjudication on four causes of action asserted against it. The court granted summary adjudication in favor of the district on two causes—negligent hiring/retention and failure to perform mandatory duties—but denied it as to the first (negligent supervision of students) and fourth (negligent supervision/failure to warn, with respect to Johnson) causes of action. The school district sought writ relief from the partial denial, specifically contesting the denial as to the fourth cause of action.

Holding and Analysis:

The California Court of Appeal, Fourth Appellate District, Division Two, reviewed the petition for writ of mandate. The appellate court focused solely on the fourth cause of action, which alleged negligent supervision of the program director. Applying the standard from *C.A. v. William S. Hart Union High School Dist.*, the Court of Appeal held that liability for negligent supervision requires actual or constructive knowledge by the district's supervisory employees of the individual's dangerous propensities. The record contained no evidence that any district employee had actual or constructive knowledge of the director's inappropriate conduct. Accordingly, the appellate court granted the writ of mandate and directed the superior court to enter summary adjudication in favor of the district on the third, fourth, and seventh causes of action, awarding costs to the district.

WHISTLE BLOWER RETALITION – Labor Code § 1102.5

Romero v. County of Kern

Docket: F088325(Fifth Appellate District)

Opinion Date: December 15, 2025

Judge: Thomas DeSantos

Areas of Law: Government & Administrative Law, Labor & Employment Law

Summary Rules:

Internal claim processes of a public entity must be clear on what is needed before a defense of failure to exhaust can be established.

Facts:

A firefighter employed by a county for over two decades reported safety violations concerning the maintenance of fire extinguishers on county fire engines. After raising these concerns with his superiors, he was barred from working in fire prevention, which he believed was retaliation for his whistleblowing activities. Although he filed internal complaints with the county's Office of Human Resources and the Civil Service Commission, he withdrew his appeal after assurances that his concerns would be addressed. Later, he was investigated for alleged misconduct and ultimately terminated for violations of county rules. He then filed a claim under the Government Claims Act, which the county rejected.

The Superior Court of Kern County granted the county's motion for judgment on the pleadings, finding that the plaintiff's failure to exhaust the internal administrative remedies—specifically, by not appealing his dismissal to the Civil Service Commission—barred his whistleblower retaliation lawsuit. The court denied the plaintiff's request for leave to amend his complaint, holding that he could not allege exhaustion of remedies.

Holding and Analysis:

The Court of Appeal of the State of California, Fifth Appellate District, reviewed the case. It held that the plaintiff was not required to exhaust the county's internal administrative remedies before bringing his whistleblower retaliation claims because the county's ordinances and rules did not provide a clearly defined process for submitting, evaluating, and resolving such claims. The court distinguished between general disciplinary appeals and procedures for discrimination or harassment claims, noting that there was no specific administrative remedy for whistleblower retaliation. Consequently, the appellate court reversed the judgment and remanded the matter with instructions to deny the county's motion for judgment on the pleadings. The holding clarifies that, where an internal administrative process does not address a particular type of claim, exhaustion of that process is not required before filing suit.

INDUSTRIAL DISABILITY RETIREMENT

Mendoza v. Bd. of Retirement of the Ventura County

Docket: B327347(Second Appellate District)

Opinion Date: December 29, 2025

Judge: Kenneth Yegan

Areas of Law: Government & Administrative Law, Public Benefits

Summary Rules:

IDR claimant must mitigate damages, including undergoing surgery, of IDR may be denied.

Facts:

The appellant, a Ventura County Deputy Sheriff, suffered two work-related back injuries in 2014 and 2015. Medical evaluations revealed degenerative disc disease and herniation at the L5-S1 level. Multiple physicians recommended surgical intervention, and the County authorized surgery to address his condition. However, the appellant declined the recommended procedures, citing concerns about surgical outcomes and referencing anecdotal experiences of colleagues. Later, his condition progressed, and more extensive surgery was suggested, but authorization for additional procedures was denied due to insufficient evidence. Despite ongoing pain, the appellant also declined to participate in a recommended home exercise program and a work hardening regimen. After the appellant applied for service-connected disability retirement, his application was challenged by the County and assigned to VCERA's hearing officer for review. During the administrative hearing, the appellant testified about his refusal of surgery and physical therapy, while medical experts presented conflicting views on his prognosis and ability to return to work. The hearing officer found that the appellant had unreasonably refused recommended medical treatments with a high probability of success, and that his refusal likely worsened his condition, making him ineligible for service-connected disability retirement benefits. The Board adopted these findings and denied his application.

Holding and Analysis:

The Superior Court of Ventura County denied the appellant's petition for a writ of administrative mandate, concluding that his unreasonable refusal of authorized surgery and other treatments constituted valid grounds to deny benefits under the doctrine of avoidable consequences/mitigation of damages. The California Court of Appeal, Second Appellate District, Division Six, affirmed this decision. The court held that a disability retirement application may be denied if the disability is caused, continued, or aggravated by an unreasonable refusal to undergo medical treatment, even if the refused treatment is no longer effective due to the passage of time.

PUBLIC NUISANCE - CEQA

Krovoza v. City of Davis

Docket: C100103(Third Appellate District)

Opinion Date: December 30, 2025

Judge: Stacy Boulware Eurie

Areas of Law: Environmental Law

Summary Rules:

Placement of playground equipment in a park which creates noise is exempt from CEQA requirements under the "unusual circumstances" exemption.

Facts:

The dispute centers on the City's decision to relocate a piece of playground equipment known as the Sky Track within Arroyo Park, Davis, California, due to noise complaints from nearby residents. After its installation in 2019, the City received complaints about excessive noise, particularly at night, and responded by commissioning noise studies and implementing mitigation measures, such as restricted hours and physical sound dampening. These measures proved challenging to enforce, leading the City to investigate alternative locations within the park. Expert analysis indicated that relocating the Sky Track to a specific area (Location B) would reduce noise levels at the nearest residences compared to its previous location.

Following approval by the City Council to move the Sky Track and the filing of a notice of exemption under three categorical exemptions from the California Environmental Quality Act (CEQA), the plaintiffs challenged the exemption. They filed a verified petition for writ of mandate in the Superior Court of Yolo County, arguing that the unusual circumstances exception to the categorical exemption should apply because of the potential for significant noise impacts. The Superior Court denied the petition, finding substantial evidence that the project fell within the scope of the exemptions and that relocating the equipment would reduce, not increase, noise impacts, thus failing to establish unusual circumstances.

Holding and Analysis:

On appeal, the California Court of Appeal, Third Appellate District, reviewed whether the unusual circumstances exception was triggered. The court held that mere violation of the City's noise ordinance does not itself amount to substantial evidence of a significant environmental effect. Furthermore, it found no substantial evidence to support a fair argument that relocating the Sky Track would create a significant adverse noise impact. The court affirmed the lower court's judgment, concluding that the City acted within its discretion and complied with CEQA's exemption procedures.

POLICE USE OF FORCE – HOBBLE DEVICE

Gonzalez v. City of Phoenix

Docket: 24-2510

Opinion Date: January 8, 2026

Judge: Gabriel Sanchez

Areas of Law: Civil Rights

Summary Rules:

The continued use of passive force (hobble device) against a detained and helpless detainee constitutes excessive force.

Facts:

The case involves the death of Ramon Timothy Lopez following an encounter with Phoenix Police Department officers. After receiving reports of erratic behavior, officers pursued Lopez in a foot chase, subdued him, and restrained him with handcuffs and a RIPP hobble device. This restraint bent Lopez's body into a hogtied position while he was face down. Despite Lopez's distress and visible signs of medical need, officers transported him in the back of a patrol vehicle in this position. He became unresponsive during transport and was later pronounced dead at the hospital. The medical

examiner attributed his death to cardiac arrest in the context of methamphetamine intoxication, heart disease, and physical restraint.

Plaintiff Laura Gonzalez, Lopez's mother, filed suit in the United States District Court for the District of Arizona against the City of Phoenix and several officers, asserting claims under federal and state law, including excessive force under the Fourth Amendment. The district court granted summary judgment in part, dismissing claims of false arrest, Monell liability, and others, but denied summary judgment on the excessive force claim related to the officers' actions after the RIPP restraint was applied, including the transportation of Lopez in the prone, hogtied position.

Holding and Analysis:

On appeal, the United States Court of Appeals for the Ninth Circuit reviewed the district court's denial of qualified immunity. The Ninth Circuit affirmed the denial, holding that a reasonable jury could find the officers' use of the RIPP restraint and the manner of transport unreasonable and excessive, given Lopez's lack of resistance and medical distress. The court found that precedent in the Ninth Circuit clearly established that continued use of force or refusal to alleviate its harmful effects against a helpless detainee constitutes excessive force. The case was remanded for further proceedings.

DISCRIMINATION RE RETIREMENT SYSTEM CALCULATIONS

Carroll v. City and County of San Francisco

Docket: A169408M(First Appellate District)

Opinion Date: January 14, 2026

Judge: Tracie L. Brown

Areas of Law: Class Action, Constitutional Law, Contracts, Labor & Employment Law

Summary Rules:

Formulas used to calculate retiree benefits which include age in the calculation are not discriminatory when the formulas focus on credit for years of service.

Facts:

Several individuals who were employed by the City and County of San Francisco and were at least 40 years old when hired brought a class action lawsuit alleging that the City's method for calculating disability retirement benefits under its retirement system discriminated against employees based on age. The system employs two formulas; Formula 1 is used if it yields a benefit exceeding a percentage threshold, while Formula 2 is used if the threshold is not met. Plaintiffs argued that Formula 2, which imputes years of service until age 60, resulted in lower benefits for those who entered the retirement system at age 40 or older, in violation of the California Fair Employment and Housing Act (FEHA).

After initial proceedings in the San Francisco City and County Superior Court—including a demurrer sustained on statute of limitations grounds and subsequent reversal by the Court of Appeal—the plaintiffs filed an amended complaint asserting FEHA claims for disparate treatment and disparate impact, as well as claims for declaratory relief, breach of contract, and equal protection violations. The trial court certified a class and denied summary judgment due to triable issues of fact. A bench

trial followed, where both parties presented expert testimony on whether Formula 2 disparately impacted older employees.

Holding and Analysis:

The Court of Appeal of the State of California, First Appellate District, Division Four, reviewed the trial court’s findings. It affirmed the judgment, holding that plaintiffs failed to prove intentional age discrimination or disparate impact under FEHA. The court found that Formula 2 was motivated by pension status and credited years of service, not by age, and that plaintiffs’ evidence was insufficient as it was based on hypothetical calculations rather than actual data. The trial court’s denial of plaintiffs’ request to amend their complaint after trial was also upheld, as any alleged error was not reversible on the record. The judgment in favor of the City was affirmed.

SUPREME COURT OF THE UNITED STATES – LEGAL STANDARD FOR POLICE WELFARE CHECKS

Case v. Montana

Docket: 24-624

Opinion Date: January 14, 2026

Judge: Elena Kagan

Areas of Law: Constitutional Law

Summary Rules:

Warrantless entry into a home to conduct a welfare check is authorized when there is an objectively reasonable basis for believing that an occupant is seriously injured or threatened with injury.

Facts:

After receiving a report from his ex-girlfriend that he was threatening suicide and may have shot himself, law enforcement officers in Montana responded to William Case’s home. The officers were aware of Case’s mental health and substance abuse history, as well as prior threats of suicide and confrontations with police. Upon arrival, they received further details about the phone call from Case’s ex-girlfriend, observed an empty handgun holster, a notepad resembling a suicide note, and noted Case’s lack of response to their attempts at contact. Believing Case might be injured or at risk of imminent harm, the officers entered the home without a warrant to render emergency aid. During their search, Case emerged from a closet holding an object that appeared to be a gun, prompting an officer to shoot and injure him. A handgun was found near where Case had been standing.

Case was charged with assaulting a police officer and moved to suppress the evidence obtained from the warrantless entry, arguing a Fourth Amendment violation. The trial court denied the motion, finding the entry justified by emergency circumstances. A Montana jury convicted Case. On appeal, the Montana Supreme Court upheld the conviction, applying its “community caretaker doctrine” and concluding that police may enter a home for a welfare check if “objective, specific and articulable facts” lead an experienced officer to suspect peril. The court rejected the argument that probable cause was required for such an entry, distinguishing emergency aid situations from criminal investigations.

Holding and Analysis:

The Supreme Court of the United States reviewed the case to clarify the legal standard for warrantless home entry to render emergency aid. The Court held that officers may enter a home without a warrant if they have an “objectively reasonable basis for believing” that an occupant is seriously injured or imminently threatened with such injury. It declined to require probable cause in this context and affirmed the judgment of the Montana Supreme Court, finding the officers’ entry reasonable under the Fourth Amendment.

FIRST AMENDMENT – WARNING OF CRIMINAL PENALTIES COULD CHILL FREE SPEECH**L.A. Police Protective League v. City of L.A.**

Docket: S275272M

Opinion Date: January 22, 2026

Judge: Joshua Groban

Areas of Law: Civil Rights, Constitutional Law

Summary Rules:

Statutory warnings which include notice of criminal penalties in an advisory may unconstitutionally chill free speech.

Facts:

The case concerns a California statute that makes it a crime to knowingly file a false allegation of police misconduct and requires complainants to sign an advisory warning of potential criminal liability before their complaint is accepted. The Los Angeles Police Protective League sought an injunction compelling the City of Los Angeles to enforce this advisory requirement. The City had previously entered into a consent decree with the federal government prohibiting enforcement of the advisory, and even after the consent decree expired, continued not to require the advisory due to concerns about the statute’s constitutionality.

The Superior Court of Los Angeles County, relying on the California Supreme Court’s earlier decision in *People v. Stanistreet*, granted the injunction and ordered the City to require the statutory advisory. The California Court of Appeal affirmed, adhering to *Stanistreet*’s reasoning that had upheld the statute’s constitutionality. The City then petitioned to the Supreme Court of California, arguing that subsequent federal decisions—especially *Chaker v. Crogan* by the Ninth Circuit—cast serious doubt on the continuing validity of *Stanistreet* and the constitutionality of the statute.

Holding and Analysis:

Reviewing the case, the Supreme Court of California reconsidered its prior *Stanistreet* decision in light of more recent U.S. Supreme Court rulings, including *United States v. Alvarez* and *Free Speech Coalition, Inc. v. Paxton*. The court held that the statutory scheme—combining criminal penalties with a mandatory and prominently worded advisory—created a consequential risk of chilling truthful or well-intentioned complaints of police misconduct. The court concluded that this risk triggered heightened constitutional scrutiny under the First Amendment. The statute failed intermediate scrutiny because it was not narrowly tailored and burdened substantially more speech than necessary to serve the state’s legitimate interests. The court therefore reversed the judgment of the Court of Appeal.

GOVERNMENT CLAIMS ACT APPLIES TO PUBLIC BENEFIT CORPORATION

Black v. L.A. County Metropolitan Transp. Authority

Docket: B339694(Second Appellate District)

Opinion Date: December 2, 2025

Judge: Helen Bendix

Areas of Law: Business Law, Contracts, Government & Administrative Law, Labor & Employment Law, Non-Profit Corporations

Summary Rules:

A publicly operated nonprofit public benefit corporation must separately register as a public agency before it can assert that a defense that plaintiff was non-compliant with the Government Claims Act.

Facts:

The plaintiff was an employee who brought claims for wrongful termination, Labor Code violations, and breach of contract against two defendants: the Los Angeles County Metropolitan Transportation Authority (MTA) and the Public Transportation Services Corporation (PTSC). MTA had created PTSC, a nonprofit public benefit corporation, to provide retirement and employment benefits to certain workers and to manage employees who support MTA's transportation functions. The plaintiff did not file a prelitigation claim under the Government Claims Act (GCA) before suing these entities.

The Superior Court of Los Angeles County first granted a motion for judgment on the pleadings in favor of both defendants, finding that the plaintiff had not alleged compliance with the GCA's claim presentation requirements. The plaintiff was given leave to amend but continued to argue that PTSC was not a public entity subject to the GCA, and that even if it was, the claims presentation requirement should not apply because PTSC had not registered as required by statute. The trial court sustained a demurrer without leave to amend, finding both defendants to be public entities and that PTSC was not required to register separately from MTA. The court entered judgment for both defendants.

Holding and Analysis:

On appeal to the California Court of Appeal, Second Appellate District, Division One, the plaintiff did not challenge the judgment in favor of MTA but contested the ruling as to PTSC. The appellate court held that PTSC qualifies as a public entity for purposes of the GCA's claims presentation requirement, given its creation and control by MTA. However, the court found that if PTSC failed to register properly on the Registry of Public Agencies—including with county clerks where it maintains offices—this would excuse the plaintiff's noncompliance with the GCA. The judgment for MTA was affirmed, but the judgment for PTSC was reversed and remanded to allow the plaintiff to amend his complaint.