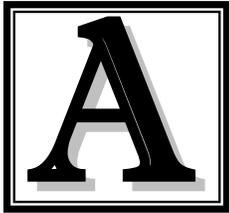


THE ARKIN



LAW FIRM

December 20, 2015

Chief Justice and Associate Justices  
California Supreme Court  
350 McAllister Street  
San Francisco, CA 94102

Re: *Regents of the University of California v. Superior Court (Rosen)*  
Case No. S230568

Dear Justices:

Consumer Attorneys of California and several other amici, described below, strongly urge you to accept review of the decision in this case. The *Rosen* majority opinion not only undermines the general efforts of numerous institutions and the federal government to assure the safety of students and educators on our college and university campuses, but ignores the evidence in this case establishing the existence of a special relationship or assumed duty under the facts here. The issue presented is not only critically important today, it grows increasingly important with every passing day and with every violent episode reported in our state and in our country.

There may, indeed, be circumstances where a violent attack may not be foreseeable. There may be circumstances where so much is known that an attack is unmistakably inevitable. But providing a blanket immunity from liability for *every* circumstance – as the Court of Appeal’s majority opinion did – is untenable. This Court’s review is essential to assure that a duty – properly circumscribed – is found in the appropriate circumstances.

### **STATEMENT OF INTEREST**

Amici consist of several organizations and over 5,000 individuals, who have joined in support of the real party in interest Katherine Rosen. The lead amicus, Consumer Attorneys of California (“CAOC”) is a voluntary membership organization representing over 6,000 associated consumer attorneys practicing throughout California. The organization was founded in 1962. Its membership consists primarily of attorneys who represent individuals who are

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injured or killed because of the negligent or wrongful acts of others, including students and parents of students at various California universities and colleges. CAOC has taken a leading role in advancing and protecting the rights of Californians in both the courts and the Legislature.

As an organization representative of the plaintiff's trial bar throughout California, including many attorneys who represent plaintiffs injured or killed as the result of negligence, CAOC is interested in the significant issues presented by the trial court's decision in this case, particularly with respect to the determination of what duty is owed by a college or university to protect its students from a credible threat of harm by another student.

Thousands of other individuals with a substantial interest in this issue also join in support of Ms. Rosen. These amici are more specifically described as follows:

**A. Students and Faculty at Colleges and Universities.**

Of these individuals, 5,391 consist of concerned students and faculty members at schools within the California Community Colleges system, the California Institute of Technology, schools within the California State University system, Chapman University, Claremont McKenna College, Pepperdine University, Pitzer College, Pomona College, Stanford University, the University of Southern California, schools within the University of California system, and the University of California Los Angeles ("UCLA"), as well as other colleges and universities not affiliated with the amici supporting the defendants.<sup>1</sup>

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<sup>1</sup> These other schools include: Alliant International University, American Career College, California Institute of the Arts, Associated Technical College, Biola University, Bryman College, California Baptist University, California Lutheran University, College of San Mateo, Compton Community College, Concorde Career College, Everest College, Fashion Institute of Design & Merchandising, Fremont College, Fullerton College, Harvey Mudd, ICDC College, La Sierra University, Las Positas College, Los Angeles Film School, Los Angeles ORT College, Loyola Marymount, Mesa College, Mount St. Mary's, Occidental City College, Pacific University, Pierce College, Platt College, Point Loma Nazarene, Pomona College, San Diego Christian College, Scripps College, St. Mary's College, UEI College, and Union University.

**B. Victims and Relatives of Victims of School Shootings.**

These individuals also include victims and relatives of victims of school shootings that have occurred throughout the country, including the following:

**1. Virginia Tech Shooting on April 16, 2007:** A troubled senior, Seung-Hui Cho, shot and killed 32 people and wounded 17 others before committing suicide on the campus at Virginia Polytechnic Institute and State University in Blacksburg, Virginia. Surviving victims Kevin Sterns and Jamal Carver, and three relatives of surviving victim Colin Goddard, are amici in support of the plaintiff and the real party in interest Katherine Rosen.

**2. Northern Illinois University Shooting on February 14, 2008:** Steven Kazmierczak, a graduate student who had stopped taking his psychiatric medication, shot and killed five people and injured 21 others before committing suicide on the campus of Northern Illinois University in DeKalb, Illinois. Surviving victims Harold Ng and Patrick Korellis, and the brother of surviving victim Maria Ruiz-Santana, are amici in support of the plaintiff and the real party in interest Katherine Rosen. In addition, Donald Grady, the former Chief of Police of Northern Illinois University who responded to this shooting and assisted the victims, is also an amicus in support of the plaintiff and the real party in interest Katherine Rosen.

**3. Oikos University Shooting on April 2, 2012:** Former student One L. Goh, suffering from paranoid schizophrenia, shot and killed seven people and wounded three others on the campus of this Korean Christian college in Oakland, California. Eleven relatives of victims Kathleen Ping and Doris Achu, who were killed in the shooting, are amici in support of the plaintiff and real party in interest Katherine Rosen.

**4. Isla Vista/Santa Barbara Shooting on May 23, 2014:** 22-year old Elliott Rodger shot and killed six people and injured 13 others before committing suicide in Isla Vista, California. All six murder victims were students at the University of California, Santa Barbara. Jane Lui, mother of deceased victim David Wang, is an amicus in support of the plaintiff and real party in interest Katherine Rosen.

These individuals, all of whom have suffered tremendous losses because of violence occurring on campuses, also disagree with the stated positions of the colleges and universities supporting the defendants as amici.

**C. Organizations and Prominent Individuals Dedicated to Preventing Violence in Colleges and Universities.**

Various organizations dedicated to preventing needless and foreseeable violence, including violence at schools and on campuses, have also joined as amici, including the following:

**1. Friends of Safe Schools U.S.A.:** The Friends of Safe Schools United States of America is a 501(c)(3) public charity committed to improving safety in and around schools. It establishes partnerships with local police departments, including the Los Angeles Police Department, to accomplish its goals.

**2. National Center for Victims of Crime:** The National Center for Victims of Crime is a non-profit organization that advocates for the rights of victims and is the most comprehensive national resource committed to advancing victims' rights and helping victims of crime rebuild their lives.

**3. Crime Victims United of California:** Since its founding in 1990, the Crime Victims United of California's mission has been to support and strengthen public safety, promote balance in the criminal justice system, and protect the rights of victims. Founded by Harriet Salarno, whose eldest daughter, Catina Rose Salarno, was murdered at the University of the Pacific in Stockton on her first day of school, the organization is widely seen as the primary voice of crime victims in California.

In addition to these organizations, numerous members of various law enforcement agencies and the Association of Threat Assessment Professionals ("ATAP") have also joined in the filing of this brief as amici, including the following:

**John Lane** was a detective in the Los Angeles Police Department, retiring in 1997 as a Lieutenant after 25 years of service. While at the Los Angeles Police Department, he developed its Threat Management Unit, which gained international recognition for its management of aggravated stalking cases. He was also a part of the resource group that developed the workplace violence policy for the City of Los Angeles. He founded ATAP in 1992 as a non-profit organization comprised of law enforcement, prosecutors, mental health professionals, corporate security experts, probation and parole personnel and others involved in the areas of threat and violence risk assessment. Mr. Lane served as ATAP's President for a number of years, and created the National Threat Management Conference.

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**Detective Jeff Dunn** is a 21-year-veteran of the Los Angeles Police Department and is currently the officer-in-charge of its Threat Management Unit. This unit was formed in 1990 after the murder of actress Rebecca Schaeffer, and over the years, has been visited and emulated by many city, state, and federal law enforcement agencies, as well as agencies from Canada, Australia, the United Kingdom, Europe, Asia, and South America.

**Efrain “Tony” Beliz, Ph.D.** is a clinical psychologist and is the retired Deputy Director of the Los Angeles County Department of Mental Health Emergency Outreach Bureau. He oversaw the School Threat Assessment Response Team program, which was founded by the Los Angeles Police Department in 2007 after the Virginia Tech massacre, and was taken nationwide in 2009 by Dr. Beliz. It consists of a collaboration of county mental health professionals, law enforcement agencies, and schools and is widely heralded as one of the most intensive efforts in the nation to identify the potential for school violence and take steps to prevent it.

**Bryan M. Vossekuil** is a retired Special Agent of the United States Secret Service who served as the executive director of the Secret Service’s National Threat Assessment Center. He co-directed the Secret Service Exceptional Case Study Project and the Secret Service Safe School Initiative, both of which formed the genesis of threat assessment and violence prevention in schools and campuses.

**Paul Bristow** is the President of the Los Angeles chapter of ATAP, and has prior experience in law enforcement as a member of the Metropolitan Police, New Scotland Yard, where he oversaw physical security issues for members of the Royal family and numerous heads of state including Prime Minister Margaret Thatcher.

### **WHY REVIEW SHOULD BE GRANTED**

By concluding that colleges and universities have not duty to provide a safe environment to their students and faculty in *every* circumstance, the Court of Appeal’s majority provided to colleges and universities what is the equivalent of a blanket immunity, protecting them from liability for on-campus violence, no matter how foreseeable, no matter what promises or assurances were made to the students and their families and despite federal law imposing obligations on them to assess for and protect against on-campus violence.

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The majority’s opinion below, however, failed to properly address the duty issue. Indeed, the majority opinion begins in the middle of the analysis, ignoring the statutory predicate that “[e]veryone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person . . . .” (Civ. Code, § 1714, subd. (a).)

As this Court made clear in *Cabral v. Ralphs Grocery Co.* (2011) 51 Cal.4th 764, that statement of duty is the foundation from which the analysis must evolve. *Cabral* also made clear that a *departure* from that foundational statement of duty requires examination of the factors articulated in *Rowland v. Christian* (1968) 69 Cal.2d 108. (*Cabral*, at 768, 771.) In other words, the fundamental statement of duty set forth in section 1714, subdivision (a) controls *unless* “several considerations . . . when balanced together, may justify a *departure* from the fundamental principle embodied in Civil Code section 1714.” (*Cabral*, at 771, emphasis added.)

Furthermore, this Court confirmed in *Cabral*, “in the absence of a statutory provision establishing an exception to the general rule of Civil Code section 1714, courts should create one only where ‘clearly supported by public policy.’” (*Cabral*, at 771, emphasis added.) Significantly, *Cabral* made clear that the analysis is to be made “at a relatively broad level of factual generality” and that the *Rowland* analysis must be assessed in the context of deciding “whether carving out an *entire category of cases from that general duty rule is justified by clear considerations of policy.*” (*Cabral*, at 772, emphasis added.)

The majority below, however, leapt over that fundamental analysis and simply moved into the application of other principles, developed in other contexts, and based on fact-specific situations, to conclude that no duty existed at all. Because the majority failed to engage in the type of searching analysis that section 1714, *Rowland* and *Cabral* require to justify a departure from the basic duty of care, review is necessary.

It may be that, in reviewing the duty question in this case, this Court could reach the same conclusions as the majority did in the appellate decision below. But it is critical that this Court conduct that analysis and determine the parameters for the existence – or non-existence – of a duty in this context. As the statistics confirm, this issue is not only gravely important, but its importance grows with each

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passing day. Millions of students and faculty are at risk. Schools, students, parents and administrators all need to understand the borders and boundaries of what, if anything, can be expected and what, if anything, must be done.

Because these issues are of such great importance, it is respectfully requested that this Court grant the petition for review.

THE ARKIN LAW FIRM

SHARON J. ARKIN

:sja

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 225 S. Olive Street, Suite 102, Los Angeles, CA 90012.

On **December 20, 2015**, I served the within document described as:

**LETTER IN SUPPORT OF PETITION FOR REVIEW**

on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as set forth in the attached service list.

**By Mail:** By depositing with the U.S. Postal Service on this day with postage thereon fully prepaid at Brookings, Or.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

**Executed on December 20 at Brookings, Oregon.**

\_\_\_\_\_  
SHARON J. ARKIN

**REGENTS OF THE UNIVERSITY OF CALIFORNIA v. S.C. (ROSEN)**

Case Number [S230568](#)

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