

It's all about protection

By Sophia Achermann



This edition of the *Forum* focuses on premises liability, which is among the most common type of personal injury tort. The vast majority of us, if not all, have handled a premises liability case at some point in our careers. Some of you have CACI 1000 memorized. The truth is, we have a strong familiarity with this type of law that can sometimes be disarming. The cases may seem straightforward from a liability standpoint, but some are deceptively so. There are important nuances in the statutory and case law and critical doctrines (e.g., non-delegable duty) that are deadly weapons in our arsenal against property owners or managers. I'm not discouraging the use of your dog-eared, tried-and-tested premises liability playbook by any means. Rather, I hope this message encourages you to apply the practical advice within this edition to enhance your cases from intake to trial.

The *Forum* is a well-known source of valuable tips from gurus across this state. This edition is no different. Sure, you're aware of ESI... but how much do you know about OSI? Bibi Fell reveals how OSI (Other Similar Incidents) can be utilized to prove your case, *and* increase case value by placing pressure on defendants with a claim for punitive damages.

Oh, your premises liability case lacks OSI? This is a common hurdle, especially if you're suing a bar, nightclub or event venue for third party criminal conduct. But "no worries" as the millennials say. Audrey Siegel helps navigate the duty analysis of a reasonable vs. unreasonable premises owner where there are no prior criminal acts.

Delving further into the topic of third party criminal conduct, Alison Cordova's illuminating discussion on negligent

storage/transportation of guns gives sound advice for overcoming the predictable motion to dismiss with a carefully crafted complaint and chucking the outdated "duty to protect" framework when analyzing the gun owner's duty.

Issue spotting is a preeminent task in all of our cases. Our ability to discern viable parties and craft successful legal theories paves the road to fair compensation for our clients. To help perfect these skills, in the context of workplace injuries, is Zach Hansen's valuable article which provides a roadmap to success by "checking the box." This article is a must-read for any plaintiff's attorney with a client injured at a jobsite by someone in the course and scope.

Besides offering practical advice, this edition highlights the significant legislative progress and change we as consumer advocates can effectuate through our cases and our clients' stories. Rahul Ravipudi and Robert Glassman's remarkable work with Alex Pierce's family and Assemblywoman Melissa Melendez led to AB 1214. AB 1214 requires school districts to ensure all credentialed teachers and administrators are able to perform CPR during the entirety of their careers. Now codified in Education Code § 35179.6, "Alex's Law" will prevent needless children's deaths by drowning.

And let us not forget the exceptional work of Bob Allard to close a loophole in Govt. Code § 935, which had been successfully used by school districts to limit the claim filing statute in child sexual abuse cases to six months.

This year also brought new legislation on a subject I'm passionate about – staircase safety. My law partner, Jennifer Fiore, and I worked for years on a

wrongful death and personal injury case involving an apartment staircase collapse in the Sacramento area. In discovery, we learned the property owners and managers knew the structural support beams of the exterior staircases were plagued with dry rot for *years* before Chris Yuan's death, and failed to neutralize the risk via repair. Chris' tragic death on July 3, 2015, along with the deadly Berkeley balcony collapse earlier that year, helped inspire the "Balcony Bill" (SB 721), now codified as Health & Safety Code § 17973(a). The new law imposes a duty on property owners to conduct thorough inspections of exterior elevated elements (i.e., staircases and balconies) every six years through licensed professionals "to determine that exterior elevated elements and their associated waterproofing elements are in a generally safe condition, adequate working order, and free from any hazardous condition caused by fungus, deterioration, decay, or improper alteration to the extent that the life, limb, health, property, safety, or welfare of the public or the occupants is not endangered." (*Id.*)

Always remember the broader impact our work can have on improving the lives of the public whom we endeavor to protect. If you have a case or issue that can spur new or improved legislation for consumers, please bring it to CAOC's attention. The safety of our state rests in our hands. ■

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