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ARTICLE

**PREMISES AND LANDOWNER LIABILITY: THE SUPREME COURT
CONTINUES ITS EXPANSION OF POTENTIAL LIABILITY
FOR PERSONAL INJURIES**

By Kenneth R. Styles*

I. INTRODUCTION

A long time ago, in a less-litigious time, owners of real property, and businesses operators utilizing real property, were not automatic targets in litigation over personal injuries to third parties occurring on their property. Their duties to third parties were defined by the general provisions of Civil Code section 1714 - i.e., a landowner was responsible for “want of ordinary care or skill in management of his or her property or person.”¹

Over time, however, the California courts have expanded the scope of the duties owed by landowners and operators to third parties. Few law students will forget their introduction to the notion of an “attractive nuisance” - i.e., that some conditions of real property, for example, a swimming pool, creates a duty on the landowner to prevent mishaps that could injure uninvited strangers. Indeed, in an article written more than two years ago, this *Newsalert* highlighted the California Supreme Court’s *Madhani* decision,² which expanded the duty of a landlord to protect one tenant from another, abusive tenant.³

In the past nine months, the California Supreme Court has issued three opinions that continue to expand the duties of a landowner (“landowner’s liability”), or a business owner operating on real property (“premises liability”), to third parties. While these decisions, taken individually, are not groundbreaking, when considered together they

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further evidence the California Supreme Court's continued expansion of landowner or premises liability.

The first two cases, *Delgado v. Trax Bar & Grill*⁴ and *Morris v. De La Torre*,⁵ involved physical assaults by third parties on customers that occurred in the parking area either on, or in front of, the business owner's property. As will be discussed later in the article, while the Court imposed what it described as "minimally burdensome" duties that may appear common sense, these decisions did not establish bright line rules, instead leaving each case to be decided on its specific facts.

The third decision, *Kinsman v. Unocal Corp.*,⁶ involved work-related injury to a independent contractor's employee. The California Supreme Court held that a landowner could be liable for the personal injury to an independent contractor's employee if the landowner knew (or should have known) of a preexisting hazardous condition that the contractor did not know and that the landowner failed to disclose.

This article analyzes the aforementioned cases and discusses new legal duties imposed on landowners. First, however, we discuss some basic principles of law related to landowner liability and premises liability.

II. BASIC PRINCIPLES

A. *The Rowland Factors; Foreseeability Is The Primary Factor In Finding Duty*

Over 35 years ago, in *Rowland v. Christian*,⁷ the California Supreme Court overhauled the then-existing law with respect to the duty owed by the landowner to those on the premises.⁸ The *Rowland* Court emphasized that the following factors must be considered and balanced in determining the nature and extent of the duty owed by the landowner to others on the land:

1. the foreseeability of harm to the plaintiff;
2. the degree of certainty that the plaintiff suffered injury;
3. the closeness of the connection between the defendant's conduct and the injuries suffered;
4. the moral blame attached to the defendant's conduct;
5. the policy of preventing future harm;
6. the extent of the burden to the defendant and consequences to the community of imposing a duty to exercise care with resulting liability for breach; and
7. the availability, cost, and prevalence of insurance.⁹

Later cases emphasized that among these factors to be considered and balanced in determining the existence and nature of the duty, if any, the principal factor is that of *foreseeability*. The degree of foreseeability necessary

to help create the duty varies depending on the facts of each case. In those cases in which the burden of preventing future harm is great, the law requires a high degree of foreseeability. In those cases where strong policy reasons exist for preventing harm or where the harm can be prevented by relatively simple means, a lesser degree of foreseeability may be required.¹⁰ However, on this issue, the decisions in the last few years have been far from clear or consistent in determining what satisfies the requirements for foreseeability and, ultimately, duty.

With respect to third-party criminal conduct cases, the California Supreme Court further developed the law in *Sbaron P. v. Arman, Ltd.*¹¹ and *Ann M. v. Pacific Plaza Shopping Center.*¹² Those cases generally hold that when the inquiry involves harmful conduct by third persons, the requisite degree of foreseeability can rarely be proved in the absence of prior, substantially similar incidents which have occurred on the premises. However, as discussed later in this article, even though there may be no prior similar instances of criminal conduct, a property owner may still have a duty to take minimally burdensome measures to protect persons on the premises, under the doctrine of a *special relationship*.

III. NEW DUTIES IMPOSED ON LANDOWNERS AS A RESULT OF THE RECENT *DELGADO* AND *MORRIS* DECISIONS

A. A Business Owner May Have A Duty To Provide “Minimally Burdensome Measures” To Protect Patrons/Invitees From Criminal Acts, Despite The Absence Of Foreseeability

1. Facts And Procedural History

In *Delgado v. Trax Bar & Grill*,¹³ the plaintiff was assaulted by a group of men in the parking lot of a bar. He sustained serious injuries. The legal question presented was whether the bar owner was liable for plaintiff’s personal injuries.

The facts in *Delgado* are relatively straightforward. On weekend nights, Trax Bar & Grill employed two security guards, one posted on a stool outside the bar (in the bar’s parking lot), and the other inside the bar. Plaintiff and his wife arrived at the bar on a Saturday night. While in the bar, another patron, Jacob Joseph, and his three or four companions, stared at plaintiff. Plaintiff stared back. Plaintiff did not know Joseph, nor was there any verbal or physical interaction between plaintiff or Joseph at that time.

Prior to midnight, plaintiff became uncomfortable and decided to leave the bar. At that point the court described the testimony as “somewhat inconsistent”, but it is clear that plaintiff left the bar and was assaulted by Joseph and several individuals in the parking lot. One of the bar’s security men, Nichols, testified that he observed the staring and requested that the plaintiff leave so as to “remove the threat”. At some point the “other security guard” telephoned 911. The police arrested Joseph, and he subsequently was convicted of felony assault. Plaintiff suffered severe head trauma and

was hospitalized for 16 days. He subsequently experienced adverse personality changes as well as chronic headaches.¹⁴

Plaintiff filed a personal injury suit against the bar and proceeded to trial on a premises liability theory. The jury, by a vote of 9-3, found the bar negligent and returned a verdict of \$81,391.61.¹⁵

While *Delgado* was on appeal, the First District Court of Appeal issued its opinion in *Mata v. Mata*, holding that when a proprietor employed a security guard, “the duty to protect had already been assumed and therefore the issue of foreseeability becomes irrelevant.”¹⁶ The *Delgado* court of appeal disagreed with this conclusion, and ultimately reversed the judgment in favor of plaintiff.

Faced with a conflict between these two court of appeal decisions (with respect to the foreseeability component of premises liability, and specifically concerning whether a proprietor has assumed the duty to protect by hiring security guards), the California Supreme Court granted review of *Delgado*.¹⁷

2. Special Relationship Doctrine Explained

In analyzing the premises owner’s duty to its patrons and customers, the *Delgado* Court first repeated the general rule that “there is no duty to act to protect others from the conduct of third parties.”¹⁸ However, the courts have created an exception called the “special relationship” doctrine. “A defendant may owe an affirmative duty to protect another from the conduct of third parties if he or she has a ‘special relationship’ with the other person.”¹⁹ The most-common special relationships involve business proprietors such as shopping centers, restaurants, and bars, and their tenants, patrons, or invitees. For example, it is “well established” that the general duty owed to tenants and patrons, “includes the duty to take reasonable steps to secure common areas against foreseeable criminal acts of third parties that are likely to occur in the absence of such precautionary measures.”²⁰

3. Duty To Provide Security Guards Requires Prior Similar Incidents

After reviewing these background principles, the Court addressed the “narrow question” of the scope of an operator’s duty to provide security guards. After reviewing prior decisions on this issue, and based on its observations that the cost for security guards is “not insignificant” and their effectiveness “not well defined,” the Court concluded that, “a high degree of foreseeability is required in order to find that the scope of a landlord’s duty of care includes the hiring of security guards.”²¹ It further concluded that, “the requisite degree of foreseeability rarely, if ever, can be proven in the absence of prior similar incidents of violent crime on the landowner’s premises.”²² Alternatively stated, the Court affirmed prior holdings that created a duty to hire security guards only when there exists, “prior similar incidents or other indications of a reasonably foreseeable risk of violent criminal assaults in that location.”²³

4. Duty To Take Minimally Burdensome Measures In Light Of Special Relationship

Because no prior, similar incidents occurred at the Trax Bar, the Court concluded that the defendant had no duty to hire security guards to protect plaintiff. The fact that the bar had hired security guards did not alter its conclusion. But the Court held that the bar still owed plaintiff a duty pursuant to the *special relationship doctrine*. For example, the Trax Bar had a duty, “to respond to events unfolding in its presence by undertaking reasonable, relatively simple, and minimally burdensome measures.”²⁴

So, what “relatively simple” steps should the bar owner have taken to satisfy its duty to its patrons or customers? The Court does not say exactly, but it provides at least two suggestions. Because the bar owner’s security was aware that a fight may occur, it should have “attempted to maintain separation” between the feuding parties.²⁵ Or the bar’s inside security could have confirmed that the outside security guard was available to “help maintain the desired separation” between the feuding parties.²⁶

The majority opinion stated its conclusion as follows: “[b]ecause defendant had actual notice of an impending assault involving Joseph and plaintiff, its special-relationship-based duty included an obligation to take reasonable, relatively simple, and minimally burdensome steps to attempt to avert that danger.”²⁷

In summary, the *Delgado* decision has two principal components. First, it affirms prior case law establishing the duty to hire security guards only when there is heightened foreseeability, which usually requires prior (and similar) criminal acts sufficient to put the business owner/landowner on notice of the danger. Second, it creates a *new* duty on owners to take “reasonable, relatively simple, and minimally burdensome steps” in order to prevent imminent danger. What those steps may include, the Court does not detail, and we can look to future cases to resolve such questions.

B. A Business Owner Or Its Employees May Have A Duty To Call 911 To Report A Criminal Assault

1. Facts and Procedural History

In *Morris v. De La Torre*, the companion case to *Delgado*, the plaintiff was stabbed in the parking lot of defendant’s restaurant.²⁸ The trial court granted summary judgment to the defendant restaurant owner, agreeing that the owner, acting through its employees, had no duty to come to the aid of its customer by calling 911 to report an on-going assault. The California Supreme Court reversed, holding that defendant had a duty to take, “appropriate action as is reasonable under the circumstances”, and holding that *a question of fact* existed as to whether defendant breached that duty when his employees failed to make a 911 telephone call to summon aid for plaintiff.²⁹

The defendant operated a 24 hour restaurant located in a small shopping center in San Diego. A parking area was located directly in front of

the restaurant and served the entire shopping center. Under his lease, defendant had nonexclusive use of the entire parking lot.³⁰

At 1:00 a.m., plaintiff arrived at the restaurant with several of his friends. Some of his friends entered the restaurant to order food, but plaintiff remained outside. An individual named Cuevas and another individual arrived by car in the parking lot. They were members of a gang. They approached plaintiff in a hostile manner, and started a fight. During the altercation, Cuevas went into the restaurant and first demanded, and then took, a 12 inch knife. He then went out into the parking lot and stabbed plaintiff at least twice. Cuevas chased off plaintiff's companions and one ran to a nearby fast food restaurant and called 911. Cuevas then drove off, but soon tracked down plaintiff, who had stopped, wounded, on a nearby public sidewalk. Cuevas stabbed plaintiff several more times. The police arrived approximately four minutes after the 911 call.³¹

Defendant's employees saw the assault through the window of the restaurant. They were aware that Cuevas took the knife. They did not call 911, the police or other emergency personnel.

In reviewing the legal issues, the Court cited extensively from the *Delgado* decision concerning an owner's general duty and the special relationship doctrine. The Court then focused its analysis on the question of foreseeability, not whether a prior criminal act created a duty, but how an imminent or on-going act affects the operator's duty to respond. The Court defined the question presented as, "whether those employees (as agents of defendant) owed any duty to plaintiff to take reasonable action for his protection at some point during that ongoing conduct."³²

2. Special Relationship Doctrine As A Basis For Finding A Duty To Act In The Context Of Contemporaneous Criminal Conduct

The Court analyzed this question based on the existence of the special relationship doctrine. It disposed of defendant's argument that no special relationship existed because plaintiff did not purchase food that day. The business owner's duty extends to patrons, customers and their invitees. Moreover, plaintiff was a long-time paying customer of the restaurant, even though he did not enter the restaurant that night. The Court also held that the special relationship duty extends to the parking lot area, especially based on the facts of this case (i.e., the attack occurred in the parking lot in front of the restaurant).

Plaintiff argued that the restaurant employees were required to take, "appropriate action as is reasonable under the circumstances to protect [his] patrons," focusing on the employees' failure to call 911.³³ Defendant disputed the contention that calling 911 was a "minimal safety measure that imposes no undue hardship on a business owner" and argued that in some circumstances such a call may worsen the situation.³⁴

The Court agreed with defendant that neither a business proprietor nor his or her employees have an absolute obligation to call 911 in the face of ongoing criminal conduct. However, the Court concluded that disputed

facts precluded summary judgment regarding whether the defendant's employees had an obligation to telephone 911 or to undertake any other similar measures in order to summon aid for plaintiff.

Exemplifying the sometimes confusing court holdings and the lack of bright line rules in premises liability cases, the *Morris* Court concluded that: (1) a business owner lacked an, "absolute obligation to call 911", but (2) "placing a 911 call is a well recognized and generally minimally burdensome method of seeking assistance."³⁵

So, is there an absolute duty on every land owner or operator to call 911 when observing a criminal act or injury on a third person? No, but given the Court's common-sense conclusion that making a 911 call is a "generally minimally burdensome" way to seek aid, the practical burden will be on the defendant to establish the potential for harm in making such a call.

IV. PREMISES LIABILITY CASE INVOLVING INJURED EMPLOYEE OF INDEPENDENT CONTRACTOR

A. Landowners Are Required To Disclose Latent Or Preexisting Hazardous Conditions To Independent Contractors.

1. Facts And Procedural History

In the third of this trilogy of recent landowner/business owner liability cases, the California Supreme Court in *Kinsman* addressed a more mundane issue relating to landowner liability: "when, if ever, is a landowner that hires an independent contractor liable to an employee of that contractor who is injured as the result of hazardous conditions on the landowner's premises?"³⁶ The Court ultimately concluded that a landowner that hires an independent contractor may be liable to the contractor's employee for concealed hazardous conditions on the property if three conditions are satisfied, as outlined below.

Kinsman worked on many occasions as a carpenter at defendant Unocal's refinery in Wilmington, California during the 1950's. He was employed by Burke & Reynolds, an independent contractor Unocal hired to perform scaffolding work. During this work, he was exposed to airborne asbestos, which was produced by other trades during the application and removal of asbestos containing insulation from pipes and machinery.

Kinsman later developed lung disease that he attributed to the asbestos exposure, and he filed suit against a number of defendants. He sued defendant Unocal under a premises liability theory. *Kinsman* argued that Unocal knew of the potential harm caused by asbestos, which Unocal conceded, and that Unocal should have warned *Kinsman's* employer about these hazards. The jury found in favor of *Kinsman*, and awarded \$3 million against Unocal.³⁷ The court of appeal reversed, holding that the landowner could not be found liable because it did not retain control over the dangerous condition or affirmatively contribute to *Kinsman's* injury.

2. *Privette*: Injured Employee Of Subcontractor Generally Cannot Sue Landowner Because Of The Availability Of Worker's Compensation Insurance

The California Supreme Court's analysis began with its review of *Privette v. Superior Court* and its progeny.³⁸ There, the property owner hired a roofing contractor, whose employee was injured transporting five-gallon buckets of hot tar. The employee sought worker's compensation benefits, but also sued the property owner. The California Supreme Court reversed the denial of the property owner's summary judgment motion, holding that the peculiar risk doctrine did not apply (because the hirer did not have control over the mode of the work) and because worker's compensation insurance was available.³⁹

The Supreme Court concluded that the core holding in *Privette*, and its progeny, derives from the notion of "delegation." Thus, when a hirer delegates a task to an independent contractor, it effectively delegates responsibility for performing that task safely. For obvious policy reasons, the Court noted that the hirer cannot delegate responsibility and escape liability. But given the availability of workers' compensation, "these policy reasons for limiting delegation do not apply to the hirer's ability to delegate to an independent contractor the duty to provide the contractor's employees with a safe working environment."⁴⁰

3. Does *Privette* Shield The Landowner From Liability Or Does *Rowland* Apply?

The Court then cited to the general standards set forth in Civil Code section 1714 as well as the holding in *Rowland v. Christian*, which holds that a landowner generally has a duty to warn of dangerous concealed conditions on its property that might result in injury.⁴¹ It framed the issue as, "how these general principles apply when a landowner hires an independent contractor whose employee is injured by a hazardous condition on the premises." It concluded that, "when there is a known safety hazard on a hirer's premises that can be addressed through reasonable safety precautions on the part of the independent contractor, a corollary of *Privette* and its progeny is that the hirer generally delegates the responsibility to take such precautions to the contractor, and is not liable to the contractor's employee if the contractor fails to do so."⁴²

Of course, that leaves the obvious question, what if the hazardous condition is concealed from the contractor, but known by the hirer? In those instances, the landowner cannot effectively delegate to the contractor the responsibility for the safety of the employees. As the Court stated, "when the landowner knows or should know of a concealed hazard on its premises, then under ordinary premises liability principles, the landowner may be liable for a resultant injury to those employees."⁴³

4. New Three-Prong Test To Determine Duty On The Part Of A Landowner For Concealed Hazardous Conditions

In those situations when the landowner knows (or should know of) a concealed hazardous condition, the Supreme Court articulated the following three-prong rule for when a landowner may be liable for the injury to a contractor's employee, even though it does not retain control over the work:

- (1) the landowner knows or reasonably should know of a concealed, pre-existing hazardous condition on its premises;
- (2) the contractor does not know and could not reasonably ascertain the condition; and
- (3) the landowner fails to warn the contractor about the condition.

The Supreme Court rejected the landowner's claim that *Kinsman* was trying to resurrect the "superior knowledge" theory of liability (liability imposed if the hirer was in a better position than the contractor to anticipate the dangers), articulating a number of reasons why the theory of premises liability it was adopting was different. For example, the Court noted that where the superior knowledge theory applies generally to special risks or precautions necessary to avoid them, the premises liability doctrine applies only to pre-existing hazardous conditions on the landowner's premises. According to the Court, instead of creating a new duty, it was, in fact, limiting a duty traditionally imposed on landowners.⁴⁴

Finally, given the new rule it was articulating, the Court concluded that the jury instructions were erroneous because they did not make clear that a hazard must have been unknown and not reasonably ascertainable to the independent contractor in order for the landowner to be found liable. According to the Court, while the jury concluded that the landowner knew about the hazard of asbestos dust, it made no finding as to whether *Kinsman's* employer, the independent contractor, knew (or should have known). If it did, then, under *Privette* and its progeny, the landowner would be completely relieved of liability.⁴⁵

While the *Kinsman* holding is based on policy concerns regarding undisclosed or latent property conditions and shifting of liabilities, its holding could create a true burden on property owners regarding disclosure requirements. For example, the disclosure requirements in residential home sales have become expansive, sometimes requiring the seller to disclose the obvious and apparent conditions in a transfer disclosure statement ("TDS").⁴⁶ Are property owners, such as Unocal in the present case, required to develop a laundry list of disclosure items and then require the hired contractor to "sign and approve?" While the *Kinsman* holding provides a measure of fairness and equity for obvious non-disclosure cases, it also creates an additional layer of complexity to every day contracting between a landowner and an independent contractor.

V. CONCLUSION

In rendering its three recent landowner and premises liability decisions, the California Supreme Court certainly did not chart a clear path that a property owner must take to satisfy the new duties imposed. While the Court articulated the concept of “minimal steps” that must be taken in the context of a *special relationship*, *Delgado v. Trax Bar & Grill*⁴⁷ and *Morris v. De La Torre*⁴⁸ can best be thought of as *baby steps* towards understanding just what that means. The *Delgado* decision does suggest that a bar owner who employs security should take “minimal steps” to separate potentially feuding customers, and the *Morris* decision suggests that an employee who witnesses an assault should call 911.

Likewise, in the third decision, *Kinsman v. Unocal Corp.*,⁴⁹ the Court articulated a new three-prong test to determine if a landowner could be liable for the personal injury to an independent contractor's employee if the landowner knew (or should have known) of a preexisting hazardous condition that the contractor did not know and that the landowner failed to disclose. While the Court's holding has facial appeal, it establishes additional and potentially onerous disclosure burdens on property owners in their contractual relations with independent contractors.

Despite the uncertainty raised by the three new landowner and premises liability cases, one thing is certain. As the courts continue to expand the potential liability of land owners and premises operators, the need for sufficient and appropriate insurance coverage becomes paramount. The “duties” owed by landowners and business operators appear both non-specific and malleable, and the litigation over those duties are very fact dependant on each specific case. The practical effect of broadening these duties is a commensurate widening of the net of potential recovery by injured third parties, thus spreading the risk through the purchase of insurance.

NOTES

1. Civ. Code, §1714(a) [“Everyone 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, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself.”]
2. *Madhani v. Cooper* (2003) 106 Cal. App. 4th 412, 130 Cal. Rptr. 2d 778, *Miller & Starr Real Estate Newsalert*, September 2003.
3. Referring the tenants to the police may not be sufficient.
4. *Delgado v. Trax Bar & Grill* (2005) 36 Cal. 4th 224.
5. *Morris v. De La Torre* (2005) 36 Cal.4th 260.
6. *Kinsman v. Unocal Corp.* (2005) 37 Cal.4th 659.
7. *Rowland v. Christian* (1968) 69 Cal. 2d 108, 70 Cal.Rptr. 97, 443 P.2d 561.
8. Before that case, it had long been established as the common law rule in California that the status of the person on the premises determined the nature and extent of the duty of care owed to that person (e.g., invitee, licensee and trespasser).
9. *Rowland*, 69 Cal. 2d at 113.

10. *Ann M. v. Pacific Plaza Shopping Center* (1993) 6 Cal.4th 666, 678-679, 25 Cal. Rptr. 2d 137, 863 P.2d.
11. *Sbaron P. v. Arman, Ltd.* (1999) 21 Cal. 4th 1181, 91 Cal. Rptr. 2d 35.
12. *Ann M. v. Pacific Plaza Shopping Center* (1993) 6 Cal. 4th 666, 678-679, 25 Cal. Rptr. 2d 137, 863 P.2d.
13. *Delgado v. Trax Bar & Grill* (2005) 36 Cal. 4th 224.
14. *Delgado* 36 Cal. 4th 224 at 230-232.
15. *Delgado* 36 Cal. 4th 224 at 232-233.
16. *Mata v. Mata* (2003) 105 Cal. App. 4th 1121, 1128.
17. Note: In *Delgado* the California Supreme Court rejected the overbroad language in *Mata*, explaining that “Contrary to the suggestion that” the issue of foreseeability becomes irrelevant “whenever a proprietor has employed a security guard [citation omitted], the foreseeability of the criminal conduct in question remains relevant to the existence and scope of a proprietor’s duty under the special relationship doctrine.” See *Delgado*, 36 Cal. 4th 224 at 249.
18. *Delgado*, 36 Cal. 4th 224 at 235.
19. *Delgado*, 36 Cal. 4th 224 at 235.
20. *Ann M. v. Pacific Plaza Shopping Center* (1993) 6 Cal. 4th 666, 674.
21. *Delgado*, 36 Cal. 4th 224 at 238.
22. *Delgado*, 36 Cal. 4th 224 at 238.
23. *Delgado*, 36 Cal. 4th 224 at 240.
24. *Delgado*, 36 Cal. 4th 224 at 245.
25. *Delgado*, 36 Cal. 4th 224 at 246 [“Such minimally burdensome measures may have included, for example, Nichols attempting to maintain the separation between plaintiff and Joseph’s group that Nichols had determined was called for in order to avoid an imminent assault, by turning his attention to Joseph and his companions in order to dissuade them from following plaintiff (who, at Nichols’s direction, was departing from the bar)”.]
26. *Delgado*, 36 Cal. 4th 224 at 246-247 [“And, in the face of the continuing threat of a five-on-one altercation if Nichols were unable to dissuade Joseph and his companions from following plaintiff outside, defendant also might have confirmed that the outside guard was at his post in the parking lot and was available, as necessary, to help maintain the desired separation between plaintiff and Joseph and his companions.”]
27. *Delgado*, 36 Cal. 4th 224 at 250. Two justices, Kennard and Brown, separately dissented from the majority opinion. Both were of the opinion that the attack on the plaintiff was not foreseeable.
28. *Morris v. De La Torre*, 36 Cal. 4th 260 (2005).
29. *Morris v. De La Torre*, 36 Cal. 4th 260 at 264.
30. *Morris v. De La Torre*, 36 Cal. 4th 260 at 265.
31. *Morris v. De La Torre*, 36 Cal. 4th 260 at 266-267.
32. *Morris v. De La Torre*, 36 Cal. 4th 260 at 271.
33. *Morris v. De La Torre*, 36 Cal. 4th 260 at 274 (quoting *Kentucky Fried Chicken of Cal., Inc. v. Superior Court*, 14 Cal. 4th 814, 59 Cal. Rptr. 2d 756, 927 P.2d 1260 (1997)).
34. *Morris v. De La Torre*, 36 Cal. 4th 260 at 275.
35. *Morris v. De La Torre*, 36 Cal. 4th 260 at 277.
36. *Kinsman v. Unocal Corp.* (2005) 37 Cal. 4th 659, 664.
37. *Kinsman*, 37 Cal. 4th 659 at 666.
38. *Privette v. Superior Court* (1993) 5 Cal. 4th 689, 21 Cal. Rptr. 2d 72.
39. *Kinsman v. Unocal Corp.*, 37 Cal. 4th 659 at 667.
40. *Kinsman v. Unocal Corp.*, 37 Cal. 4th 659 at 671.
41. *Rowland v. Christian* (1968) 69 Cal. 2d 108.
42. *Kinsman v. Unocal Corp.*, 37 Cal. 4th 659 at 673-674.

43. *Kinsman v. Unocal Corp.*, 37 Cal. 4th 659 at 674.
44. *Kinsman v. Unocal Corp.*, 37 Cal. 4th 659 at 683.
45. *Kinsman v. Unocal Corp.*, 37 Cal. 4th 659 at 683.
46. See Civ. Code, §1102 *et. seq.*
47. *Delgado v. Trax Bar & Grill* (2005) 36 Cal. 4th 224.
48. *Morris v. De La Torre* (2005) 36 Cal. 4th 260.
49. *Kinsman v. Unocal Corp.* (2005) 37 Cal. 4th 659.

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