Journal of Consumer Attorneys Associations for Southern California
ADVOCATE
October 2020

Arash Homampour
THE HOMAMPOUR LAW FIRM PC

Jeanette Viau
VIAU & KWASNIEWSKI

Premises accountability

SOME COMMON ISSUES AND DEFENSES ENCOUNTERED IN PREMISES-LIABILITY CASES

"Safety brings first aid to the uninjured."
– F.S. Hughes

No matter what your level of knowledge is in this area of law, one should always review, grasp and use (as a template for discovery and trial) the applicable California civil jury instructions (here, CACI 1000 to 1012 and 3713). Read the "Sources and Authority" for each instruction to get a real-world understanding of the legal and factual issues supporting these concepts. One must be able to explain the "why" behind these legal concepts in order to persuade the judge and/or jury.

We refer to "premises-liability defendants" rather than just landowners because liability can be imposed on anyone who "owned/leased/occupied/controlled" the premises. (CACI 1000.) "'[P]roperty owners are liable for injuries on land they own, possess, or control.' But . . . the phrase 'own, possess, *or* control' is stated in the alternative. A defendant need not own, possess and control property in order to be held liable; control alone is sufficient." (*Alcaraz v. Vece* (1997) 14 Cal.4th 1149, 1162, original italics, internal citations omitted.)

Further, there are two categories of duty imposed. First, is the general duty under which all persons are responsible for injuries caused by their lack of ordinary care in managing their property. (Civ. Code, § 1714(a); *Cabral v. Ralphs Grocery Co.* (2011) 51 Cal.4th 764, 771.) Second, even though there generally is no duty to protect against third-party conduct, a premises-liability defendant may owe such a duty where there is a special relationship (including those between a school and its students, landlords and tenants, parents and their children, and businesses and their invitees.) (See, *Sprecher v. Adamson Cos.* (1981) 30 Cal.3d 358, 368; *Delgado v. Trax Bar & Grill* (2005) 36 Cal.4th 224, 235.)

Thus, "in California, it has long been the law that a person may be liable for injuries resulting from his failure to use ordinary care in the management of his property." (*Swanberg v. O'Mectin* (1984) 157 Cal.App.3d 325, 330.)

A landowner is negligent for failure to use reasonable care to discover any unsafe conditions on the property and to repair, replace or give adequate warnings of anything that could be reasonably expected to harm others. (*Alcarez v. Vece, supra,* 14 Cal.4th at p. 1156 [property owners must maintain land in a "reasonably safe condition"]; *Lucas v. George T. R. Murai Farms, Inc.* (1993) 15 Cal.App.4th 1578, 1590 ["An owner of property is not an insurer of safety, but must use reasonable care to keep the premises in a reasonably safe condition and must give warning of latent or concealed perils."].) Whether the property owner has acted as a reasonable person in the management of the property depends on a number of factors including the likelihood of injury and the probable seriousness of such injury. (*Sprecher,* 30 Cal.3d at pp 371-372.)

An owner or possessor of premises who knows of, or by the exercise of reasonable care could discover, an artificial or natural condition on the premises that the possessor could foresee would expose those on the premises to an unreasonable risk has a duty to exercise ordinary care either to make the condition reasonably safe or to give warning adequate to enable the invitees to avoid the harm. (*Chance v. Lawry's, Inc.* (1962) 58 Cal.2d 368, 373 [artificial condition – planter box]; *Austin v. Riverside Portland Cement Co.* (1955) 44 Cal.2d 225, 233 [duty owed regarding electricity]; *Coyle v. Historic Mission Inn Corp.* (2018) 24 Cal.App.5th 627, 636 [under the circumstances, "it is foreseeable that a restaurant owner's failure to exercise reasonable care in relation to black widow spiders on the restaurant premises will place patrons at risk of injury due to spider bites" – reasonable to impose duty to warn or exterminate – summary judgment reversed]; *Staats v. Vintner's Golf Club, LLC* (2018) 25 Cal.App.5th 826, 838, 840 [golf club operator owed a "duty to protect its patrons from the risk posed by yellow jacket nests."].)

"Landowners [also] have a duty to prevent hazardous natural conditions arising on their property from escaping and causing injury to adjacent property"; the "proper test to be applied to the liability of the possessor of land . . . is whether in the management of his property he has acted as a reasonable man in view of the probability of injury to others." (*Kesner v. Superior Court* (2016) 1 Cal.5th 1132, 1158-1160 [employee's asbestos-contaminated clothing due to exposure at manufacturer employer's facility allegedly caused wife's death; Court reversed the sustaining of demurrer without leave to amend deceased wife's relatives' premises-liability complaint: "[L]iability for harm caused by substances that escape an owner's property is well established in California law." *Kesner, supra,* 1 Cal.5th at p. 1159.].)

Owners engaged in the business of leasing dwellings "are . . . wholly responsible for maintaining the property in a reasonably safe condition and correcting, or warning of, dangerous conditions thereon, including pre-existing conditions they did not create."

See Homampour & Viau, Next Page

Journal of Consumer Attorneys Associations for Southern California
ADVOCATE
October 2020

(*Schreiber v. Lee* (2020) 47 Cal.App.5th 745, 757-758.) "Landlord has affirmative duty to maintain premises in a reasonably safe condition and this duty includes an inspection to discover any dangerous condition that can be reasonably discovered." (*Id.* at p. 758.) Also – "as the owners of a commercial property (dwellings leased to tenants), they not only faced liability for their own negligence, they also faced imputed liability, under the nondelegable duty doctrine, for any wrongdoing on the part of persons and entities assisting them in the care and management of their property. They therefore faced liability for both their own negligent acts and the acts of their property manager." (*Id.* at p. 757.)

If the condition is brought about by natural wear and tear or by third persons, the possessor with actual or constructive knowledge of the condition, or who could have discovered the condition by the exercise of ordinary care, will be liable. (*Bridgman v. Safeway Stores, Inc.* (1960) 53 Cal.2d 443, 447; *Olsen v. Roos-Atkins* (1962) 208 Cal.App.2d 259, 263.) An owner or possessor must make reasonable inspections of those portions of the premises open to invitees, and the absence of inspections within a reasonable period of time prior to an accident may warrant an inference that a person exercising reasonable care would have discovered and corrected the condition. (*Ortega v. Kmart Corp.* (2001) 26 Cal.4th 1200, 1212-1213 [jury question whether lack of inspection is sufficient to support liability]; *Bridgman, supra,* 53 Cal.2d at p. 447.)

As noted earlier, a premises-liability defendant may owe a duty to protect victims against third-party criminal conduct when there is a special relationship between the owner and the victim. It is important to note that there are three separate and distinct duties: 1) a duty to prevent or guard against crime; 2) a duty to warn; and, separately 3) a duty to respond to imminent or actual crime. (*Delgado v. Trax Bar & Grill* (2005) 36 Cal.4th 224, 241, 244.) While foreseeability is a factor as to the duty to prevent, when a crime is actually taking place or is about to begin, foreseeability is no longer the key; rather, the crucial analysis is what duty, if any, defendant has to respond to the unfolding events. (*Id.*, at 245; *Marois v. Royal Investigation & Patrol, Inc.* (1984) 162 Cal.App.3d 193, 202 [foreseeability is "red herring" when security guards see bat-wielding assailant approach customer.].) Also, foreseeability is ordinarily a question of fact for the jury. (*Bigbee v. Pacific Tel. & Tel. Co.* (1983) 34 Cal.3d 49, 56.)

Misapplication of the No Duty Rule

One seminal case everyone should read and really get is *Cabral v. Ralphs Grocery Co.* (2011) 51 Cal.4th 764. *Cabral* is not a premises-liability case, but a general-negligence case. But its holding applies to all negligence cases, including those based on premises liability. Before *Cabral*, defendants were often successful in arguing that they owed no duty in premises-liability cases by focusing on the unique facts of the case (reframing facts as isolated or unprecedented). Defendants would successfully argue (and courts would agree) that whether a particular plaintiff's injury was reasonably foreseeable in light of a particular defendant's conduct was dispositive of the scope of duty. Defendants would also conflate the issues of a defendant's duty and whether there was a breach of that duty by asking courts to decide factual issues under the guise of determining duty.

Imagine a case where a driveway is configured in such a way that motorist may make a dangerous left turn that legally she is not supposed to make. She then collides with and injures another driver on the public street. That injured driver argues that defendant landowner acted unreasonably and breached its duty of care by not posting a right-turn-only sign. Before *Cabral*, defendant would argue that it had no duty to post a sign to prevent someone from turning left or no duty to the driver on the public street. *Cabral* simply confirmed that the general duty of due care imposed by Civil Code section 1714 would apply, unless there was some statutory exception or public policy to limit the scope of that duty. Thus, a landowner's duty of reasonable care could include the duty to make its driveway safe for those using it and those on the adjacent public road. The separate issue as to whether the landowner acted unreasonably and breached that duty by not posting a right-turn-only sign on its premises would be a factual question for the jury.

Cabral clarified the rules concerning duty and the respective roles of courts and juries in negligence cases. *Cabral* was a wrongful-death case arising from a collision between a pickup truck driven by Cabral and a tractor-trailer truck owned by Ralphs. The Ralphs driver had parked his big rig 16 feet off the pavement of Interstate 10 to eat. As Cabral approached, he lost control of his pickup and crashed into the back of the parked Ralphs truck. The jury held that Ralphs was 10% liable for the collision. The Court of Appeal reversed, finding, inter alia, that Ralphs owed Cabral no duty of care and therefore could not be liable.

In a unanimous opinion the Supreme Court reversed and reinstated the verdict. At the outset of its analysis of the issue of duty, the Court observed that: "The general rule in California is that [e]veryone is responsible 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).) In other words, each person has a duty to use ordinary care and is liable for injuries caused by his failure to exercise reasonable care in the circumstances." (*Cabral, supra,* 51 Cal.4th at p. 771, citations, ellipses, and internal quotation marks omitted.)

Hence the factors that courts often weigh to determine whether a duty exists, which were discussed in *Rowland v. Christian* (1968) 69 Cal.2d 108, 112-113 and other cases, are actually used to determine whether there is a valid reason

See Homampour & Viau, Next Page

Journal of Consumer Attorneys Associations for Southern California
ADVOCATE
October 2020

to create an exception to the general duty of due care imposed by Civil Code section 1714. (*Cabral, supra,* 51 Cal.4th at p. 771.) In the absence of some statutory directive to exempt a party from the general rule of Civil Code section 1714, "courts should create one only 'where clearly supported by public policy.'" (*Id.*, at p. 771, citing *Rowland*, 69 Cal.2d at p. 112.)

What does this mean? Always look at defendant's argument that they did not owe plaintiff a duty of care in a particular case and see if it really is an argument for which the Court should create an exception to the general duty of care that Civil Code section 1714 imposes.

Cabral explains that when a court is evaluating defendant's contention that the *Rowland* considerations dictate an exemption from the normal duty of care, an important feature of the analysis is that "the *Rowland* factors are evaluated at a relatively broad level of factual generality." (*Cabral, supra,* 51 Cal.4th at p. 772.) The Court cautioned that, when considering the key issue of foreseeability, a court's task in determining duty "is not to decide whether a *particular* plaintiff's injury was reasonably foreseeable in light of a *particular* defendant's conduct, but rather to evaluate more generally whether the category of negligent conduct at issue is sufficiently likely to result in the kind of harm experienced that liability may appropriately be imposed." (*Ibid.* with citations omitted, original emphasis.)

The Court explained that this was true with respect to all of the other *Rowland* factors, as well. (*Ibid.*) As a result, exceptions to the general duty of due care must be decided on a categorical level – one that carves out a broad category of cases; not one that operates with reference to the specific facts of the case at hand. (*Ibid.*)

Applying this rule to the case before it, the *Cabral* Court emphasized that, on the duty question presented by the case, "the factual details of the accident are not of central importance." (*Id.*, at p. 774.) This meant that the fact that the Ralphs truck was parked 16 feet from the edge of the roadway rather than six feet or 24 feet; or that emergency parking was allowed where the truck was parked; or that Cabral likely veered off the roadway because he fell asleep or suffered an adverse health event as opposed to because he was distracted or even intoxicated – "none of these are critical to whether Horn [the Ralphs driver] owed Cabral a duty of ordinary care." (*Ibid.*)

The reason that the specific facts of the accident do not dictate the "duty" analysis is that a court's decision that public policy requires an exception to the duty of care imposed by Civil Code section 1714 must be made at a broad categorical level "suitable to the formulation of a legal rule." (*Id.* at pp. 773-774 [discussing proper formulation of the duty issue in the case.].)

The problem with basing a ruling on whether the defendant owes the plaintiff a duty on the narrow facts of the case presented is that it risks usurping the jury's proper function of deciding what reasonable prudence dictates under the particular facts presented in the case. (*Id.* at p. 774.) The *Cabral* Court was insistent on preserving what it termed "the crucial distinction" between a court's legal finding that the defendant owed the plaintiff no duty of ordinary care, and the jury's factual determination that the defendant did not breach the duty of ordinary care. (*Id.* at p. 772.)

By requiring that exceptions to the general duty of care imposed by Civil Code section 1714 be framed as a "categorical no-duty rule," *Cabral* assures that a fact-specific issue of whether or not the defendant acted reasonably under the circumstances is, like most factual questions, preserved for the jury to decide. (*Id.* at p. 773.)

Understanding why there is (and sometimes isn't) a duty imposed on premises-liability defendants is critical for you to explain to jurors the rule of law, why it's a rule and why it matters.

Defeating common premises-liability defenses

We will now address and show how to defeat or undermine common defenses we see in premises-liability cases.

Notice is not an issue if defendant created the dangerous or unsafe condition

As to the issue of notice, always consider whether the unsafe condition is something that was already existing, created by the employer (notice would not be an issue) or if it was something caused by a third party (notice would be an issue.) This is critical because when a dangerous condition has been created by the negligence of an owner, possessor or employee acting in the course of employment, knowledge of the condition is imputed to the owner or possessor. (*Hatfield v. Levy Brothers* (1941) 18 Cal.2d 798, 806 ["Where the dangerous or defective condition of the property which causes injury has been created by reason of the negligence of the owner of the property or his employee acting within the scope of employment, the owner of the property cannot be permitted to assert that he had no notice or knowledge of the defective or dangerous condition"]; *McKenney v. Quality Foods, Inc.* (1957) 156 Cal.App.2d 349, 352-353; *Hall v. Aurora Loan Svcs. LLC* (2013) 215 Cal.App.4th 1134, 1140.) Therefore, even though there is no failure to inspect, liability can be predicated on either negligence in creating a dangerous condition or negligence in failing to take precautions to protect an invitee from the dangerous condition. (*Henderson v. McGill* (1963) 222 Cal.App.2d 256, 259.)

Lack of previous accidents is not admissible to show no dangerous condition

Evidence of absence of previous accidents is inadmissible to show that no dangerous condition existed. (*Murphy v. County of Lake* (1951) 106 Cal.App.2d 61, 65.) In *Hawke v. Burns* (1956) 140 Cal. App.2d 158, 169, the court stated that "for certain limited purposes the plaintiff

See Homampour & Viau, Next Page

Journal of Consumer Attorneys Associations for Southern California
ADVOCATE
October 2020

may prove previous accidents but a defendant, at least in the first instance, may not prove absence of previous accidents."

There is no "it has never happened before" or "one free death/accident" defense

For the "one free injury" or "it has never happened before" defense: "When an unreasonable risk of danger exists, the landowner bears a duty to protect against the first occurrence, and cannot withhold precautionary measures until after the danger has come to fruition in an injury-causing accident." (*Robison v. Six Flags Theme Parks Inc.* (1998) 64 Cal.App.4th 1294, 1305.)

"The mere fact that a particular kind of an accident has not happened before does not . . . show that such accident is one which might not reasonably have been anticipated. Thus, the fortuitous absence of prior injury does not justify relieving a defendant from responsibility for the foreseeable consequences of its acts. . . . Because we must assess whether the presence of [yellow jacket] nests on a golf course creates a general risk of foreseeable injury – i.e., the possibility that yellow jackets will swarm and attack a golfer – we find it of marginal importance that the Club claims it was unaware of any previous swarm or sting." (*Staats v. Vintner's Golf Club, supra,* 25 Cal. App.5th at pp. 838-839.) That no other/prior guest or patrons reported or complained about black widow spiders did not negate foreseeability or defendant's duty. (*Coyle v. Historic Mission Inn, supra,* 24 Cal.App.5th at p. 640.)

The absence of prior similar tort claims or accidents is "not dispositive on the issue of dangerousness." (*Lane v. City of Sacramento* (2010) 183 Cal.App.4th 1337, 1345-1347; *Cordova v. City of Los Angeles* (2015) 61 Cal.4th 1099, 1109.)

There is no "I didn't know" defense

"[T]he landowner's lack of knowledge of the dangerous condition is not a defense. He has an *affirmative duty* to exercise ordinary care to keep the premises in a reasonably safe condition, and therefore must *inspect* them or take other proper means to ascertain their condition. And if, by the exercise of reasonable care, he would have discovered the dangerous condition, he is liable." (*Swanberg v. O'Mectin, supra,* 157 Cal.App.3d at p. 330 [involving claim that one defendant negligently maintained shrubs on property such that they obscured another defendant's view of the intersection in which his car collided with the plaintiff's motorcycle]; *Hall v. Aurora Loan Svcs LLC, supra,* 215 Cal.App.4th at p. 1140.)

Injury resulting from a stairway with defective steps, and where the error is compounded with a defective handrail, cannot be considered unforeseeable as a matter of law. (*Bigbee v. Pacific Tel., supra,* 34 Cal.3d at p. 58 ["a jury could reasonably find that defendants should have foreseen the possibility of the very accident which actually occurred here."].)

An "open and obvious" defense only applies to duty to warn and does not limit a duty to fix or correct. The open and obvious defense, at best, *only* applies if you are making a claim that defendant had a duty to warn. If you do not make that claim and focus on duty to repair, then open and obvious is not a defense.

"But the obviousness of a condition does not necessarily excuse the potential duty of a landowner, not simply to warn of the condition but to rectify it. The modern and controlling law on this subject is that 'although the obviousness of a danger may obviate the duty to warn of its existence, if it is foreseeable that the danger may cause injury despite the fact that it is obvious (e.g., when necessity requires persons to encounter it), there may be a duty to remedy the danger, and the breach of that duty may in turn form the basis for liability. . . .'" (*Osborn v. Mission Ready Mix* (1990) 224 Cal.App.3d 104, 122.)

There is no "you should have looked at the ground" defense

Also, remember, it is well-settled law in California that a pedestrian has the right to assume that the public sidewalk is in a reasonably safe condition. (*Garber v. City of Los Angeles* (1964) 226 Cal.App.2d 349, 356, citing *Peters v. City & County of San Francisco* (1953) 41 Cal.2d 419, 424.) The Court in *Garber* also stated that "a pedestrian is not required to keep his eyes fixed on the ground or to be on a constant lookout for danger." (*Garber, supra,* 226 Cal.App.2d at p. 358.) The court went on to note that it would have been negligent for plaintiff "to walk with her head down with eyes directed to her feet." (*Ibid.*)

Defendants often urge that the customer is obligated to keep eyes fixed on the floor – a point also rejected in *Wills v. J. J. Newberry Co.* (1941) 43 Cal.App.2d 595, 601: "Defendant operated a retail store for the purpose of selling goods to customers. In order to promote sales the goods were displayed on counters to attract the attention of the customers. It should be trite to suggest that a customer could not look at the goods on the counters and at the same time keep his eyes on the floor. Since it was the intention of defendant that its customers should see the goods displayed on the counters, and not have to watch the floor, it should have realized that dangerous substances on the floor would create a dangerous condition and should have acted accordingly." (See also, *Louie v. Hagstrom's Food Stores* (1947) 81 Cal.App.2d 601, 610.)

There is no "there is no code covering this defect"; therefore there is no defect defense

The "absence of any statute, rule, or ordinance or general common law requiring a landowner" to remedy a dangerous condition will not absolve the negligent landowner. "The absence of such laws does not preclude a duty of care from arising in the particular circumstances" of the case. (*Barnes v. Black* (1999) 71 Cal.App.4th 1473, 1479.) In *Barnes,* a private sidewalk in front of the owner's apartment buildings adjoined

See Homampour & Viau, Next Page

Journal of Consumer Attorneys Associations for Southern California
ADVOCATE
October 2020

a steep driveway that sloped downward to a busy public street. Plaintiffs' deceased son was riding his tricycle on the sidewalk; he lost control and veered down the driveway, into the public street where he was struck by an automobile. Defendant owner argued that the fatal injuries were sustained on the public street, and not on owner's premises, and that no statute, rule, or law required the owner to fence his property. The Court rejected owner's argument; the *Rowland* factors established the owner's duty, not the absence of a law mandating fencing.

The Court further held that a "landowner's duty of care to avoid exposing others to a risk of injury is not limited to injuries that occur on premises owned or controlled by the landowner. Rather, the duty of care encompasses a duty to avoid exposing persons to risks of injury that occur offsite if the landowner's property is maintained in such a manner as to expose persons to an unreasonable risk of injury offsite." (*Id.* at pp. 1478-1479.)

Neither the fact of a "statute, rule, or ordinance" nor "the physical or spatial boundaries of a property" "define the scope of a landowner's liability." (*Id.* at p. 1478; *Kesner v. Superior Court*, *supra*, 1 Cal.5th at p. 1159.) "The proper test to be applied to the liability of the possessor of land . . . is whether in the management of his property he has acted as a reasonable man in view of the probability of injury to others." (*Kesner* at p. 1158.)

Compliance with building codes is not a complete defense

Compliance with building codes may absolve a defendant from negligence per se but does not establish due care as a matter of law. (*Nevis v. Pacific Gas & Electric Co.* (1954) 43 Cal.2d 626, 630; *Amos v. Alpha Property Mgt.* (1999) 73 Cal.App.4th 895, 901; *Barnes v. Blue Haven Pools* (1969) 1 Cal.App.3d 123, 128, fn. 2 ["One may act in strict conformity with [building codes] and yet not exercise the amount of care which is required under the circumstances."]; *Perrine v. Pacific Gas & Elec. Co.* (1960) 186 Cal.App.2d 442, 448.)

Amos involved a two-and-a-half-year-old child's fall out of a common passageway window on the second floor of his apartment building. "Defendants contend the fact the window in question met all applicable fire, building and safety codes establishes due care as a matter of law. There is no merit to this argument." (*Amos v. Alpha Property Mgt.*, *supra*, 73 Cal.App.4th at p. 901.) The correct rule was stated in *Perrine*: "We are mindful that even though P. G. & E. complied with all applicable governmental safety regulations, this would not serve to absolve it from a charge of negligence, but just negligence per se, for one may act in strict conformity with the terms of such enactments and yet not exercise the amount of care which is required under the circumstances." (*Perrine*, *supra*, 186 Cal.App.2d at p. 448, citations omitted; *Campbell v. General Motors Corp.* (1982) 32 Cal.3d 112, 126-127; *Lawrence v. La Jolla Beach and Tennis Club, Inc.* (2014) 231 Cal.App.4th 11, 31 ["a defendant property owner's compliance with a law or safety regulation, in and of itself, does not establish that the owner has utilized due care."].)

In fact, code conformity may mean nothing more than minimal compliance, which is not consistent with safety, and not dispositive of the duty issue. The danger of such evidence is the risk that the jury will nonetheless see it as such. Therefore, to the extent possible, the information is best kept from being heard by the jury to avoid the risk of confusion on the issue of duty of care.

A final note: Use defendants' internal policies against them

Employer rules are admissible under California law. A government handbook or manual may be admitted into evidence to evaluate the defendant's negligence. (*Lugtu v. Calif. Highway Patrol* (2001) 26 Cal.4th 703, 720-721.) Rules adopted by an employer may be evidence of belief as to the standard of care required, and thus the negligent nature of an act violating those rules. Such rules are admissible in evidence and their violation is a circumstance to be considered in determining negligence. (*Davis v. Johnson* (1954) 128 Cal.App.2d 466, 472; *Powell v. Pac. Elec. Ry. Co.* (1950) 35 Cal.2d 40, 46.) An employer's safety procedures are probative "as evidence that due care requires the course of conduct prescribed in the rule. Such rules implicitly represent an informed judgment as to the feasibility of certain precautions without undue frustration of the goals of the particular enterprise." (*Dillenbeck v. City of Los Angeles* (1968) 69 Cal.2d 472, 478 (police safety manual); *Grudt v. Los Angeles* (1970) 2 Cal.3d 575, 588.) Safety procedures are also admissible "on the ground that an employee's failure to follow a safety rule promulgated by his employer, regardless of its substance, serves as evidence of negligence." (*Dillenbeck*, *supra*, 69 Cal.2d at p. 481.) Company safety rules are admissible as a circumstance to be considered in determining negligence. (*MacColl v. Los Angeles Metropolitan Transit Authority* (1966) 239 Cal.App.2d 302, 308 [rules regarding assisting of handicapped, elderly.].)

Arash Homampour is a trial attorney who represents individuals in catastrophic injury/wrongful death, employment and insurance bad faith matters throughout the state. He was named CAALA's Trial Attorney of the Year in 2010, he was named the Ventura County Trial Lawyer's Association Trial Attorney of the Year in 2017, and in 2018 he was named the Orange County Trial Lawyer's Association product liability Trial Attorney of the Year. He was also the recipient of CAALA's 2018 Ted Horn Memorial Award, presented to a lawyer who has provided outstanding service to the Association and the legal community.

Jeanette Viau exclusively represents consumers and is a graduate of Loyola Law School and University of California, Los Angeles.