

## Board Election and Legal Updates



### Board Election

At the October 28, 2009 board meeting, Secretary John Woolley announced that he would be resigning his seat as a Director of SDRMA effective December 31, 2009. John was elected County Supervisor from 1996 to 2008 and was elected to the SDRMA Board of Directors January 1, 2006. He represented agencies such as the Redwood Coast Energy Authority and North-coast Railroad Authority. John was a governor appointee to the California Coastal Commission from 2000 to 2004 and his career has been in community development since 1970, serving communities throughout Northern California. In order to fill the vacant seat of Secretary Woolley according to board policy, the Board of Directors voted to accept applications of qualified candidates and conduct interviews of the candidates at the December 11 board meeting. The following candidates were interviewed by the Board of Directors: Karl Drexel, Administrator – Tomales Village Community Services District; Ed Gray, Director – Chino Valley Independent Fire District; Craig Hair, District Manager – Trinity County Waterworks District #1; Al Morrissette, Board President – Phelan Pinon Hills Community Services District; Robin Prideaux, Board Secretary – Cuyama Community Services District and Christopher Tooker, Commissioner – Sacramento Local Agency Formation Commission.

At the completion of the interview process, the Board of Directors appointed Craig Hair, District Manager of Trinity County Waterworks District #1 to complete Director Woolley's term of office which ends on December 31, 2011.

The Board of Directors and staff of SDRMA would like to thank Director Woolley for his many years of dedicated service to SDRMA and its members!

#### Officers

David Aranda, President, Stallion Springs Community Services District  
John Yeakley, Vice President, Bear Valley Community Services District  
Bill Miller, Secretary, North of the River Municipal Water District

#### Members of the Board

Jean Bracy, Mojave Desert Air Quality Management District  
Muriel Clift, Cambria Community Services District  
Craig Hair, Trinity County Waterworks District #1  
Jerry Ledbetter, Alameda County Water District

#### Consultants

Lauren Brant, Public Financial Management  
David Ruff, Forward Management, LLC  
Ann Siprelle, Best Best & Krieger, LLP  
David McMurchie, McMurchie Law  
John Alltop, Bickmore Risk Services & Consulting  
Anne Petrides, Towers Watson  
Catherine Gon, California Bank and Trust  
Jim Marta, CPA, Auditor  
Karl Snearer, Apex Insurance Agency  
Doug Wozniak, Alliant Insurance Services, Inc.

#### SDRMA Staff

Greg Hall, ARM, Chief Executive Officer  
C. Paul Frydendal, CPA, Chief Financial Officer  
Dennis Timoney, Chief Risk Officer  
Barbara Tyler, Claims/Loss Prevention Manager  
Nicole Rushing, Senior Business Analyst  
Ellen Doughty, Senior Member Services Representative  
Karen Lafferty, AIC, Senior Claims Examiner  
Shawn Vang, Accounting Technician  
Tiffany Henderson, Claims Assistant  
Alana Batzianis, Administrative Assistant  
Wendy Tucker, Member Services Representative



## Legal Update

With the number of drivers on California roads increasing daily, the issue of whether a vehicle pulled over to the emergency parking lane for any reason can be found negligent for a collision. In a recent case decided by the California Court of Appeals, Fourth District (November 10, 2009), the Court found that a truck driver parked on the emergency shoulder of the roadway not negligent for a collision.

This case deals with the essential elements of a negligence case - duty and causation - in determining the liability of a defendant. Adelelmo Cabral was driving a pick-up truck eastbound on Interstate 10 in Southern California. The evidence showed that he was traveling 70-80 mph and may have fallen asleep at the wheel. Mr. Cabral's vehicle veered off the freeway to the right, and onto a shoulder, where it struck a Ralphs Grocery Store (Ralphs) big-rig driven by Mr. Horn. Mr. Horn had parked in an emergency parking area to eat lunch.

Mr. Cabral was killed in the accident. His wife filed a wrongful death action against Ralphs and

Mr. Horn, alleging that Mr. Horn was negligent in parking in the emergency parking area, 16 feet off the roadway. The case proceeded to trial. The jury returned a verdict for plaintiff, finding Mr. Cabral 90 percent at fault; and Mr. Horn 10 percent at fault. Plaintiff was awarded \$475,298.40 in damages. Ralphs appealed. The Fourth District Court of Appeal reversed.

On appeal, Ralphs contended that as a matter of law, Mr. Horn owed no duty to Mr. Cabral to avoid stopping in the emergency parking area and that Mr. Horn's alleged negligence did not proximately cause the accident. Plaintiff responded that Mr. Horn owed a duty to other motorists and that Horn breached that duty by unsafely parking in the emergency parking area - contrary to company rules, in order to eat lunch. Plaintiff further argued that it was foreseeable that another motorist would veer off the freeway and crash into a vehicle parked on the shoulder.

The Court of Appeal sided with Ralphs. In so doing, the Fourth District acknowledged that, as a general rule, a person is liable for injuries caused by his or her failure to use reasonable care. In determining whether to depart from that

general rule, courts analyze a number of factors, including the foreseeability of the harm. With regard to foreseeability, the Court held that its task was not to decide whether a particular plaintiff's injury was reasonably foreseeable in light of a particular defendant's conduct, but to evaluate generally whether the category of negligent conduct at issue would likely result in the kind of harm that took place.

Under these facts, the Court of Appeal held that a reasonable person would not conclude that Horn's act of stopping on the side of the freeway, 16 feet from the far right lane, in a dirt area, would subject motorists using the freeway to an unreasonable risk of harm. The Court found it significant that there was no evidence of prior similar accidents presented at trial. The fact that it was possible that the accident could happen was not sufficient. As such, the Court held that as a matter of law, Mr. Horn owed no duty in this situation.

Even if Ralphs and Mr. Horn owed Mr. Cabral a duty, the next question for the court of Appeal was whether Horn breached that duty. Again, the Court agreed with the Defendants. In order to find negligence, a plaintiff must present substantial evidence of a causal connection between a defendant's negligent act and plaintiff's injuries. Here, the Fourth District ruled that the evidence presented (primarily through expert testimony), was speculative and largely inadmissible. Further, the Court held that from a public policy standpoint- liability was too attenuated. Vehicles stop along the side of the road everyday for legitimate reasons. Citing decisions from other states, the Court held this was not a direction California should be going. The judgment was therefore reversed.

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