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MAKING SENSE OF CALIFORNIA'S "ACCIDENT" REQUIREMENT IN LIABILITY INSURANCE POLICIES – PART I

By David B. Ezra

This two-part article assesses the accident or "occurrence" requirement that is typically found in liability insurance policies. It offers a suggested approach that synthesizes existing case law and could make determining whether a particular claim or suit involves an accident more consistent and predictable – less of an "I know it when I see it" issue. This first part looks back at how California courts have wrestled with and tried to define the often fairly nebulous accident concept.

Whether a third party's lawsuit against a policyholder involves an "accident" or "occurrence" is often a gateway insurance coverage issue. Under most standard liability insurance policies, if a third party's complaint alleges only purposeful wrongdoing, and no accidentally caused bodily injury or property damage, there's typically no duty to defend. With no applicable liability insurance, the defendant will often lack the financial resources needed to defend or settle the lawsuit.

Most liability insurance policies have basic insuring provisions that limit coverage for bodily injury and property damage (and sometimes even "personal injury") to situations where the injury or damage results from an "occurrence."¹ In turn, "occurrence" is typically defined as "an accident . . ."² Because the accident requirement is part of the basic insuring provision in many liability insurance policies, "the insured has the burden of showing" that the particular claim or suit potentially involves injury resulting from an accident.³

The Problem

We all think we know what an accident is. And we are all initially tempted to ask—what could be easier than deciding whether or not a lawsuit involves an accident, on the one hand, or purposeful and deliberate conduct, on the other? When a driver glances down at her cell phone to see who sent an incoming text message, then looks up to see that traffic ahead has stopped, the resulting rear-end collision is obviously an accident (even though the driver intentionally looked at her phone).

But it is not always that easy to distinguish purposeful conduct from a true accident. For example, if boys are playing baseball at a schoolyard, and one hits a pitch so squarely it travels 440 feet and causes major damage to a parked Ferrari, is the Ferrari owner's lawsuit against the boy based on an accident?

Consider a group of friends who like to amuse themselves with one quietly kneeling down behind another while a third approaches from the front and pushes the "victim," who is almost certain to fall backwards. The first 125 times they pull the stunt, it is good for a few laughs, the "victim" falls, but no one gets hurt. The 126th time, the victim falls awkwardly and breaks his neck. Was there an accident?

While we often immediately recognize many situations as involving an accident, some fact patterns make it very difficult to decide whether or not a third party's lawsuit against a policyholder actually involves an accident. Courts have struggled to develop a workable formulation that will allow consistent application of law to fact, with predictable results. While many courts have tried to formulate a one-size-fits-all accident definition, it seems that none have succeeded.⁴

The Early Cases

As early as 1926, a California appellate court noted that the "word 'accident' probably has been discussed in adjudications as often as any other word in the English language. It is not a technical term, with a clearly defined meaning, and it has been used in more than one sense. In its most commonly accepted meaning it signifies an event which takes place without one's foresight or expectation."⁵ In 1959, in *Geddes & Smith, Inc. v. St. Paul Mercury Indem. Co.*,⁶ the California Supreme Court, citing *Hauenstein v. St. Paul-Mercury*

Indem. Co.,⁷ described an “accident” as “an unexpected, unforeseen, or undesigned happening or consequence from either a known or an unknown cause.” This accident definition arguably could include deliberate conduct that resulted in an unexpected consequence.

In 1963, the appellate department of the Sacramento Superior Court arguably went even further in *Capachi v. Glens Falls Ins. Co.*,⁸ citing an 1891 decision to describe an accident as “any event which takes place without the foresight or expectation of the person acted upon or affected by the event.” This approach would view the accident question through the victim’s eyes. Fortunately, very few of us set out to get hurt. So this approach would usually involve an “accident”—even when the insured purposefully acted to injure an unsuspecting victim.

Several years later, while cautioning that “[n]o allinclusive definition of the word ‘accident’ can be given,” the California Supreme Court reiterated the *Geddes* definition—“an unexpected, unforeseen, or undesigned happening or consequence from either a known or unknown cause”—in *Hogan v. Midland Nat’l Ins. Co.*⁹ Arguably, this accident “definition” could extend to building a fence on the neighbor’s property (believing the land was your own), or even punching someone (if you expected the punch to cause no meaningful damage).

In a 1977 decision, *Mullen v. Glens Falls Ins. Co.*,¹⁰ the court found a potential for coverage. Although both “negligence” and assault and battery were alleged in *Mullen*, deposition testimony described a deliberate, unprovoked assault with a tire iron. While the insurance policy covered bodily injury caused by an occurrence (which the policy then defined as an accident), the court emphasized that it is “now settled that injuries resulting from acts committed by an insured in self-defense are not ‘intended’ or ‘expected’ within the meaning of those terms”

Gray v. Zurich Was Not an Accident Case

The *Mullen* opinion appeared to focus the accident inquiry on whether insureds expected their purposeful conduct to cause injury. It cited the California Supreme Court’s well-known 1966 decision, *Gray v. Zurich Ins. Co.*,¹¹ in a string cite supporting the statement that actions an insured undertakes in self-defense are “accidents” because they are not expected or intended to injure. But the insurance policy Justice Tobriner’s *Gray* opinion addressed did not limit coverage to accidents or occurrences. It more broadly insured “all sums which the insured shall become legally obligated to pay as damages because of bodily injury or property damage.” Although it had no accident requirement, the policy in *Gray* excluded injuries “caused intentionally by the insured.” In black and white terms, *Gray* concluded that the alleged “road rage” case triggered the insurer’s duty to defend because:

despite Jones’ pleading of intentional and wilful conduct, he could have amended his complaint to allege merely negligent conduct. Further, plaintiff might have been able to show that in physically defending himself, even if he exceeded the reasonable bounds of selfdefense, he did not commit wilful and intended injury, but engaged only in nonintentional tortious conduct.

By the mid-1980s, concentrating on the policy language, courts started to turn away from the *Gray* approach *Mullen* and other courts had used to deem purposeful or deliberate conduct an accident. For example, in *Royal Globe Ins. Co. v. Whitaker*,¹² a contract required a builder to complete construction by a particular date. The date came and went, and escrow closed three weeks late. The builder was sued for fraud and breach of contract.

Before deciding whether the suit against the builder alleged an accident or “occurrence,” the court’s 1986 decision distinguished *Gray*, noting:

The present case is readily distinguishable from *Gray* and many of the cases following it, which have broadly interpreted the insurer’s duty to defend. . . . In each of these cases, damages of the type covered by the policy had undisputably occurred, and the insurer relied on an unclear exclusionary clause in asserting it was not obligated to defend its insured. *Here, on the other hand, the question concerns the scope of the basic coverage itself*

The court in *Whitaker* held that there was no accident. Perhaps signaling an important change of direction, the court indicated that “[a]n intentional act is not an ‘accident’ within the plain meaning of the word.” And then, even more significantly, the court held that the “same roadblock . . . halts any argument claiming the [insured] intended his act but not the resulting harm.”

Although it was addressing an accidental death and dismemberment policy, a 1984 appellate opinion explained that “if it is to be held that an activity normally engaged in by an insured becomes an ‘accident’ because the effect thereof, without more, is on a given occasion extraordinary, the term accident has, for insurance coverage purposes at least, no meaning at all.”¹³

Wrongful Termination is No Accident

Suddenly, the accident requirement seemed to have some teeth. If unexpected and undesired consequences cannot turn purposeful conduct into an accident, there would be many more cases where there is no accident, no occurrence, and no duty to defend. This theme continued in two late 1980s cases involving wrongful termination—*Commercial Union Ins. Co. v. Superior Court*,¹⁴ and *Dyer v. Northbrook Prop. & Cas. Ins. Co.*¹⁵

In *Commercial Union*, the trial court overruled the insurer's demurrer. Having been asked to defend a wrongful termination lawsuit, the insurer argued that the termination was not an "occurrence," meaning "an accident, including, continuous or repeated exposure to conditions which results in bodily injury or property damage."

The *Commercial Union* opinion promptly distinguished *Gray*. As the court explained, "[h]ere, unlike the situation in *Gray*, there is no suggestion that the third party plaintiffs may have been overstating their case by alleging intentional rather than negligence-based torts." Then, the appellate court highlighted the trial court's mistake— "[i]t erroneously applied the term 'accident' to the consequences of the act rather than to the happening of the act itself." The *Commercial Union* court concluded that an "intentional termination is not an 'occurrence' under the policy because it is not an accident." Instead, the "definition of 'accident' halts any argument that real party intended his act but not the resulting harm."

Apparently, the court was referring to its own definition, not the policy's "definition" of "accident."¹⁶ Nevertheless, if "accidents" would no longer include circumstances where the insured intended a specific action, but did not expect the consequences that flowed from the action, the "accident" concept was narrowing in a very significant way.

In *Dyer v. Northbrook*,¹⁷ the insurer was also asked to defend a wrongful termination lawsuit. The party seeking coverage argued that the emotional distress the terminated employee allegedly suffered after being fired was an unexpected consequence that could satisfy the policy's accident requirement. According to this logic, "an accident can occur when an intentional act causes unintended or unexpected harm." Using an arguably circular explanation, the court in *Dyer* disagreed. It held that "an intentional termination is not an 'occurrence' under the policy because it is not an accident."

At least implicitly, *Dyer* rejected the idea that a purposeful act becomes an accident merely because it results in unanticipated consequences. And the *Dyer* court expressly rejected the argument that *Commercial Union* and other cases had "erroneously diverge[d] from *Gray* by drawing an 'artificial distinction' between unexpected or unintended acts and unexpected or unintended damages or injuries of such acts, and by treating an exclusionary clause differently from basic coverage provisions."

Both *Dyer* and *Commercial Union* drew support from an abbreviated 1984 opinion, *St. Paul Fire & Marine Ins. Co. v. Superior Court*.¹⁸ In *St. Paul*, the Third Appellate District held that an insurance policy covering injury "resulting from an accidental event" did not cover claims based on alleged wrongful employment termination. As the court explained, the "termination of Fuhs' employment was not an unintentional, unexpected, chance occurrence, and thus there is no potential liability under the insurance policy"

As with other opinions that meaningfully narrowed the accident concept, *St. Paul* carefully distinguished *Gray* and "many of the cases following it" by emphasizing that:

In each of these cases, damage of the type covered by the policy had undisputably occurred, and the insurer relied on an unclear exclusionary clause in asserting it was not obligated to defend its insured. Here, on the other hand, the question concerns the scope of the basic coverage itself: does Fuhs' action potentially seek to recover for claims "resulting from an accidental event" covered by the insurance policy?

Focus on the Act; Not Its Consequences

By the late 1980s an unmistakable trend had emerged. Courts were concentrating on the predicate act when assessing the accident requirement, far more than the consequences the insured expected (or did not expect) the act to generate. The trend continued in *Merced Mutual Ins. Co. v. Mendez*,¹⁹ a case that involved alleged workplace sexual assaults that the complaint described as intentional and negligent assault and battery. In their depositions, the policyholder described a consensual sexual encounter, while the plaintiff described "a brutal physical attack culminating in forced oral copulation."

The court's analysis distinguished *Gray* and other cases that had analyzed the accident issue as part of the policy's exclusionary language. *Mendez* emphasized that "the threshold question in the present case is not whether an exclusion applies, but rather the scope of coverage itself: whether the conduct in question constitutes an accident within the meaning of the policy provision." Addressing the sexual assault allegations, the *Mendez* opinion stated its central holding in forceful terms, concluding that deliberate conduct is not an accident, "whatever its motivation."²⁰

The following year, in 1990, one court appeared to take a step away from the *Mendez* analysis. In *State Farm Fire & Cas. Co v. Eddy*,²¹ the court was confronted with a suit against a man who allegedly transmitted herpes after testing negative for herpes. According to the court, an accident existed because the herpes virus was transmitted independently:

the record could support an ultimate finding that there was an unexpected, independent, and unforeseen happening that produced the injury, namely, Eddy's infection with the disease. In the past, he had sought medical care and was told that he had tested negative for herpes. In such a case, although he performed an intentional act in having intercourse with Greenstreet, the causal factor for the injury, his infection with the herpes virus and its transmission to Greenstreet, was unexpected, unforeseen, and independent of the intentional conduct.

In *Mendez*, the policyholder was allegedly wrong about whether he was having consensual sex. In *Eddy*, the policyholder was allegedly wrong about whether he had the herpes virus when he had sex. Was *Eddy* correct in deciding that the herpes transmission was in some meaningful way "independent of the intentional [sexual] conduct?" Or was *Eddy* allowing the policyholder's state of mind to turn deliberate sexual encounter into an accident?

In *Shell Oil Co. v. Winterthur Swiss Ins. Co.*,²² the court first tried to define "accident" in a case involving environmental pollution liability by explaining what is *not* an accident. A purposeful action that causes unintended damage is not an accident. According to the court, "an 'accident' cannot mean unintended damage because the causal event also would be the result. Logically, a consequence cannot cause itself." The court went on to say that an "injury caused by expected or intended actions is not covered" as an accident. The *Shell Oil* court's 1993 opinion added a further twist too, noting that an accident is "something out of the usual course of events, which happens suddenly and unexpectedly and without the design of the person injured." But the court cautioned that "we hold only that where damage is the direct and immediate result of an intended or expected event, there is no accident."

The following year, in *Collin v. American Empire Ins. Co.*,²³ the court decided that conversion of personal property was not an accident because "the term 'accident' refers to the insured's intent to commit the act giving rise to liability, as opposed to his or her intent to cause the consequences of that act . . ." As a result, "courts have recognized—virtually without exception—that deliberate conduct is not an 'accident' or 'occurrence' irrespective of the insured's state of mind."

Business Transactions and Property Sales

Meanwhile, a line of cases involving business and sales transactions was developing. In *Chatton v. National Union Fire Ins. Co.*,²⁴ Technical Equities had provided investment services and financial advice to its clients. The clients sued corporate officers and directors for fraud and negligent misrepresentation. The clients prevailed at trial, recovering financial losses and emotional distress based on negligent misrepresentation. In the ensuing coverage litigation the appellate court ruled that there was no accident or occurrence, and therefore, no duty to defend. Following *Safeco Ins. Co. of America v. Andrews*²⁵ logic, the *Chatton* court held that "negligent misrepresentations causing investment loss or loss of other economic interest are considered purposeful rather than accidental for the purpose of insurance coverage."

The following year, *Dykstra v. Foremost Ins. Co.*,²⁶ reiterated *Chatton*'s holding. In *Dykstra*, the insured was sued for allegedly making misrepresentations that induced the plaintiff to enter into a failed business partnership that invested in a mobile home franchise. Finding no potential for liability based on an accident, the *Dykstra* court held that "to recover on theories of fraud or negligent misrepresentation, Feurzeig would have had to establish statements were made for the purpose of inducing Feurzeig's reliance and were therefore not accidental."

Courts have continued to apply this same logic to other sales transactions, including the misrepresentation/failure to disclose lawsuits that so often follow residential housing sales. *Miller v. Western General Agency, Inc.*,²⁷ probably offers the best example. The Millers were sued after they sold their home. The buyers alleged that the home's plumbing was in terrible shape; the Millers misrepresented and concealed facts relating to the plumbing's actual condition; and the bad plumbing caused the buyers to suffer property damage and loss of use of the property they had purchased.

The court in *Miller* found that there was no accident, and no duty to defend, holding that:

The Millers misconceive the nature of their rights under the policy when they claim that the plumbing defects found to exist in their former home were a 'covered risk' under the policy. In doing so, they are confused about the claim which has been asserted against them. The Millers are being sued not because their home had defective plumbing, but because they allegedly fraudulently misrepresented and concealed such fact from the [purchasers].

Then the court emphasized that whether "the Millers' misrepresentations were intentional or simply negligent," they did not involve an accident.

“Negligence” May—or May Not—Involve an Accident

In 1989 Darlene Bradford sued James Quan for assault and battery, negligence, and infliction of emotional distress (both negligent and intentional). When the complaint was finally served in 1992, Quan’s insurer initially agreed to defend under a reservation of rights, but it subsequently withdrew the defense. The claimant won the case at trial but the result was set aside on appeal. Meanwhile, Quan’s insurer, Truck Insurance Exchange, successfully demurred to Quan’s breach of contract and bad faith suit.

In affirming and finding that there was no occurrence or accident involved, the appellate court described Bradford’s allegations against Quan:

Defendant James Quan forcibly and without Plaintiff’s consent kissed and had sexual intercourse with Plaintiff. Defendant, James Quan’s conduct was intentional and malicious, and done with the purpose of causing Plaintiff to suffer humiliation, mental anguish, and emotional and physical distress.²⁸

The court went on to describe some of Bradford’s other allegations:

Defendant negligently embarrassed [sic], kissed and had sexual intercourse with Plaintiff without her consent so as to cause her to lose her virginity, suffer physical pain and emotional distress Said defendant, by kissing her and forcibly having sexual intercourse with her without her consent breached his duty of care owed to Plaintiff.

In addition to the complaint’s allegations, the insurer also knew that before trial, an arbitrator had heard evidence and found that Quan’s actions “up and until the time of the occurrence of the sexual acts are . . . negligent. These “negligent” acts included “furnishing of alcoholic beverages to a minor, and any unintended but negligent touching of the plaintiff, including kissing, fondling, and undressing of the plaintiff” The arbitrator found those acts “to have been negligent, as it appears that such conduct was consented to.”

The appellate court first emphasized that characterizing deliberate conduct as “negligent” would not make it accidental. According to the court, “[i]t is common to hear the argument that if the underlying complaint alleges negligence, there must be a duty to defend. This is not necessarily true.” The *Quan* court then rejected the insured’s argument that a possible finding of “negligence” was itself enough to satisfy the accident requirement, holding that “negligent or not,” the “insured’s conduct alleged to have given rise to claimant’s injuries is necessarily nonaccidental, not because any harm was intended, but simply because the conduct could not be engaged in by accident.”

Citing to *American International Bank v. Fidelity & Deposit Co.*,²⁹ *Quan* reiterated that “‘negligent’ and ‘accidental’ are not synonymous.” Then, after analyzing *Mendez*, the court explained its “no accident” holding:

The insured may have “negligently” embraced and kissed claimant in the sense that he violated some duty of care in doing so, but there is no allegation that his allegedly negligent but nevertheless intentional conduct led to some “additional, unexpected, independent, and unforeseen happening” constituting an accident.

Quan then held that the “insureds’ ‘negligence’ versus ‘intentional tort’ distinction misses the point.” *Quan* held that the significant “question is whether an accident gave rise to claimant’s injuries.” Because the acts giving “rise to the underlying claimant’s injuries were deliberate, regardless of whether any harm was intended or expected to come of them.” There was no “additional, unexpected, independent and unforeseen happening” that caused the alleged injuries.

Finally, the court addressed *Quan*’s argument that he may have been entirely innocent and committed no offense at all; a possibility *Quan* deemed sufficient to establish the insurer’s duty to defend. In rejecting the argument, the court explained that the “claim misconstrues the ‘groundless or false’ clause common to liability policies.” Instead, the clause’s point “is that an insurer may not rid itself of the burden of defending an action that seeks damages potentially falling within the scope of the policy’s coverage merely by arguing that the suit has no merit. The ‘groundless or false’ clause does not change the fundamental principle that there is no defense obligation absent potential liability *under the policy*.”

In 1999, the year after *Quan* was decided, an interesting accident analysis was presented in *Ray v. Valley Forge Ins. Co.*³⁰ Richard Ray was a former roofing contractor who provided roof inspection and consulting services. Ray recommended that a homeowners association use a specific material on its roofs. But the “materials Ray specified and approved were not suitable because they caused upstairs units to become unbearably hot at times.”

The court rejected Ray’s argument that because the excessive heat condition that led to the lawsuit was unexpected, there was an accident. According to the court, there was no accident because the Homeowners Association alleged that “Ray deliberately intended

to induce reliance on his recommendations.” Ray’s choice of inappropriate materials may have been negligent, but it was no accident. Finally, the court refused to apply decisions from the 1970s because those decisions involved different policy language—policies that did not define “occurrence” as an “accident.”

*Modern Development Co. v. Navigators Ins. Co.*³¹ is a 2003 decision where the court analyzed the accident requirement in the context of a lawsuit under the Americans with Disabilities Act of 1990 (“ADA”). Modern Development did construction at the swap meet it operated. Juan Moreno sued, alleging that the construction of Modern Development’s restroom facilities violated the ADA because they were configured in a way that made them inaccessible when Mr. Moreno was in his wheelchair. According to Mr. Moreno, his inability to access the restroom facilities caused him to become “humiliated, embarrassed, and frustrated,” so that he suffered “serious emotional and physical injuries.”

Modern Development sued Navigators Insurance Company for improperly refusing to defend. The court ultimately found that “Moreno’s allegations did not constitute an accidental, unforeseen ‘occurrence’ sufficient to trigger Navigators’ duty to defend.” The court held that building the swap meet’s restroom facilities and the resulting lack of access “are not covered events [because] they do not constitute ‘accidents’ or ‘occurrences.’” The court said “Moreno’s alleged injuries were caused by the architectural configuration of the swap meet and Modern Development’s alleged failure to remove architectural barriers, not by an accident.”

* * *

This second part of this article, which will appear in next month’s *Insurance Coverage Law Report*, suggests a means of making sense of the existing case law while simultaneously making the determination of whether a particular claim or suit involves an accident more consistent and predictable.

Endnotes

1. An example of this “standard” policy language is found in *Lyons v. Fire Ins. Exch.*, 161 Cal. App. 4th 880, 886 (2008). According to the court, the policy covered “bodily injury, property damage or personal injury resulting from an occurrence to which this coverage applies.” The policy specifically defined “occurrence” as “an accident including exposure to conditions which results during the policy period in bodily injury or property damage.”
2. *Delgado v. Interinsurance Exchange of Automobile Club of Southern California*, 47 Cal. 4th 302, 308 (2009).
3. *Waller v. Truck Ins. Exchange, Inc.*, 11 Cal. 4th 1, 16 (1995).
4. See, e.g., James M. Fischer, *Accidental or Willful?: The California Insurance Law Conundrum*, 54 Santa Clara L. Rev. 69, 72 (2014) (“We should not be surprised at some level of inconsistency in the case law. Decision making is a human enterprise and judges will necessarily disagree over the application of rules and principles to specific situations at the margin. Inconsistency, however, becomes a concern when it relates to core doctrinal concepts. That is the case here. It is fundamental to insurance that coverage is extended to accidental or fortuitous losses. Imprecision as to the legal definition of an accident creates substantial uncertainty over the availability of “bodily injury” and “property damage” coverage . . . because the concept of “accident” is integral to coverage. This is a particularly acute problem in California . . .”).
5. *Hyer v. Inter-Insurance Exchange of Auto. Club*, 77 Cal. App. 343, 348 (1926).
6. 51 Cal. 2d 558, 564 (1959).
7. 65 N. W. 2d 122 (Minn. 1954).
8. 215 Cal. App. 2d Supp. 843, 846 (1963) (original emphasis).
9. 3 Cal. 3d 553 (1970).
10. 73 Cal. App. 3d 163 (1977).
11. 65 Cal. 2d 263 (1966).
12. 181 Cal. App. 3d 532 (1986).
13. *Williams v. Hartford Acc. & Indem. Co.*, 158 Cal. App.3d 229, 234 (1984).
14. 196 Cal. App. 3d 1205 (1987).
15. 210 Cal. App. 3d 1540 (1989).
16. The policy defined “occurrence” as “an accident, including, continuous or repeated exposure to conditions, which results in bodily injury or property damage. This injury or damage must be neither expected nor intended by you”
17. 210 Cal. App. 3d 1540 (1989).
18. 161 Cal. App. 3d 1199 (1984).
19. 213 Cal. App. 3d 41 (1989).
20. As the court explained: In the present case, Mendez admits intentionally engaging in sexual activity with Ms. Peery. This sexual activity, which Ms. Peery alleges occurred against her will, forms the basis of her action against Mendez. All of the acts, the manner in which they were done, and the objective accomplished occurred exactly as appellant intended. No additional, unexpected, independent or unforeseen act occurred. “Whatever the motivation,” because Mendez’s conduct was “calculated and deliberate” (*Hogan, supra*, 3 Cal.3d at p. 560), it was not an “accident” and thus not an “occurrence” within the meaning of the policy provision. Because the conduct was not an “occurrence” the insurer has no duty to defend an action arising out of this conduct.
21. 218 Cal. App. 3d 958 (1990).
22. 12 Cal. App. 4th 715 (1993).
23. 21 Cal. App. 4th 787 (1994).
24. 10 Cal. App. 4th 846 (1992).
25. 915 F. 2d 500 (9th Cir. 1990).
26. 14 Cal. App. 4th 361 (1993).
27. 41 Cal. App. 4th 1144 (1996).

28. *Quan v. Truck Ins. Exch.*, 67 Cal. App. 4th 583, 593 (1998).
29. 49 Cal. App. 4th 1558, 1572-73 (1996).
30. 77 Cal. App. 4th 1039 (1999).
31. 111 Cal. App. 4th 932 (2003).

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