

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

North Valley District, Chatsworth Courthouse, Department F49

20STCV43946

September 29, 2023

FRANK BLACKWELL, et al. vs WILLIAM S. HART UNION

8:30 AM

HIGH SCHOOL DISTRICT, A PUBLIC ENTITY

Judge: Honorable Stephen P. Pfahler
Judicial Assistant: Katy O'Brien
Courtroom Assistant: Christy Andrade

CSR: Eileen K. O'Toole, CSR #13008
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Julie Fieber by Andrew Britton; Nicholas William Hane

For Defendant(s): Dominic A Quiller (Telephonic)

NATURE OF PROCEEDINGS: Hearing on Motion for Summary Judgment

Pursuant to Government Code sections 68086, 70044, and California Rules of Court, rule 2.956, Eileen K. O'Toole, CSR #13008, certified shorthand reporter is appointed as an official Court reporter pro tempore in these proceedings, and is ordered to comply with the terms of the Court Reporter Agreement. The Order is signed and filed this date.

The matter is called for hearing.

The Court reads and considers all moving papers in support of the Motion for Summary Judgment.

Oral argument is heard.

The matter is taken under submission.

Later, the Court issues its final ruling as follows:

RULING: Denied, in part, and Granted, in part, as set forth below.

Request for Judicial Notice: Granted.

· The court takes judicial notice of complaint in the instant action as well as the consolidated action for the existence of the actions, but not for the truth of the matter asserted in either pleading.

Objection to “Joint Plaintiffs Response to Evidentiary Objections...”: Sustained as to Filed Document/Denied as to Sanctions Hearing

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· Nothing in the continuance of the motion in any way invited or allowed additional filings. The court therefore declines to consider any and all content within the August 31, 2023, filed pleading.

· The court declines to sua sponte set a sanctions hearing pursuant to Code of Civil Procedure sections 128.5 and 128.7. District may seek sanctions in a separately filed motion, if deemed valid and necessary.

Evidentiary Objections

· Numbers 1-3, 7-9, 54-60, 170: OVERRULED/Not Relied Upon (Code Civ. Proc., § 437c, subd. (q)).

· Numbers 4-6: SUSTAINED

· Numbers 10-23 (Block Dec.), 24-53 (murder book and excerpts, see *Rupf v. Yan* (2000) 85 Cal.App.4th 411, 430 (footnote 6)), 61-62, 63-168 (Declaration of Mike Dorn), 169: OVERRULED (including not relied upon where expert declaration of Dorn relied upon inadmissible evidence (see Code Civ. Proc., § 437c, subd. (q)).

Defendant William S. Hart Union High School District (District) moves for summary judgment and alternatively summary adjudication on grounds that School District owed no duty of care, no breach of any duty of care occurred even assuming a duty existed, a denial of any causation, and lack of any dangerous condition of public property. Plaintiff in opposition contend the failure of District to maintain a campus safety/security program, as well as insufficient monitoring of potentially violent students renders School District liable. District in reply reiterates the lack of responsibility for the “random” act of violence by the student. District challenges the relied upon in the evidence with 168 individual objections.

The pleadings frame the issues for motions, “since it is those allegations to which the motion must respond. (Citation.)” (*Scolinos v. Kolts* (1995) 37 Cal. App. 4th 635, 640-641; *FPI Development, Inc. v. Nakashima* (1991) 231 Cal.App.3d 367, 382-383; *Jordan-Lyon Prods., LTD. v. Cineplex Odeon Corp.* (1994) 29 Cal.App.4th 1459, 1472.) The purpose of a motion for summary judgment or summary adjudication “is to provide courts with a mechanism to cut through the parties’ pleadings in order to determine whether, despite their allegations, trial is in fact necessary to resolve their dispute.” (*Aguilar v. Atl. Richfield Co.* (2001) 25 Cal.4th 826,

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843.) “Code of Civil Procedure section 437c, subdivision (c), requires the trial judge to grant summary judgment if all the evidence submitted, and ‘all inferences reasonably deducible from the evidence’ and uncontradicted by other inferences or evidence, show that there is no triable issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” (Adler v. Manor Healthcare Corp. (1992) 7 Cal.App.4th 1110, 1119.)

“On a motion for summary judgment, the initial burden is always on the moving party to make a prima facie showing that there are no triable issues of material fact.” (Scalf v. D.B. Log Homes, Inc. (2005) 128 Cal.App.4th 1510, 1519.) A defendant moving for summary judgment “has met his or her burden of showing that a cause of action has no merit if the party has shown that one or more elements of the cause of action . . . cannot be established.” (Code Civ. Proc., § 437c, subd. (p)(2).) “Once the defendant . . . has met that burden, the burden shifts to the plaintiff . . . to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto.” (Ibid.)

“When deciding whether to grant summary judgment, the court must consider all of the evidence set forth in the papers (except evidence to which the court has sustained an objection), as well as all reasonable inference that may be drawn from that evidence, in the light most favorable to the party opposing summary judgment.” (Avivi v. Centro Medico Urgente Medical Center (2008) 159 Cal.App.4th 463, 467; see also Code Civ. Proc., § 437c, subd. (c).) “An issue of fact can only be created by a conflict in the evidence. It is not created by speculation, conjecture, imagination or guesswork.” (Lyons v. Security Pacific National Bank (1995) 40 Cal.App.4th 1001, 1041 (citation omitted).)

A party may move for summary adjudication on the issue of duty. (Code Civ. Proc., § 437c, subd. (f)(1).) Nothing in the statute allows for summary adjudication on the separately considered issue of “breach” or causation issues cited in the notice. District presents no legally or factually supported argument regarding how a motion for summary adjudication as to the “breach” or “causation” elements constitutes a separate cause of action or total defense to any and all causes of action in the challenged pleading within the meaning of the statute. (Linden Partners v. Wilshire Linden Associates (1998) 62 Cal.App.4th 508, 519-520.) The court therefore restricts the motion for summary adjudication as to the first noticed issue—the issues of a duty, and the dangerous premises cause of action as well. The motion for summary judgment will consider the breach and causation discussion as part of the overall discussion in ruling on the motion for summary judgment.

District contends it owed no duty to protect against an incident it characterizes as unforeseeable.

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District raises this challenge no applicable duty to the first, third and fourth causes of action in the Muehlberger complaint, and the first and third causes of action in the Blackwell complaint.

District cites to the latest case on school campus violence whereby the court found no duty imposed on a school district for a mass shooting, where the violent act was determined unforeseeable. (C.I. v. San Bernardino City Unified School District (2022) 82 Cal.App.5th 974 (“C.I.”).) C.I. involves the estranged spouse of a campus instructor entering the campus in order to shoot his spouse, then turning the gun on himself. A student was also shot and killed during the incident. (Id. at pp. 978-979.) The trial court granted summary adjudication on the negligence cause of action in favor of the San Bernadino School District on grounds of lack a factually foreseeable threat of a campus shooting. The trial court also granted summary adjudication on the dangerous condition of public property based on a finding that the lack of barriers (locking doors) in no way created a dangerous condition on the school campus. (Id. at pp. 981-982.) The court reviewing the order granting summary adjudication de novo affirmed the trial court.

C.I. remains consistent with California authority regarding a required statutory basis of liability, and the special relationship between a school district and its pupils to protect against foreseeable injury remains undisputed in the instant action. (Id. at p. 984.) While C.I. involved a third party, the duty of care applies amongst faculty, staff and fellow students as well. (Hoff v. Vacaville Unified School Dist. (1998) 19 Cal.4th 925, 934; C.A. v. William S. Hart Union High School Dist. (2012) 53 Cal.4th 861, 869-870.) In considering the foreseeability of third party shooting as a basis for establishing duty to protect against the subject homicidal conduct, the court framed the issue as one of actual knowledge of any indication of potential violence by the attacker in context of no found prior factors or circumstances indicating a concern of weapon violence. (C.I., supra, 82 Cal.App.5th at p. 985.) Given any and all violent incidents are perfectly foreseeable in retrospect, the court specifically considered the known circumstances at the time of the incident. “It is undeniable that shootings and other forms of violence can and do happen in the workplace [and on school grounds]. But for foreseeability in the context of a duty to protect, “[m]ore than a mere possibility of occurrence is required since, with hindsight, everything is foreseeable.” (Citation.) This case presented nothing more than a “mere possibility of occurrence.”” (Ibid.)

The C.I. court noted that the estranged relationship of the spouses was undisclosed to any relevant school personnel, there was no history of violent conduct between the married couple, and the instructor owed no duty to disclose relationship difficulties to school officials. School policy allowed for third party spouses to visit the campus. (Id. at pp. 985-986.) The court ultimately found the circumstances of the murders were not foreseeable under foreseeability

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analysis factors. (Id. at pp. 986-987.) The court also found public policy factors disfavored a finding of liability in that school districts should not become insurers of absolute safety for any and all intentional harm. (Id. at pp. 987-988.)

District relies on the reasoning of C.I. that the actions of the fellow student were unforeseeable preceding and up to the time of the incident. The student was chronically absent, but otherwise District denies any “red flag” warnings of potentially violent behavior. The student was in fact marked absent from first period class before appearing on campus later that morning with the gun.

Plaintiffs in opposition maintain District failed in its duty to protect students from a foreseeable risk of violence. The argument begins with the undisputed duty to provide for the safety of students, but with an added presumption of gun/weapon violence as a new part of any safety determination plan for campus safety. (See Regents of University of California v. Superior Court (2018) 4 Cal.5th 607, 629-630.) Consistent with C.I., the determination of foreseeability depends on information available to the campus authorities responsible for safety. (Id. at pp. 631-632; Achay v. Huntington Beach Union High School Dist. (2022) 80 Cal.App.5th 528, 536; M. W. v. Panama Buena Vista Union School Dist. (2003) 110 Cal.App.4th 508, 518.)

In more than fifty years of consideration regarding school safety standards for protection against intentional violence—a consistent public policy debate thread remains on how school districts should recognize potential warning signs for the acts of a disenfranchised student. “High school students may appear to be generally less hyperactive and more capable of self-control than grammar school children. Consequently, less rigorous and intrusive methods of supervision may be required. Nevertheless, adolescent high school students are not adults and should not be expected to exhibit that degree of discretion, judgment, and concern for the safety of themselves and others which we associate with full maturity. ... Recognizing that a principal task of supervisors is to anticipate and curb rash student behavior, our courts have often held that a failure to prevent injuries caused by the intentional or reckless conduct of the victim or a fellow student may constitute negligence.” (Dailey v. Los Angeles Unified Sch. Dist. (1970) 2 Cal.3d 741, 748–749.)

Plaintiffs maintain a series of factors negligently contributed toward the student bringing the firearm to the campus and engaging in the murder, suicide. In determination of school safety standards Plaintiffs begin with consideration of a factually disputed contention regarding unsecured entrances into the campus. Contrary to reports of a completely fenced in campus,

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Plaintiffs maintain unsupervised entrances existed, and campus supervisors engaged in filling school vending machines instead of monitoring campus security. Plaintiffs then add in that the assigned Sheriff's deputy was not in any proximity to the campus at the time of the shooting. Preceding all of this—the lack of any valid active shooter protocol or student “safety net” (emotional mental health support) for potentially suicidal students, especially given notice of domestic trouble from government agencies and noticeable changes in behavior. The combined circumstances are presented as a way of building a narrative seeking to establish the foreseeability of the murder, suicide by this particular student, when combined with the “red flags” in the student’s file [Declaration of Nicholas Hane, Ex. 25: Declaration of Mike Dorn], and lack of sufficient armed law enforcement at the campus [Hanes Dec., Ex. 24: Declaration of Greg Block].

District in reply relies on exclusion of evidence and (as noted above), and factual disagreement of certain parts of the narrative presented in opposition, as the basis for concluding no basis of duty existed with any remaining admissible evidence. District reiterates the C.I. case, and seeks to distinguish certain case law relied upon in opposition as well. District also challenges the ability of faculty or a present law enforcement officer to actually respond and prevent the violence given the entire incident occurred over a nine (9) second period of time.

The court declines to address the reasonableness of the response within the nine-second time frame itself in that such argument more specifically appears as part of consideration on breach and causation section. As addressed further below, the court considers the presence of the police officer as a function of determining the duty to project a deterrent force rather than retroactively considering the potential effectiveness of the officer’s ability to timely intervene (even assuming the deputy sheriff was even in proximity of the subject area and the shooter elected to proceed).

In considering the undisputed requirement for campus safety, the court finds a broad range of such possibilities for the term campus safety, including vehicle and pedestrian traffic, facilities and structural damage, bullying, sex crimes, illegal substances, etc. Given specific case law regarding consideration of weaponized deadly violence on campuses, the court maintains the focus as to the circumstances of the subject tragedy within the important public policy balance considering the realities of insuring absolute security against any and all potential violent acts.

The court begins with Plaintiffs’ foundational basis for determining the scope of duty: existing school safety protocol for gun violence (student or third party), the circumstances allowing the student to appear to the campus with the gun in his backpack, and the alleged “red flags” presenting a basis of notice of a potential violent incident. The court first and foremost rejects the

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August 12, 2020, dated “Recommendations to the District: Enhancing Plans and Procedures for the Prevention of Targeted Campus Violence.” [Hanes Dec., Ex. 31.] While the “summary” section specifically indicates the report was drafted for the purpose of deterring gun violence on campus by addressing prevention prior to any potential incident, and clearly cites to factors referenced in the subject action, the date of the report is almost one year after the shooting. The court declines to engage in some form of retrospective imposition of a standard not specifically assessed by an outside consultant potentially after the relevant time frame (in addition to the valid remedial measure objection). As addressed further below, while there is indication that the consultant was involved with school safety consulting [See Deposition of Kathy Hunter], nothing in the opposition in any way establishes that the conclusions were reached or presented prior the incident. The court otherwise lacks any information on the nature and scope of the work prior to November 14, 2019.

The court instead begins with disputed evidence regarding existing programs and security protocols in place, and the lack of collective address of student welfare following notice from DCFS and noticeable changes in the student’s behavior leading up to the murder, suicide. Assistant Principal Richard Bahr, a staff member responsible at least in part for campus safety, testified in deposition that prior to the incident, an active shooter situation was not an issue of “if” but “when.” [Hanes Decl., Ex. 9: Deposition of Richard Bahr, 19:14-21, 46:18-47:1.] The statement is qualified as to whether Bahr meant the exact campus or more general places of public gathering. [47:2-19.] Notwithstanding the qualification, active shooter drills occurred at the campus prior to the incident, but no other advanced training was provided. [Hanes Decl., Ex. 10: Deposition of Jerome Castaneda, 37:15-24.]

The “murder book” report from the Sheriff confirms the lack of the presence of assigned Deputy Callahan at the time of the shooting. Deputy Callahan denies any prior notice of threats regarding the student. [Hanes Dec., Ex. 13: Murder Book, pp. 131-132.] The investigation continues with documents regarding the involvement with DCFS. [Hanes Dec., Ex. 15.] A request for school records was submitted following DCFS involvement, and the report was also delivered to District. [Ibid.]

The depositions and “murder book” lay the foundation for the two highly contested expert declarations of Greg Block and Mike Dorn. Block maintains that the mere presence of a law enforcement officer on the premises deters crime and violence. [Block Dec., ¶¶ 7, 10.] Even if a shooting occurs a trained officer can quickly respond. [Id., ¶¶ 8-9, 15.] The report also quotes from the murder book regarding an expected higher likelihood of violence given the “misfit kids” reputation of the campus thereby putting staff on a heightened sense of awareness. [Id., ¶

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12.]

The declaration of Dorn—a 44 page declaration with only introductory paragraph numbering and drawing 105 individual evidentiary objections on its own—presents a more integrative picture of Plaintiffs’ position. (Again, to the extent the declaration relies on the post-incident drafted excluded report, the court will not rely or cite to said conclusions in reliance on the ruling.) Dorn maintains the subject murder suicide was a foreseeable event based on admitted prior preparation of an active shooter situation, yet lack of compliance with mandatory protocol requirements; inadequate campus security; insufficient student counseling services, an insufficient student threat assessment and student tip program; and, failure to engage with the student upon notice from DCFS and changes in student behavior. [Dorn Decl.]

Notwithstanding Plaintiffs’ position regarding inadequate perimeter security, Dorn actually concedes that single entry metal detector screening remains an ineffective method of safety given alternative means for a student to place a weapon inside the school and retrieve it upon entry to the campus. [28:1-21.] Dorn however qualifies this admission with alternative screening methods intended to act as a deterrent. [28:22-30:14.] The court therefore declines to consider Plaintiffs’ own relied upon argument regarding unsupervised entrance onto the campus as a factor for campus safety for purposes of the subject motion.

The court also notes that the declaration extensively cites to the deposition of Kathy Hunter, yet the opposition omits at least some or all of the relied upon deposition testimony, especially in regards to the time period involved in the drafting the threat assessment guide and consulting report. Thus, the dismissal of the report or any other pre-November 14, 2019 findings as a basis of consideration.

In analyzing the existence of a duty under the circumstances, the court acknowledges published court opinion on the subject matter regarding increasing levels of student-on-student weaponized violence. (*Achay v. Huntington Beach Union High School Dist.*, supra, 80 Cal.App.5th at p. 536; *Regents of University of California v. Superior Court*, supra, 4 Cal.5th at pp. 619-620, 629-630.) The declarations of Dorn and Block also attest to this.

While not specifically supported in the record of the instant action in the form of psychological records, case law considering the subject matter, and the Dorn declaration, concludes that students experiencing psychological distress may engage in violent activity. Thus, awareness and preparation of student violence protocols has become a part of the scope of duty consideration. (*Regents of University of California v. Superior Court*, supra, 4 Cal.5th at pp. 629-630.) The

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court finds the circumstances regarding the general awareness of potential campus gun violence and need for safety protocol presents a reasonable baseline foundation of a specific duty for enacting protections of student-on-student gun violence. Denial of the ongoing threat unless and until a shooting occurs, or a student was intercepted with a knowing intent to cause harm at a specific campus, myopically limits public policy debate regarding campus safety requirements of an acknowledged, continuing issue, and obtusely denies an ongoing, well documented concern whether an incident occurs at an involved location or not.

As addressed above in the deposition testimony, the District was aware of the threat of weapons brought to campus and potentially used a form of inflicting harm on students and faculty, as acknowledged in active shooter drills occurring prior to the incident. Any student reporting notification system for observed, concerning behavior by a fellow student was not monitored or not functioning. Law enforcement presence was also apparently intermittent due to an imposed rotation of schools.

While the above criteria in and of themselves will not necessarily lead to the finding of a basis of specific duty for this incident, District was also aware of the student's abusive domestic home life troubles. The student was never contacted at the school, even after the father's overdose suicide. Teachers noted emotional change in the student, but again, no counseling was undertaken. Again, though the record lacks any direct psychological assessment of the student such as suicidal ideation or communicated potential threats to others, the court concludes the content of the DCFS report can lead to a reasonable inference of a "red flag" warning for potential violence based on case law and expert testimony. District at a minimum was therefore instilled with a duty to investigate a greater potential for violence or other forms of weaponized harm, as to this particular student. Any potential denial of the connection between psychological distress and conceivable violence lacks support.

Upon notice of concern for the student, the court finds the existence of a larger duty of care imposed on District to address the student's needs or at least inquire as to whether the student could become a threat to himself, faculty and fellow students. The court also finds the public policy balance involving consideration of the burdensome standard for establishing absolute safety versus the address of potentially concerning student activity invoked through credible notice and presentation of information providing favors imposition of a duty. The resources required to address a single student potentially in distress versus outlays for greater security objectives for hundreds of students and staff constitute vastly different considerations. The court finds no justification in potential argument regarding the provision of greater resources towards student welfare for students specifically identified by government agencies or even perhaps a

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report of a staff member or fellow student.

In making this finding, the court finds the factual distinction with C.I., a case involving third party violence from a person without any prior disclosed notice of concern. (C.I., supra, 82 Cal.App.5th at pp. 985-988.) The distinction is material, but also involves adult violence, which as referenced above presents a potentially different set of factual considerations compared to teenagers. (See Dailey v. Los Angeles Unified Sch. Dist., supra, 2 Cal.3d at pp. 748-749.) The motion for summary adjudication on the issue is DENIED. The motion for summary judgment is therefore also denied.

The breach and proximate cause argument considered as part of the summary judgment motion are rendered moot. Even considering the presented argument, District cites to the public policy standard, but cites to different authority in support. (Thompson v. Sacramento City Unified School Dist. (2003) 107 Cal.App.4th 1352, 1370.) Plaintiffs in opposition contend the circumstances demonstrate a breach and causation for the injuries. The court finds a public policy debate on resource dedication was already addressed in the duty section of the ruling. Further, the issue of causation generally remains a question of fact. (Achay v. Huntington Beach Union High School Dist., supra, 80 Cal.App.5th at pp. 539-540.) Given the finding of a duty as a matter of law owed to Plaintiffs, the court concludes triable issues of material fact exist as to whether better security protocols, psychological support, and an armed law enforcement officer would have more likely than not prevented the violence. [See Dorn and Block Declarations, Murder Book]

On Dangerous Condition of Public Property, District maintains said condition must constitute an actual physical condition on the premises, rather than individual action of a fellow student. District also contends Plaintiffs failed to submit a government claim specifically identifying the basis of the claim. Plaintiffs in opposition counter that premises liability can be stated upon a claim of ineffective supervision. District in reply reiterates the factual challenge regarding the inability to state a claim and lack of a prior government claim.

“Except as provided by statute, a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either: (a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or (b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a

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sufficient time prior to the injury to have taken measures to protect against the dangerous condition.” (Gov. Code, § 835.)

The court declines to address the tersely supported argument for failure to identify the subject claim in the pre-filing requirements. The claims sufficiently apprise District of the basis of the claim, which can include a premises liability claim based on human behavior. [Declaration of Sonia Pischevar, Ex. A-B.] (White v. Superior Court (1990) 225 Cal.App.3d 1505, 1511; Fall River Joint Unified School Dist. v. Superior Court (1988) 206 Cal.App.3d 431, 436.)

A leading case on the subject of physical defects and third-party conduct addresses the standard. “[C]ourts have consistently refused to characterize harmful third-party conduct as a dangerous condition—absent some concurrent contributing defect in the property itself.” [¶] “The substantial risk of injury that is essential to characterizing a condition as dangerous need not exist as a continuous aspect of the property. It may arise only at certain times or under certain conditions that combine with the physical attributes of the property to make it hazardous to reasonably careful users.” (Rodriguez v. Inglewood Unified School Dist. (1986) 186 Cal.App.3d 707, 718-719; Peterson v. San Francisco Community College Dist. (1984) 36 Cal.3d 799, 810.) The court therefore rejects the first argument regarding strict physical characteristics as a required prerequisite for successfully alleging a claim.

District relies on the presumption that the school premises in and of themselves in no way contributed the circumstances of the student successfully bringing a handgun onto the premises. District also cites back to the short duration of the entire course of action in that school staff lacked sufficient reaction time to respond and prevent the act from occurring. Plaintiffs fall back on the alleged unsupervised entrance to and from the campus as the basis for the condition of the criminal conduct.

In considering the standard, “[c]ases have recognized, for example, that a public entity may be liable for permitting dangerous but not necessarily criminal conduct to occur on its property.” (Peterson v. San Francisco Community College Dist., supra, 36 Cal.3d at p. 811 (footnote 10).) As addressed above, Plaintiffs’ own expert, Dorn agreed with Hunter that an effort at a sealed campus restricting ingress and egress and weapon screening would not prevent a student determined from bringing a weapon to the campus. [Dorn Decl., 28:1-21.] The court finds the mere disputed existence of student access through unsupervised means and/or unmonitored/blocked cameras, when considered in conjunction with facts of the case regarding the lack of a law of a law enforcement officer on campus and no identified faculty member to otherwise potentially thwart the violence as part of his/her job duties, in no way establishes a

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ERM: None
Deputy Sheriff: None

dangerous condition. The plaintiff in Rodriguez was stabbed on campus, but the court found other than the actual stabbing occurring on the campus, no other conditions increased the risk of the crime. (Rodriguez v. Inglewood Unified School Dist. (1986) 186 Cal.App.3d at pp. 718-719.) The Dorn declaration only concludes the overall lack of safety protocols would have increased safety, and Block only discusses the deterrent effect and reactive time of a trained officer on the premises. Neither addresses the compounded circumstances regarding a physical portion of the property actually contributing to the ability of the shooter to engage.

While circumstances of a dangerous condition generally constitute a question of fact, the court finds no supporting evidence meeting the standard for an attribute of the property contributing to the injuries. (Id. at p. 720.) The motion for summary adjudication is GRANTED as to the premises liability cause of action only.

In summary, the motion for summary judgment is denied, and the motion for summary adjudication is granted as to the dangerous condition on public property claim, and denied as to the issues of duty, breach and causation.

Trial remains set for October 30, 2023.

Clerk is to give notice.

Certificate of Mailing is attached.