

January 5, 2000

## COURT REFUSES TO EXPAND PREMISES LIABILITY DOCTRINE

*(Sharon P. v. Arman, Ltd.)*

The California Supreme Court last week rejected efforts to further expand "premises liability" doctrine -- under which property owners are held responsible for injuries incurred by visitors as a result of unforeseeable criminal violence. The court held that the owner of a parking garage could not be held liable for an assault on a woman who had parked her car in the garage, in the absence of evidence indicating that the attack was highly foreseeable.

The decision was a victory for the Washington Legal Foundation (WLF), which filed a brief in the case in support of the parking garage owner.

The case involved a plaintiff who was attacked by an unknown assailant in an office building parking lot. In overturning a lower court decision in favor of the plaintiff, the California Supreme Court noted that in the 11 years that the defendant had owned the office building, there had been zero similar attacks in or around the parking lot. The court held that a property owner does not owe a legal duty to protect against criminal activity where (as here) he has not been placed on notice that such activity is highly likely.

The Supreme Court rejected the California Court of Appeal's holding that parking garages are so "inherently dangerous" that the garage owner *always* has a duty to protect patrons against criminal attack, even in the absence of prior similar incidents. The court held that while the *possibility* of criminal attack is always foreseeable, the law does not impose a duty to protect visitors against criminals in the absence of a high degree of foreseeability.

The Supreme Court also agreed with WLF's argument that property owners should not be faulted for failing to adopt expensive security measures, particularly where (as here) there was little evidence to suggest that adoption of such measures would have prevented the criminal activity. The court said that it makes little sense, for example, to require society as a whole to bear the high costs of hiring security guards at locations, such as the defendant's parking garage, without any history of violent crimes. The court also agreed with WLF that the other crime-prevention measures suggested by the plaintiff -- such as surveillance cameras and brighter lighting -- may very well not have prevented

the attack on the plaintiff.

WLF is a public interest law and policy center with supporters nationwide, including many in California. It devotes a significant portion of its resources to tort reform and other efforts designed to promote and protect the free enterprise system and the economic and civil liberties of individuals and businesses. WLF filed its brief on behalf of itself and the Allied Educational Foundation.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302.