

Municipal Tort and Civil Rights

Litigation Update

May 14, 2026

I. POLICE LIABILITY

A. *Animal Protection League v. County of Riverside*, 111 Cal. App. 5th 914 (2025)

- Sheriff deputy's threat to arrest protestor does not give rise to negligence unless there is a physical injury or breach of duty of care; similarly, threats to arrest do not violate Ralph Act or Bane Act as they do not amount to violence, coercion, or intimidation

Plaintiff Davies and volunteers from the Animal Protection League protested against a pet store in a Temecula shopping mall claiming the store sourced dogs from puppy mills. The protestors were first asked by mall officials to move their protest due to a table reservation conflict. When they refused to leave, a deputy threatened a protestor with arrest if she did not comply. The protestor requested a citation instead, but the deputy insisted on arresting her. The protestors then voluntarily left the area. The protestor filed a suit against the County of Riverside and the Deputy. Following successive demurrers and motions, the court sustained demurrers without leave to amend for several causes of action, including negligence, Bane Act, and Ralph Act claims.

The California Court of Appeal, Fourth District, affirmed the demurrer. It held the individual negligence claim failed because Plaintiff did not allege physical injury or any breach of duty of care. Although a police officer owes a duty to the public at large, the officer owes a duty to a specific individual only if the officer acts in a way that places the person in danger or acts protectively to induce the person's reliance on the officer. Plaintiff's argument that the deputy had a duty not to threaten her did not establish the duty necessary to support a negligence cause of action based upon emotional distress. Here, Plaintiff did not allege that she suffered any physical injury, nor did she allege that the officer did anything that placed her in danger or that caused her to rely upon him for her safety.

The Ralph Act claim was dismissed as the threat of arrest did not constitute violence. The question becomes whether the officer's stated intention to arrest constitutes an expression of intent to injure her. It does not.

The Bane Act claim was also dismissed because the threat of arrest alone did not amount to coercion or intimidation. Thus, the question becomes whether the officer's statement that he would arrest her if she did not leave "itself threatens violence" under Civ. Code §52.1. Further, Plaintiff's allegations that the deputy's threats to arrest her interfered with her rights to free speech were insufficient to survive a demurrer as to her Bane Act cause of action.

Significance: Threats of arrest alone by law enforcement, without actual violence or any additional coercion, do not constitute a violation of the California civil rights statutes.

B. *A.B. v. County of San Diego*, 112 Cal. App. 5th 404 (2025)

- **Motion for summary judgment reversed because there is a triable issue of fact regarding whether deputies used excessive force during a prone (face down) restraint with bodyweight pressure on decedent's back**

A Hobby Lobby manager called for mental health assistance because decedent was staggering, had no shoes on, and was disoriented. Other than being on drugs and shuffling back and forth, decedent did not threaten anyone and was unarmed. Deputies arrived and restrained decedent with full body weight and strapped his hands behind his back and held him prone. Decedent gasped “can’t breathe,” and yelled “help” and “get off me.” When decedent finally stopped moving, the deputies kept him in a prone position for another 50 seconds before turning him on his side, then later returned him to a prone position and resumed pressing down on his back.

Within 25 minutes of the first deputy’s arrival at the scene, decedent was no longer breathing. By the time paramedics arrived and placed him on a gurney, he was dead from asphyxiation and sudden cardiac arrest.

On summary judgment, the trial court found no triable issues of material fact on plaintiff’s theory that holding decedent in restraints in a prone position and applying bodyweight pressure to his back constituted excessive force. The court concluded that decedent’s restraint was “by the book” and “as it should be.”

The trial court’s grant of summary judgment was reversed. The court of appeal discussed a number of cases holding that “creating asphyxiating conditions by putting substantial or significant pressure, such as body weight, on the back of an incapacitated and bound suspect constitutes objectively unreasonable excessive force.” The court of appeal found, based on the totality of the plaintiff’s evidence, ample case law supports the conclusion that a jury could find putting decedent in restraints in a prone position, and holding him in that position forcefully using bodyweight for an extended period, constituted excessive force.

Significance: This case highlights the increasing judicial scrutiny of the use of “prone restraint” by law enforcement.

II. CIVIL RIGHTS – TAKINGS CLAUSE

A. *Pena v. City of Los Angeles*, 158 F. 4th 1033 (9th Cir. 2025)

- **Police destruction of private property and shop inventory in course of pursuit of armed fugitive comes within “necessity exception” to compensable taking under Takings Clause**

LAPD officers, while engaged in a 13-hour standoff with an armed fugitive, fired tear gas canisters through the walls, doors, roof, and windows of a store owned by plaintiff, causing \$60,000 in damage to inventory and equipment.

Plaintiff brought an action under 42 U.S.C. §1983 against the city alleging a violation of the Fifth Amendment Takings Clause, then moved for summary judgment, arguing that when the government intentionally destroys private property for public purposes, it is automatically a Fifth Amendment taking. The district court denied the motion, finding the destruction of property was both: (1) a valid use of police power, and (2) did not constitute a taking under the Fifth Amendment.

The Ninth Circuit panel first discussed two centuries of Supreme Court history affirming that government destruction of private property in the “necessary defense of public safety does not give rise to a compensable taking.” However, the panel explicitly declined to address whether a broad, categorical police power exception to the Takings Clause exists because plaintiff admitted the law enforcement action was reasonable and necessary.

“No taking occurs for the purposes of the Takings Clause when law enforcement officers destroy private property while acting reasonably in the necessary defense of public safety. That, Pena admits, is what occurred here. The ‘necessity exception’ applies to Pena’s claim.”

III. CALIFORNIA MUNICIPAL TORT LIABILITY

A. *Whitehead v. City of Oakland*, 17 Cal. 5th 735 (2025)

- **A release cannot exculpate a City from future negligent violation of a statutory duty to protect public safety (such as Government Code section 835) as a matter of public policy under Civil Code § 1668**

In *Whitehead*, a cyclist riding through Oakland during a charity bike ride struck a pothole, sustaining a traumatic brain injury. Prior to the ride, the cyclist had signed a waiver for the benefit of the City and other entities waiving liability for “broken pavement and road debris including the negligence of public entities.” The trial court granted the City’s motion for summary judgment on the grounds that the release was valid and enforceable and barred Whitehead’s claim against the City for liability arising from an allegedly dangerous condition of public property, as the release did not affect the public interest.

The trial court relied exclusively on the public interest test of *Tunkl v. Regents of University of California* (1963) 60 Cal. 2d 92 (*Tunkl*), which evaluated the validity of a release of common law negligence claims. The Court of Appeal affirmed in reliance on the *Tunkl* framework.

The California Supreme Court reversed, finding that the case does not involve a claim for future ordinary or gross negligence under the common law. The complaint asserted a negligent violation of the City’s *statutory duty* under Gov. Code section 835 to maintain its streets in a reasonably safe condition for travel by the public. The Court clarified that the *Tunkl* public interest test applies to claims for future ordinary or gross negligence under common law, but does not apply to statutory violations governed by Civil Code section 1668.

The Court stated: “consistent with our precedent (and with the law of other jurisdictions), an agreement to exculpate a party for future violations of a statutory duty designed to protect public safety is against the policy of the law under Civil Code section 1668 and is not enforceable.”

Significance: Pre-event releases and liability waivers are still valid for common law or ordinary negligence claims, but cannot exculpate a public entity from liability for a breach of a statutory violation.

B. *Hu v. City of San Jose*, 114 Cal. App. 5th 149 (2025)

- **Class II bike lane is not a trail under Government Code section 831.4; City remains liable for dangerous condition of public property under Government Code section 835**

Plaintiff was riding a bicycle in a Class II bike lane (indicated only visually by a white pavement stripe) when he encountered debris and gravel covering the bike lane. Plaintiff went through a buffer zone, rode into the vehicle travel lane and veered left, where he encountered potholes and fell. During his deposition, he was unable to pinpoint the exact place of the fall because the accident “happened so fast” and he lost consciousness.

The trial court granted the City of San Jose’s motion for summary judgment finding Hu could not establish causation, and furthermore, found the bike lane was covered by trail immunity under Govt. Code 831.4. (The accident causation and dangerous conditions sections of the opinion are unpublished.)

The court of appeal reversed. The bike lane is not a “trail” within the meaning of section 831.4, subdivision (b), even if the bike lane is used for both recreational and nonrecreational purposes. Because Section 831.4 by its terms unambiguously exempts City streets from the definition of a “trail,” the bike lane within it is not a trail.

Turning to the statute itself, Section 831.4 subdivisions (a) and (b) protect the city from liability arising from certain unpaved roads and (paved or unpaved) trails, while making clear that this protection does not extend to city streets, where the city remains liable for dangerous conditions under section 835. The court found nothing in the text of the statute that permits a city to limit its liability for dangerous conditions on its streets by painting a lane marker and deeming one lane a trail.

Significance: trail immunity under Government Code section 831.4 will not be expanded to include a bike lane on a city street or highway.

C. *Maksimow v. City of South Lake Tahoe*, 106 Cal. App. 5th 514 (2024)

- **Plaintiff failed to raise a triable issue of fact in opposition to summary judgment as to whether snow was present in the parking lot long enough for the city to discover and remedy it**

In March 2020, Plaintiff slipped on ice in a public parking lot and brought suit, alleging the ice patch was a dangerous condition of public property under Government Code §835. The city moved for summary judgment, arguing Plaintiff could not establish the

existence of a dangerous condition or actual or constructive knowledge of any such condition. The motion was supported by evidence that the city had received no liability claims concerning dangerous conditions in the parking lot, including from snow or ice, from 2017 to 2020. The city also offered the declaration of a community service officer supervisor that photos taken of the area two weeks before plaintiff's fall showed no snow or ice on the ground.

Plaintiff opposed the motion with a declaration from a certified snow professional that, based on National Weather Service data, stating that several inches of snow fell the morning plaintiff fell, that the expert believed the city employees were aware of fall risks posed by snow and ice in the parking lot and that city employees failed to comply with the city's snow and ice removal plan.

The trial court granted the city's motion, finding plaintiff failed to raise a genuine issue of material fact as to whether the city had actual or constructive knowledge of the alleged dangerous condition. On appeal, the Third District Court of Appeal affirmed the summary judgment, based on the following:

- **No Actual Notice:** "A public entity has 'actual notice of a dangerous condition' if it has (1) 'actual knowledge of the existence of the condition' and (2) 'knew or should have known of its dangerous character. (*Martinez v. City of Beverly Hills* (2021) 71 Cal. App. 5th 508, 519.)

While city employees were aware of snowfall, there was no evidence they had actual knowledge of the *specific ice patch* that caused the fall. In *Rodenhuis v. State of California*, the court explained: "To establish 'actual notice,' it is not enough to show that the state employees had a general knowledge that people do leave hot coals on public beaches. There must be some evidence that the employees had knowledge of the particular dangerous condition in question." And, though city employees may have had a "general knowledge" that snow turns to ice, which may be hazardous to pedestrians, nothing suggests they had actual notice of the "particular dangerous condition or conditions in question" specifically the ice patch near the car that caused Plaintiff's injuries. The trial court correctly found no triable issue as to actual notice.

- **No Constructive Notice:** To establish constructive notice under section 835.2, subdivision (b), a plaintiff must show the dangerous condition "existed for such a period of time and was of such an obvious nature that the public entity, in the exercise of due care, should have discovered the condition and its dangerous character." Put another way, "a claim for constructive notice has two threshold elements. A plaintiff must establish that the dangerous condition has existed for a sufficient period of time and that the dangerous condition was obvious." (*Heskel v. City of San Diego* (2014) 227 Cal. App. 4th 313, 320.)

The court found no evidence that the ice patch had existed for a long enough period for the city to be reasonably expected to discover and fix it. The court stated: "Here, as in the cases just discussed, we are concerned with transitory conditions of public property. See *Rodenhuis*, *Kotronakis*, and *Burnett*. Like hot coals (*Rodenhuis*), vomit (*Kotronakis*), or falling leaves (*Burnett v. San Diego*), the ice patch could have been present in the parking lot for 11 days or 11 hours.

“The evidence supports only a speculative inference that this was the case. As we have suggested, a jury would be left to guess whether the dangerous conditions were present for “such a period of time” that the City could have discovered them in the exercise of due care. (§ 835.2, subd. (b).) Such an invitation to guesswork falls short of raising a triable issue of material fact.”

The appellate court concluded Plaintiff failed to raise a triable issue as to whether the allegedly dangerous conditions were present in the parking lot long enough for the City to discover and remedy them.

Significance: This case has an excellent analysis of actual and constructive notice in a transitory conditions case. The evidence must support an inference that the condition existed for a long enough time to impute notice to the city through reasonable inspection.

D. *Tindall v. County of Nevada*, 112 Cal. App. 5th 78 (2025)

- **County was entitled to weather immunity under Government Code § 831 for the presence of ice in the county jail parking lot; the Vehicle Code definition of street or highway includes a parking lot**

Plaintiff slipped and fell in a county jail parking lot and brought suit for dangerous condition of public property. The trial court granted the County’s motion for summary judgment, ruling it was entitled to weather immunity under Government Code section 831, which provides in part that “Neither a public entity nor a public employee is liable for an injury *caused by the effect on the use of streets and highways of weather conditions as such.*”

On appeal, Plaintiff argued that section 831 does not apply to parking lots, and even if it did apply, it would not apply where the condition resulted from weather conditions as well as other factors. The Third District Court of Appeal held that the parking lot was a “street” under § 831, because Vehicle Code section 590 defines the word “street” as “a way or place *of whatever nature*, publicly maintained and open to the use of the public for purposes of vehicular travel.” It was undisputed that the parking lot was open for public use and owned and maintained by the County. The Court held, it “follows that the parking lot here was a place . . . publicly maintained and open to the use of the public for purposes of vehicular travel.” (Veh. Code, § 590.) Accordingly, the County was not liable for Plaintiff’s “injury caused by the effect on the use of” the County parking lot “of weather conditions as such.”

In the opposition to the motion for summary judgment, Plaintiff advanced a theory about the solar panels being part of the dangerous condition, however, the opposition to the County’s motion was the first time Plaintiff raised the theory about the physical characteristic of the solar panels.

The Court of Appeal stated that “if evidence of the party opposing summary judgment would show some factual assertion, legal theory, defense or claim not yet pleaded, that party should seek leave to amend the pleadings before the hearing on the summary judgment motion.” Plaintiff cannot successfully argue on appeal that summary judgment should be reversed because of a theory not pled. *Johnson v. The Raytheon Co., Inc.* (2019) 33 Cal. App. 5th 617, 626, 636. If evidence of the party opposing summary judgment “would show some

factual assertion, legal theory, defense or claim not yet pleaded, that party should seek leave to amend the pleadings before the hearing on the summary judgment motion.” *Hi-Desert Medical Center v. Douglas* (2015) 239 Cal.App.4th 717, 720, 726, 729, 731.

Significance: Parking lots are subject to a weather immunity defense; review opposition papers closely for new factual and legal theories not previously advanced.

E. *Kabat v. California Department of Transportation*, 107 Cal. App. 5th 651 (2024)

- **Caltrans database showed in the decade before and including up to the day of the accident, there were no accidents involving a bicyclist during the same time of day as the accident and 13 million vehicles had passed through the onramp**

In *Kabat v. California Dept of Transportation*, a bicyclist was struck and killed by a car while crossing an unsignalized crosswalk at an onramp to the I-405 freeway in Irvine, California. The location had two pedestrian crossing signs, one at the crosswalk and one 150 feet in front of it.

Plaintiffs’ complaint had a single cause of action for dangerous condition of public property. Plaintiffs claimed the location was dangerous because it was unsignalized, did not provide adequate signage, and the speed limit was set too high to allow for safe crossing.

The trial court granted Caltrans summary judgment because Caltrans established design immunity (section 830.6) and plaintiffs could not overcome the signage immunities (sections 830.4, 830.8). The trial court also ruled that plaintiffs had failed to raise a triable issue of fact on a failure-to-warn claim based on a concealed trap, which claim would be actionable despite design immunity. The Court of Appeal affirmed the trial court ruling.

This case is notable because of the positions Caltrans used in its motion for summary judgment. First, as to Plaintiffs’ argument that Caltrans failed to establish the discretionary-approval element of design immunity, Caltrans presented evidence through declarations of Caltrans’ employees and a traffic engineer declaration that Caltrans design engineers approved the various plans before construction. The plan signatures reasonably supported the uncontradicted inference that the plans had received Caltrans’s discretionary approval.

As for the failure-to-warn claim, public entities are entitled to sign immunity unless the plaintiff establishes: 1) the dangerous condition at issue was a concealed trap and 2) the public entity had notice of the dangerous condition. (*Tansavatdi v. City of Rancho Palos Verdes* (2023) 14 Cal. 5th 639, 653).

Caltrans offered undisputed evidence that it maintains a database tracking the number and type of collisions on its onramps, and in the decade before and including up to the day of the accident, there were no accidents involving a bicyclist during the same time of day as the accident and 13 million vehicles had passed through the onramp. This evidence established Caltrans had no notice of the alleged dangerous condition.

Lastly, the declaration by plaintiffs' expert that the crosswalk created a false sense of security, the lack of a signal constituted a trap because it rendered the area deceptive, and Caltrans database was inadequate to provide constructive notice, these arguments did not raise a triable issue of fact on notice because the opinions were conclusory. "A party cannot avoid summary judgment by asserting facts based on mere speculation and conjecture, but instead must produce admissible evidence raising a triable issue of fact." (*Menges v. Department of Transportation* (2020) 59 Cal. App. 5th 13, 23.)

Finally, as to plaintiff's argument that there was no evidence the public entities actually used the databases prior to the accident, the public entities did not have to provide evidence that it used the databases before the accident occurred to establish lack of notice. The relevant fact was there were no similar accidents in the last decade.

Significance: A database can establish absence of notice of alleged dangerous condition.

F. *Restivo v. City of Petaluma*, 111 Cal. App. 5th 267 (2025)

- **Motion for summary judgment granted on notice where city submitted evidence it was unaware of any other accidents on the street at the location where plaintiff fell and it maintained records of complaints for more than 10 years**

Plaintiff was skateboarding on a city street when her skateboard caught in a large crack in the street. She did not take any photos of the condition at the time. Two months later, she returned and took a number of photos showing cracks with sealant placed in them. Plaintiff brought suit against the city, alleging causes of action for negligence and for dangerous condition of public property (Government Code § 835).

The city's summary judgment on grounds of no actual or constructive notice was granted. In its motion, the city submitted a declaration that it was unaware of any other accidents at the location and that the city maintained records for more than 10 years, and during that time, there were no complaints about the location. The city also submitted a declaration from an engineer that it had resurfaced the road with slurry sealant pursuant to a Pavement Management Report, and that the report was done at a very high level and not in reference on specific cracks. The city also showed the report recommendations were not meant to identify actual street conditions but for high level citywide and budgeting purposes.

In opposition, Plaintiff submitted a declaration from an expert, stating that the city "knew or should have known of the unsafe condition" because the city "was out there doing a pavement condition index in 2019."

On appeal, the First District Court of Appeal rejected that the 2019 report was notice to the city, stating "Plaintiff's argument remains devoid of reference to any *evidence* that the city had actual or constructive notice of the dangerous condition." Plaintiff's "sweeping assertion that the city 'was generally aware' of cracks in the street does not begin to establish that it had notice of the large crack/pothole on Noriel Lane plaintiff claims caused her to

fall.” (*Kabat*, 107 Cal.App.5th at p. 665.) The city’s evidence that the bi-annual pavement reports provide an *overall* assessment of city streets and do not, for any street, identify specific problems, was uncontradicted.

Lastly, the court found plaintiff’s expert’s argument that the city knew or should have known of the unsafe condition was argument. “A party cannot avoid summary judgment by asserting facts based on mere speculation and conjecture, but instead must produce admissible evidence raising a triable issue of fact.” (*Menges v. Department of Transportation* (2020) 59 Cal. App. 5th 13, 23. Nor can it “manufacture a triable issue of fact through use of an expert opinion with self-serving conclusions, devoid of any basis, explanation, or reasoning.” (*Id.*)

Significance: Overall pavement management reporting scores are not evidence of notice and a party cannot defeat a motion for summary judgment by asserting facts based on an expert’s conjecture.

G. *Bean v. City of Thousand Oaks*, 114 Cal. App. 775 (2025)

- **When sidewalk damage is caused by a parkway tree, control dominates over ownership; any adverse party may oppose a motion for summary judgment**

Plaintiff tripped and fell on a sidewalk uplift caused by a parkway tree and sued the City of Thousand Oaks and a nearby homeowner for negligence and dangerous condition of public property. Plaintiff’s claim against the homeowner was based on the theory that the damage to the sidewalk was caused by a tree in the parkway (the area between the curb and sidewalk) located in front of the house, and the roots extended below the sidewalk in front of the adjacent property where Plaintiff fell.

According to a memorandum from the city’s public works department, “in the parkway is a privately-owned, City-maintained White Mulberry street tree” whose “roots may have caused or contributed to the sidewalk.” The city’s memorandum also stated “the city inspects, maintains, and repairs the sidewalks.” The property owner moved for summary judgment on the grounds it did not create the condition nor own or control the sidewalk damage. The city opposed the motion, but the Plaintiff did not.

The trial court granted the property owner’s motion for summary judgment, and in so doing, held the city lacked standing to oppose the motion because it had not filed a cross-complaint. The city’s cross-complaint was filed on the same day as the motion for summary judgment hearing , but was rejected by the court for not obtaining leave of court in advance.

The Second Appellate District affirmed the trial court’s ruling, however, it held that any co-defendant with an adverse interest has standing to oppose a motion for summary judgment irrespective of whether it has filed a cross-complaint. (See *RND Contractors v. Superior Court* (2025) 112 Cal. App. 5th 697.) The Court of Appeal found the trial court’s rejection of the City’s cross-complaint under §428.50(b) was error as there was no trial date set at the time of filing so leave of court was not necessary. However, because any adverse party may oppose a motion for summary judgment, a cross-complaint was not necessary:

“the City and [property owner] were adverse parties ‘even if there [were] no cross-claims between them.’” (See *RND*, *supra*.)

Turning to the *de novo* review of the merits of the ruling, the court stated: “Streets and Highways Code section 5610 imposes a duty of repair on the abutting property owners for defects in sidewalks, regardless of who created the defects, but does not of itself create *tort liability* to injured pedestrians or a *duty to indemnify* municipalities, except where a property owner created the defect or exercised dominion or control over the abutting sidewalk. This limitation on tort liability to third parties is often referred to as the ‘Sidewalk Accident Decisions Doctrine.’ The duty to maintain the sidewalk established by Streets and Highways Code section 5610 is not “owed to members of the public in the absence of clear and unambiguous legislative language.”

There was no evidence the property owner “created the defect” by merely owning the home adjacent to the tree. Although the city stated that the homeowner owned the parkway and the tree, ownership of the parkway and the tree was not dispositive. To impose “potential liability for injuries caused by a dangerous condition of property . . . ‘control dominates over title. “The crucial element is control.” (*Alcaraz v. Vece* (1997) 14 Cal. 4th 1149, 1159.)

And, although the city did not own the tree, under its municipal ordinances it trimmed, inspected, and otherwise maintained the tree, establishing the city exercised the “crucial element of control” in the court’s opinion. See *Alcaraz*, 14 Cal. 4th 1149 – “to impose potential liability for injuries caused by a dangerous condition of property ‘control dominates over title.’”

Significance: Courts have held that the dispositive element is control of the tree, shown through activities like trimming, inspection, and maintenance. Control dominates over title.

H. *Gilliland v. City of Pleasanton*, 116 Cal. App. 5th 138 (2025)

- **Pursuit Immunity under Government Code 17004.7 turns on the definition of pursuit in the city’s written policy**

In *Gilliland v. City of Pleasanton*, a Pleasanton police officer was following a burglary suspect, however, the officer elected not to initiate a formal vehicle pursuit under the city’s pursuit policy as traffic conditions were crowded and a pursuit could not be safely initiated. The suspect saw he was being followed, rapidly accelerated through an intersection and hit plaintiff, who suffered serious injuries.

Plaintiff sued the city based on the officer’s negligent vehicle operation. The city raised Government Code section 17004.7 as an affirmative defense. Generally, section 17004.7 immunizes public entities from liability for collisions caused by fleeing suspects when the entity has a written policy on vehicular pursuits and provides regular training on the policy.

Following a bench trial, the court found the city immune under section 17004.7, applying the dictionary definitions of “pursuit,” rather than the definition in the city’s pursuit policy. The trial court also disregarded that the suspect testified he did not believe he was

being pursued, instead relying on the dictionary definition of “pursue,” which includes “follow” or “investigate.”

The court of appeal held that whether a suspect was actually pursued and whether the suspect had a perception of being pursued both depend on the definition of “pursuit” in the city’s pursuit policy. “It is uncontested that an individual policy’s definition of ‘pursuit’ governs whether a suspect was being pursued in a motor vehicle by a peace officer, i.e., whether there was an actual pursuit.”

Here, the Policy’s definition of “pursuit” required both that a police officer be “attempting to apprehend a suspect” and that the suspect be “attempting to avoid arrest.” Simply put, 17004.7 immunity will not be stretched further than intended by the legislature, and the immunity does not apply, where, as here, the suspect did not believe he was being pursued.

Significance: Police pursuit immunity under 17004.7 depends strictly on whether the incident fits the specific internal definitions and standards required by state law.