



**Association of Defense  
Counsel of Northern  
California and Nevada**



July 9, 2019

Presiding Justice Mary J. Greenwood  
Associate Justice Eugene M. Premo  
Associate Justice Franklin D. Elia  
California Court of Appeal  
Sixth Appellate District  
333 West Santa Clara Street, Suite 1060  
San Jose, California 95113

Re: ***Williams v. Fremont Corners, Inc.***  
(June 24, 2019, No. H043218)  
*Request for Publication*

Dear Honorable Justices:

Pursuant to California Rules of Court, rule 8.1120(a), the Association of Southern California Defense Counsel (ASCDC) and the Association of Defense Counsel of Northern California and Nevada (ADCNCN) request that this court publish its June 24, 2019, opinion in *Williams v. Fremont Corners, Inc.*, No. H043218 (*Williams*).

ASCDC is the nation's largest and preeminent regional organization of lawyers who specialize in defending civil actions. It has over 1,100 attorneys in Central and Southern California, among whom are some of the leading trial and appellate lawyers of California's civil defense bar. ASCDC is actively involved in assisting courts on issues of interest to its members. In addition to representation in appellate matters, ASCDC provides its members with professional fellowship, specialized continuing legal education, representation in legislative matters, and multifaceted support, including a forum for the exchange of information and ideas.

ADCNCN is an association of approximately 800 attorneys primarily engaged in the defense of civil actions. ADCNCN's members have a strong interest in the development of substantive and procedural law in California, and extensive experience with civil matters generally. The Association's Nevada members are also interested in the development of California law because Nevada courts often follow the law and rules adopted in California.

Although ASCDC and ADCNCN are separate organizations, they coordinate from time to time on matters of shared interest, such as this letter. Together and separately, they have appeared as amicus curiae in numerous cases before both the California Supreme Court and Courts of Appeal to express the interests of their members and their members' clients, a broad cross-section of California businesses and organizations. Members of both organizations regularly defend clients facing premises liability claims, including from claims based on third party criminal activity. They have previously filed amicus curiae briefs and sought publication in cases limiting landowner premises liability. (See, e.g., *Vasilenko v. Grace Family Church* (2017) 3 Cal.5th 1077 [filed amicus curiae brief in case limiting landowner duty]; *Sakai v. Massco Investments, LLC* (2018) 20 Cal.App.5th 1178 [sought publication of case limiting landowner duty with respect to unanticipated third party criminality].)

This court's decision in *Williams* should be published because it provides additional clarification regarding the scope of a landlord's duty to protect against criminal acts on the premises. While fights inside and outside of bars are common occurrences, earlier cases where courts have reached the same conclusions based on similar facts have gone unpublished. (See, e.g., *Sharer v. Danny K's Cafe and Billiards* (Oct. 22, 2003, G031134) 2003 WL 22407431, at p. \*1 [nonpub. opn.] [upholding summary judgment in favor of premises defendant where fight occurred outside of bar].) Thus, *Williams* will serve as useful precedent in future cases arising from a similar set of commonly occurring facts.

Publication is warranted because the opinion "[a]pplies an existing rule of law to a set of facts significantly different from those stated in published opinions." (Cal. Rules of Court, rule 8.1105(c)(2).) *Ann M. v. Pacific Plaza Shopping Center* (1993) 6 Cal.4th 666, 678 (*Ann M.*), disapproved on another ground in *Reid v. Google, Inc.* (2010) 50 Cal.4th 512, 527 and footnote 5 held that the scope of a landlord's duty is determined by "balancing the foreseeability of the harm against the burden of the duty to be imposed." Applying the *Ann M.* test, *Sharon P. v. Arman, Ltd.* (1999) 21 Cal.4th 1181, 1196 (*Sharon P.*), disapproved on another ground in *Reid*, at page 527 and footnote 5 and in *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 853 and footnote 19 held that a landlord has no duty to install cameras in a parking garage absent prior similar crimes. *Williams* extends the holding in *Sharon P.* by holding that an owner's duty is not invoked by "a general knowledge of the possibility of violent criminal conduct." (Typed opn. 14.) The decision fleshes out what kinds of circumstances create the heightened foreseeability necessary to impose duty. Here, "a burglary, a broken window next-door to the bar, and

an assault for which the police requested security camera footage, do not meet this heightened standard” because they are not sufficiently similar to the assault Williams suffered. (Typed opn. 18-19.) Thus, the *Williams* opinion demonstrates the proper application of *Ann M.* to a set of facts significantly different from *Sharon P.*

Additionally, publication is justified because the opinion “[e]stablishes a new rule of law.” (Cal. Rules of Court, rule 8.1105(c)(1).) The decision identifies three areas as to which premises owners have no duty: “(1) a failure to inquire about criminal activities reported to the police, (2) a failure to establish a policy or procedure to require tenants to report occurrences of criminal activities to Fremont Corners, and (3) a failure to review security camera footage.” (Typed opn. 13.) No reported decision has addressed these specific proposed requirements. The decision properly found that there was no evidence any of these would have prevented the assault, which provides guidance for other courts grappling with similar cases.

Furthermore, publication is warranted because the opinion “[i]nvolves a legal issue of continuing public interest.” (Cal. Rules of Court, rule 8.1105(c)(6).) The California Supreme Court has recognized the importance of creating clear limits on premises liability for third party crime. (See, e.g., *Sharon P.*, *supra*, 21 Cal.4th at p. 1192 [showing reluctance to impose substantial monetary and social costs associated with security measures]; *Ann M.*, *supra*, 6 Cal.4th at p. 679 [heightened foreseeability of crime required for imposing duty to provide security guards].) Recognizing the high burden on landlords, *Williams* holds that conducting weekly or semi-weekly check-ins with tenants and property is adequate for landlords to satisfy their duty to exercise reasonable care to discover crime. (Typed opn. 20, quoting *Ann M.*, *supra*, 6 Cal.4th at p. 680.) Continuous monitoring of security cameras is not required. Therefore, *Williams* reasonably limits a landlord’s duty in recognition of the continued public concern regarding the expansion of premises liability.

*Williams* explained the foreseeability balancing test defined by *Ann M.*, *supra*, 6 Cal.4th at page 678, and its progeny. The decision demonstrates the proper application of these principles to the context of a bar fight that spills into an adjacent shopping center parking lot. For the foregoing reasons, ASCDC and ADCNCN respectfully ask that this court order the publication of its June 24, 2019, opinion.

Respectfully submitted,

**ASSOCIATION OF SOUTHERN  
CALIFORNIA DEFENSE COUNSEL**

By: \_\_\_\_\_

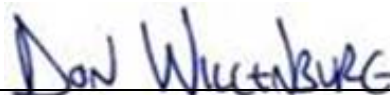


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**PROOF OF SERVICE**

***Williams v. Fremont Corners, Inc. et al.***  
**Case No. H043218**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 3601 West Olive Avenue, 8th Floor, Burbank, CA 91505-4681.

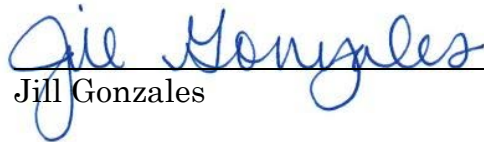
On July 9, 2019, I served true copies of the following document(s) described as **REQUEST FOR PUBLICATION** on the interested parties in this action as follows:

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Executed on July 9, 2019, at Burbank, California.

  
\_\_\_\_\_  
Jill Gonzales

**SERVICE LIST**  
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**Case No. H043218**

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