

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION
FOUR

Jimenez v. Hayes Apartment Homes, LLC

Jimenez · No. A170198 · Decided November 7, 2025

SUMMARY

The California Court of Appeal reviews a nonsuit in a case arising from two children falling from a second-floor apartment window. It holds that the plaintiffs’ general negligence claim failed for lack of a sufficiently foreseeable duty, but that the trial court improperly rejected their negligence per se claim based on its interpretation of the California Building Standards Code. The court affirms in part, reverses in part, and remands for retrial on the negligence per se claim.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Four
WRITING FOR THE COURT	Streeter, J.; Brown, P. J.; Goldman, J.
JURISDICTION	California Court of Appeal, First Appellate District, Division Four
DECIDED	November 7, 2025
DOCKET	A170198
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from a judgment entered after the trial court granted defendants' motion for nonsuit at the close of plaintiffs' evidence in a premises-related negligence action.
STANDARD OF REVIEW	De novo review applies to a grant of nonsuit. The appellate court reviews the record for substantial evidence, views the evidence in the light most favorable to the plaintiff, accepts the plaintiff's favorable evidence as true, and disregards conflicting evidence.
PRECEDENTIAL VALUE	Published and certified for publication; precedential California Court of Appeal opinion.
PARTIES	Karinah Jimenez, Isaiah Jimenez, by Shary Marquez, guardian ad litem v. Hayes Apartment Homes, LLC, Preferred Property Management, Inc.

TOPICS

premises liability

negligence

duty of care

statutory interpretation

appellate procedure

PRACTICE AREAS

premises liability

negligence

construction law

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QUESTIONS PRESENTED

1. Whether the trial court properly granted nonsuit on plaintiffs' general-negligence theories because defendants owed no duty of care under the circumstances.
2. Whether the replacement of the apartment window was exempt under California Building Code section 3404.1.1 as a replacement of original building materials, thereby eliminating any violation of section 1013.8.
3. Whether plaintiffs presented sufficient evidence to proceed to trial on their negligence-per-se claim.

HOLDINGS

1. Nonsuit was properly granted on the general-negligence claim because, even assuming plaintiffs' evidence and all disputed factual issues were resolved in their favor, the circumstances did not establish a sufficiently foreseeable risk of harm to support the existence of a duty of care.
2. A replacement window assembly is not an 'original material' within the meaning of California Building Code section 3404.1.1. The exemption for replacement, retention, or extension of original materials therefore did not excuse defendants from complying with section 1013.8's fall-prevention requirements.
3. Nonsuit was improper on the negligence-per-se claim because plaintiffs presented evidence from which a jury could find that defendants violated the Building Code by failing to install a fall-prevention device, that the violation proximately caused the injuries, that the injuries were of the type the regulation was intended to prevent, and that the children belonged to the protected class.
4. A nonsuit may not be granted when the plaintiff's evidence would support a jury verdict in the plaintiff's favor; it is proper only when the evidence raises no more than speculation, suspicion, or conjecture.

KEY QUOTATIONS

“The rule is that a trial court may not grant a defendant’s motion for nonsuit if plaintiff’s evidence would support a jury verdict in plaintiff’s favor.” (8-9)

“The elements of negligence per se in a case involving alleged breach of a regulation are that: (1) the defendant violated the regulation; (2) the violation proximately caused the injury; (3) the injury was of the type that the regulation was intended to prevent; and (4) the person suffering the injury belonged to the class of persons whom the regulation was adopted to protect.” (16)

“When considered in this wider context, windows are not “materials.” A window is constructed of “materials” (e.g., glass or glazing) and includes the window frame (itself constructed of materials such as wood, aluminum, or as here, vinyl).” (21-22)

FACTUAL BACKGROUND

In 2016, four-year-old Karinah Jimenez and her two-year-old brother Isaiah fell from a second-floor bedroom window in their apartment at Blakely Townhomes, sustaining severe brain injuries. The apartment building had been constructed in 1980, and its owner, Hayes Apartment Homes, LLC, later replaced 27 windows during renovations, including the children's window, without installing a fall-prevention device. The window sill was approximately 35 11/16 inches above the bedroom floor, and the fall distance to the pavement was approximately 12 feet 7 inches. The children apparently stood on a dresser and fell through the open window while their mother was briefly in an adjacent bathroom.

PROCEDURAL HISTORY

Plaintiffs sued the apartment owner and property manager for general negligence and negligence per se after two children fell from a second-floor apartment window. The trial court denied defendants' pretrial summary-adjudication motion and motion in limine, but granted defendants' nonsuit motion after plaintiffs rested, concluding that the replacement window was exempt from the fall-prevention requirements of the California Building Code and that plaintiffs had not established a duty supporting general negligence. The Court of Appeal affirmed the nonsuit as to general negligence, reversed it as to negligence per se, and remanded for retrial on the surviving claim.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for retrial on plaintiffs' surviving negligence-per-se claim and for proceedings consistent with the opinion. The judgment remains affirmed as to the general-negligence claim. The parties shall bear their own costs of appeal.

CASES CITED

- Saunders v. Taylor (1996) 42 Cal.App.4th 1538, 1541-1542
- Campbell v. General Motors Corp. (1982) 32 Cal.3d 112, 117-118
- Hernandez v. Amcord, Inc. (2013) 215 Cal.App.4th 659, 669
- Fresh Express Inc. v. Beazley Syndicate 2623/623 at Lloyd's (2011) 199 Cal.App.4th 1038, 1055
- Castaneda v. Olsher (2007) 41 Cal.4th 1205, 1214
- John B. v. Superior Court (2006) 38 Cal.4th 1177, 1188
- Brown v. USA Taekwondo (2021) 11 Cal.5th 204, 213
- T.L. v. City Ambulance of Eureka, Inc. (2022) 83 Cal.App.5th 864, 875
- Vasquez v. Residential Investments, Inc. (2004) 118 Cal.App.4th 269, 278-280
- Rowland v. Christian (1968) 69 Cal.2d 108, 110, 113, 116-120
- Castaneda v. Olsher (2007) 41 Cal.4th 1205, 1213
- Lawrence v. La Jolla Beach & Tennis Club, Inc. (2014) 231 Cal.App.4th 11, 17, 24, 29
- Amos v. Alpha Property Management (1999) 73 Cal.App.4th 895, 897

- *Montes v. Young Men's Christian Assn. of Glendale, California* (2022) 81 Cal.App.5th 1134, 1140
- *Sturgeon v. Curnutt* (1994) 29 Cal.App.4th 301, 308
- *Pineda v. Ennabe* (1998) 61 Cal.App.4th 1403, 1406, 1408-1409
- *American Motorcycle Assn. v. Superior Court* (1978) 20 Cal.3d 578
- *Li v. Yellow Cab Co.* (1975) 13 Cal.3d 804
- *Lua v. Southern Pacific Transportation Co.* (1992) 6 Cal.App.4th 1897, 1901
- *Building Industry Assn. v. City of Livermore* (1996) 45 Cal.App.4th 719, 728
- *MacIsaac v. Waste Management Collection & Recycling, Inc.* (2005) 134 Cal.App.4th 1076, 1082-1083
- *Mejia v. Reed* (2003) 31 Cal.4th 657, 663
- *In re Ja.O.* (2025) 18 Cal.5th 271, 283
- *People v. Arroyo* (2016) 62 Cal.4th 589, 595
- *Brennon B. v. Superior Court* (2022) 13 Cal.5th 662, 690
- *Witt Home Ranch, Inc. v. County of Sonoma* (2008) 165 Cal.App.4th 543, 559
- *Busker v. Wabtec Corp.* (2021) 11 Cal.5th 1147, 1159
- *Scott v. Continental Ins. Co.* (1996) 44 Cal.App.4th 24, 30
- *Medtronic USA, Inc. v. California Dept. of Tax & Fee Administration* (2025) 110 Cal.App.5th 817, 824
- *Green v. Ralee Engineering Co.* (1998) 19 Cal.4th 66, 73
- *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 8
- *Rogers v. County of Los Angeles* (2011) 198 Cal.App.4th 480, 490 fn. 6
- *As You Sow v. Conbraco Industries* (2005) 135 Cal.App.4th 431, 459
- *Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1206
- *Lewis v. Seventeenth Dist. Agricultural Assn.* (1985) 165 Cal.App.3d 823, 829 fn. 6
- *Calvillo-Silva v. Home Grocery* (1998) 19 Cal.4th 714, 722
- *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 853 fn. 19
- *Smith v. Freund* (2011) 192 Cal.App.4th 466, 473 fn. 5