

# STREETLIGHT LIABILITY UPDATE

Updated Case Study and Other Recent Developments  
Related to Liability Based on Ownership of Streetlights

By

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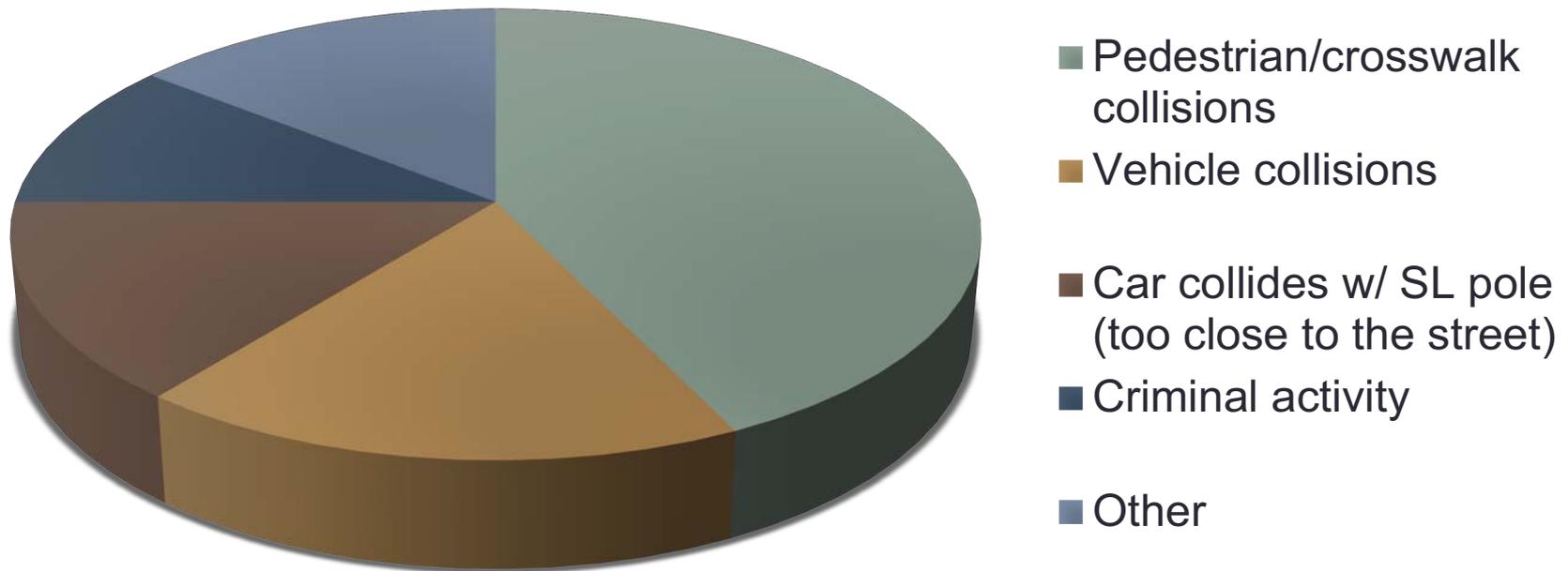
San Jose, CA

# STREETLIGHT LIABILITY CASE STUDY

- Only 28 reported California cases in which a plaintiff attempted to recover from a City/County or IOU based on its ownership/operation of Streetlights;
- Of those 28, only 6 survived summary judgment;
- 88% of these cases were based on negligence/dangerous condition of public property theories;
- Update: Just one new reported case in CA since presentation last year – standard personal injury matter dismissed on summary judgment. Some interesting cases in other jurisdictions, however.

# STREETLIGHT LIABILITY CASE STUDY

## Types of Cases



# CAL. GOV. CODE § 835: DANGEROUS CONDITION

- Government Code section 835 provides that 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 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 ... and sufficient time prior to the injury to have taken measures to protect against the dangerous condition."
- A "dangerous condition" is defined as "a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property ... is used with due care in a manner in which it is reasonably foreseeable that it will be used."

# PECULIAR CONDITION RENDERING LIGHTING NECESSARY

- “It is generally held that a municipality is under no duty to light its streets even though it is given the power to do so, and hence, that its failure to light them is not actionable negligence, and will not render it liable in damages to a traveler who is injured solely by reason thereof.” A duty to light, “and the consequent liability for failure to do so,” may arise only if there is **“some peculiar condition rendering lighting necessary in order to make the streets safe for travel.”** In other words, a prior dangerous condition may require street lighting or other means to lessen the danger but the absence of street lighting is itself not a dangerous condition.” *Mixon v. Pacific Gas & Electric Co.* (2012) 207 Cal.App.4th 124, 136.
- Extremely difficult standard for Plaintiff to meet; *Holbrook Court* suggests that there are no such citable cases.

# DANGEROUS CONDITION CASES

- *Antenor v. City of Los Angeles* (1985) 174 Cal.App.3d 477, two pedestrians struck by a motorist while crossing a city street claimed the intersection was in a dangerous condition because, among other things, the street lighting was too dim. The court of appeal acknowledged evidence that the lighting intensity was below government guidelines but found that the city had no duty "to light its streets in the first instance" and thus was not negligent for failing to provide brighter lights.
- *Plattner v. City of Riverside* (1999) 69 Cal.App.4th 1441, 1445, accident occurred in a cross-walk and involved a car and a pedestrian, the court noted that, other than the lack of a light, the plaintiff had not shown that there was anything dangerous about the cross-walk. The court went on to make the cogent observation that "darkness is a naturally occurring condition that the city is under no duty to eliminate."

# LED BRIGHTNESS LIABILITY?

- Turn Down the Lights v. City of Monterey: Appeal filed in Jan., 2018 (currently pending). City violated CEQA by failing to conduct environmental review on the impacts of brighter LED lights. City relied on categorical exemption for “replacement of existing structures and facilities... located on the same site” but the Court found that applying the exemption here expanded it “beyond the reasonable scope of its plain language.” Very possible that decision is overturned.
- Judith Youngblood v. Village of Great Neck: Pending case out of New York. Plaintiff alleges that recently installed LED lamps “emit high levels of intense light” into her house and make it “impossible to sleep, use and enjoy the home she has lived in.” Seeks 1M in damages. Likely to be dismissed.

# APPROACHES OF OTHER STATES

- Utah: City of Ogden found not liable in several recent auto personal injury cases, including one where the outage occurred when the contractor mistakenly shorted out the streetlights for an entire block and didn't fix it for 10 days.
- Illinois: where a municipality undertakes to protect a street or bridge by lights it is liable for negligence if it does it in an insufficient manner. *Greene v. City of Chicago*, 382 NE 2d 1205 - Ill: Supreme Court 1978.
- New Hampshire: Regardless of the city's alleged negligence in failing to provide adequate street lighting at the crossing, the City was immune from suit under the sovereign immunity doctrine. *O'Connor v. City of Rutland*, 172 Vt. 570 (2001).

# THANK YOU!

- Questions or stories from your jurisdiction?
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