

# **Bond Case Briefs**

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## **POLITICAL SUBDIVISIONS - CALIFORNIA**

### **Yalung v. State**

**Court of Appeal, Fifth District, California - December 21, 2023 - Cal.Rptr.3d - 2023 WL 8821363**

Driver who was injured in car accident in which four of driver's children were injured seriously and one of her children was injured fatally brought action on behalf of herself, her injured children, and her deceased child's estate against individual who, while working as a provider of caretaking services under state's In-Home Supportive Services (IHSS) program, allegedly rear-ended driver's car after running a stop sign and against state, county, and state and county entities involved in administering IHSS program, alleging claims for wrongful death, negligence and breach of statutory duties, and survival, and asserting that government entities were liable as provider's employer or joint employer.

The Superior Court sustained demurrers of state and county without leave to amend. Driver appealed only the order sustaining state's demurrer.

The Court of Appeal held that state was not special employer of provider, who had been hired directly by recipient under the direct-hiring method for providing services under the IHSS program, and state thus was not vicariously liable for provider's actions.

State was not the special employer of provider who was employed under the In-Home Supportive Services (IHSS) program as a caretaker for an IHSS recipient, who had directly hired caretaker in a county whose public authority for administering the IHSS program used the direct-hiring method, and state thus was not vicariously liable for injuries to driver and her four children, and for fatal injuries to one of driver's children, that they sustained in car accident allegedly caused by caretaker's negligence and breach of statutory duties; state lacked power to supervise the details of caretaker's work, state did not select provider to work for IHSS recipient, and state's agent in administering IHSS program, the public authority, was not provider's employer for purposes of vicarious liability.