

**DEPARTMENT SEVEN
JUDGE TIM P. KAM
707-207-7307
TENTATIVE RULINGS SCHEDULED FOR
WEDNESDAY, MARCH 20, 2024**

The parties may appear via Zoom with the exception of trials, trial management conferences, order for examinations and mandatory settlement conferences. The information for the Zoom meeting is set forth below.

The tentative ruling shall become the ruling of the court unless a party desiring to be heard contacts the judicial assistant of the department hearing the matter by 4:30 p.m. on the court day preceding the hearing, and further advises that such party has notified the other side of its intention to request a hearing. A party requesting a hearing must notify all parties of the request to be heard by 4:30 p.m.

**GOOLSBY v. CITY OF VALLEJO, ET AL.
Case No. FCS056620**

Motion for Summary Judgment

TENTATIVE RULING

Defendant City of Vallejo's unopposed motion for summary judgment is granted.

Plaintiff has not served or filed a separate statement responding to the facts Defendant contends are undisputed, which alone justifies granting the motion. (Code Civ. Proc. § 437c(b)(3).)

Moreover, Defendant has presented evidence sufficient to meet its burden of showing that one or more elements of the cause of action alleged against it cannot be established. (Code Civ. Proc. § 437c(p)(2); *Aguilar v. Atl. Richfield Co.* (2001) 25 Cal.4th 826, 853.) The essential elements of a cause of action for dangerous condition of public property are: 1) the property owned or controlled by the public entity was in a dangerous condition at the time of the injury, 2) the injury was proximately caused by the condition, 3) the type of injury sustained was a reasonably foreseeable risk, and 4) the entity either caused the condition or had actual or constructive notice of the existence of the condition in sufficient time to take remedial action. (*People ex rel. Dep't of Transp. v. Superior Court* (1992) 5 Cal.App.4th 1480, 1484-1485; *County of Ventura v. City of Camarillo* (1978) 80 Cal.App.3d 1019, 1024-1025.) Plaintiff has been deemed to have admitted that Defendant did not own or control the real property where the accident occurred, the property was not in a dangerous condition at the time of the accident, Defendant did not have actual or constructive notice of the condition,

Defendant did not create the condition, and Plaintiff suffered no damages as a result of the condition. (Index of Exhs., Exhs. 3-5.)

Consequently, the burden of establishing the existence of a triable issue of material fact shifted to Plaintiff. (Code Civ. Proc. § 437c(p)(1).) Plaintiff has not, and cannot, present any evidence to meet this burden. “Any matter admitted in response to a request for admission is conclusively established against the party making the admission in the pending action” and no contradictory evidence may be introduced. (Code Civ. Proc. § 2033.410(a); *Murillo v. Superior Court* (2006) 143 Cal.App.4th 730, 736; *Scalf v. D.B. Log Homes, Inc.* (2005) 128 Cal.App.4th 1510, 1522.)

Department 7 is inviting you to a scheduled ZoomGov meeting.

Join ZoomGov Meeting

<https://solano-courts-ca-gov.zoomgov.com/j/1611554664?pwd=T3U4QlBGWWNWaGlhXJTcGxIVHRXZz09>

Meeting ID: 161 155 4664

Passcode: 818575

One tap mobile

+16692545252,,1611554664#,,,,*818575# US (San Jose)

+14154494000,,1611554664#,,,,*818575# US (US Spanish Line)