

Redacted! Sorry, but I'd like the names, please

Using *Paniagua* to discover the names and contact information for witnesses listed in traffic-collision reports of similar prior incidents

By Lucas Whitehill

It is common practice for the State of California and other governmental entities to redact the names and contact information of all witnesses listed in traffic-collision reports for vehicle collisions involving similar incidents other than the subject accident. The objection generally asserted to justify the deletions is confidentiality based on Vehicle Code sections 20012 and 20014.

Our office argued the recent California decision *State of California ex. rel. Dept. Of Transportation v. Superior Court* (*Paniagua*) (2022) 77 Cal.App.5th 998, which held that Vehicle Code sections 20012 and 20014 cannot be asserted to justify a blanket objection to all witness information contained within traffic-collision reports. By its terms, the confidentiality provision set forth in Vehicle Code section 20012 does not apply to those who have a "proper interest" in obtaining the information. The *Paniagua* court held that plaintiffs who can demonstrate that another accident that occurred at the same general location under similar circumstances as the subject accident have a "proper interest" in obtaining witness information found in traffic collision reports for similar prior accidents. (*Id.* at pp. 1004-1005.)

The *Paniagua* decision is dispositive in most cases in overcoming confidentiality objections that governmental entities raise in highway-design cases when the names and contact information for witnesses in prior similar accidents are sought. The decision, however, is also important for another reason.

Prior similar accidents can be used at trial to prove a defective condition, notice, or causation in cases other than highway-design. A traffic-collision report by itself is generally inadmissible at trial over Government Code section 20013 or hearsay objections. Therefore, there is often a need to use witness-identifying information to prove the existence of prior incidents and show the underlying circumstances. The *Paniagua* case provides legal bases for obtaining this crucial witness information.

The *Paniagua* decision

In *Paniagua*, Plaintiffs' husband and father was killed in a traffic collision on a state road in Ventura County. There had been three previous accidents on this section of roadway occurring in a substantially similar fashion. The State produced

Copyright © 2025 by the author.
For reprint permission, contact the publisher: **www.plaintiffmagazine.com**



the traffic-collision reports for the three previous incidents, but redacted the names, addresses, and telephone numbers for all parties and witnesses listed in those reports. The State withheld the witness-identifying information, contending it was protected from disclosure under Vehicle Code sections 20012 and 20014.

As a result of the State's objections, Plaintiffs moved to compel the witness-identifying information contained in the three traffic-collision reports, asserting that Vehicle Code section 20012 allows parties with a "proper interest" to obtain witness information disclosed in traffic collision reports. Since the other three incidents occurred under substantially similar circumstances, Plaintiffs argued they had a "proper interest" in such information. The trial court agreed and ordered the State to produce the information.

The State filed a writ of mandate requesting that the lower court ruling be reversed. The Court of Appeal granted the writ, affirmed the lower court judge, and wrote an opinion that held as follows:

> In wrongful death and personal injury actions arising from traffic accidents, [plaintiffs] who have a "proper interest" are entitled to know the personal information of parties and witnesses involved in previous accidents in the same location.

(*Id.*, 77 Cal.App.5th at 1000.)

In discussing who may have a "proper interest," the *Paniagua* court stated that where:

> [P]rior traffic accidents occurred in the same location, under similar circumstances . . . This is sufficient to demonstrate that Plaintiffs are persons with a "proper interest" in obtaining the unredacted accident reports.

(*Id.* at pp. 1004-1005.)

Vehicle Code section 20012 in part provides as follows:

> All required accident reports, and supplemental reports … shall be for the confidential use of the Department of Motor Vehicles and the Department of the California Highway Patrol, *except* that the Department . . . *shall disclose the entire contents of the reports*, including, but not limited to, the names and addresses of persons involved or injured in, or witnesses to, an accident, the registration numbers and descriptions of vehicles involved, the date, time and location of an accident, all diagrams, statements of the drivers involved or occupants injured in an accident and the statements of all witnesses, *to any person who may have a proper interest*…

(emphasis added).

Vehicle Code section 20012 and *Davies*

The first California Supreme Court case to interpret Vehicle Code section 20012 was *Davies v. Superior Court* (1984) 36 Cal.3d 291. *Davies* was a highway-defect case in which Plaintiff sought information, but not witnesses, involved in prior accidents occurring at the same location. The State objected, arguing the information requested by Plaintiff could only be compiled from accident reports, which the State contended were confidential under Vehicle Code sections 20012 and 20014. The California Supreme Court disagreed.

The *Davies* court held that "the confidentiality accorded accident reports by section 20012 does not extend to data generated from those reports . . . That data [is discoverable] by a party to a lawsuit without a prior showing that a common cause contributed to the other accidents about which the data is sought." (*Id.*, 36 Cal.3d at pp. 301-302.) Although limiting its holding to data which did not disclose the identity of the witnesses listed in the traffic collision reports, the *Davies* court did note that evidence of similar accidents might "qualify the party as a person having a 'proper interest' under section 20012." (*Id*. at p. 301.)

The second Supreme Court case considering the confidentiality provision of Vehicle Code section 20012 is *State of California ex. Rel. Dept. of Transportation v. Superior Court* (*Hall*) (1985) 37 Cal.3d 847. *Hall* involved a criminal prosecution for murder, vehicular manslaughter, and drunk driving. The accused defendant served a subpoena on the Department of Transportation requesting production of traffic collision reports from the scene of her accident for a four-year period. The State objected, asserting it was precluded from producing the traffic-collision reports under California Vehicle Code sections 20012 and 20014. The trial court disagreed, reasoning that Ms. Hall had a "proper interest" in the reports under section 20012 and ordered production.

In affirming the lower court decision, the California Supreme Court noted that "evidence of other unrelated accidents at the same site, attributable to highway conditions or similar factors" could potentially raise reasonable doubt on the murder and vehicular manslaughter charges. (*Id.* 37 Cal.3d at p. 856.) The court went on to state in a footnote:

> Nothing in the language of section 20012 excludes persons involved in other accidents from the class of persons with a "proper interest" in the reports of a given accident. The statute . . . clearly contemplates that persons other than those involved in the reported accident may have a "proper interest" in the reports.

(*Id.*, 37 Cal.3d at 855, fn. 10.)

Liberally relying on the *Davies* and *Hall* decisions, the Court in *Paniagua* made it clear that plaintiffs injured in vehicle collisions may seek to obtain all information found in traffic collision reports occurring under similar circumstances at the same location.

Paniagua beyond the highway-design case

Actual witnesses to an earlier accident may be needed at trial to prove the existence and factual circumstances of a prior or subsequent accident. Traffic-collision reports contain hearsay and are expressly prohibited from introduction into evidence at trial. Vehicle Code section 20013 specifically provides that: "No such accident report shall be used as

Copyright © 2025 by the author.
For reprint permission, contact the publisher: **www.plaintiffmagazine.com**



evidence in any trial, civil or criminal, arising out of an accident."

Before *People v. Sanchez* (2016) 63 Cal.4th 665, information regarding prior accidents contained within a traffic-collision report could be conveyed indirectly at trial through expert testimony. It was generally accepted that experts could testify about information they gleaned from traffic collision reports of other accidents if they reasonably relied upon that information in forming their opinions. (See, e.g., *Genrich v. State of California* (1988) 202 Cal.App.3d 221, 229 [expert permitted to identify SWITRS-reported accidents and circumstance of accidents described therein as a basis of his opinions even though reports themselves could not be admitted into evidence].)

Introduction of otherwise inadmissible hearsay by experts to support their opinions was precluded by the *Sanchez* decision. *Sanchez* held that "when any expert relates to the jury case specific out-of-court statements and treats the contents of those statements as true and accurate to support the expert's opinions the statements are hearsay" and inadmissible. (*Id*. at p. 686.)

Admission of prior similar accidents

Prior similar accidents can be admitted to prove a defective condition, notice, causation, or as a basis for punitive damages. S*anchez* highlights the importance of obtaining contact information regarding witnesses who might hold case-specific admissible evidence regarding other accidents. The California Supreme Court has long held that prior accidents are admissible at trial as circumstantial evidence under at least three circumstances:

> Evidence of prior accidents is admissible to prove a *defective condition*, *knowledge*, or *the cause of an accident*, provided that the circumstances of the other accidents are similar and not too remote. (emphasis added).

(*Elsworth v. Beech Aircraft Corp*. (1984) 37 Cal.3d 540, 555; see also *Ault v. International Harvester Co.* (1974) 13 Cal.3d 113, 121-122; *Kopfinger v. Grand Central Public Market* (1964) 60 Cal.2d 852, 860.)

Witnesses listed in traffic-collision reports might prove helpful in proving the existence and factual circumstances of prior accidents in a variety of factual contexts. Below are some Court of Appeal decisions or factual contexts where witness information found in traffic collision reports could facilitate proof of a necessary case element.

Products liability

Notice

In *Elsworth v. Beech Aircraft Corp.*, 37 Cal.3d at p. 555, a products-liability action stemming from an airplane crash, Plaintiff introduced, over Defendant's objection, evidence of 20 other accidents involving aircrafts built by Defendant. Although the other accidents were dissimilar in numerous aspects, they all involved a stall and spin. On appeal, the Supreme Court noted that even if the other accidents did not occur in precisely the same manner, they were relevant to show that Defendant had notice of a potentially dangerous situation. "Beech should . . . have been alerted to the fact that the spinning of the airplanes in the prior accidents was unintentional and may have been due to a defect in their design." (*Id.*, 37 Cal.3d at p. 555.)

Another case, *Colombo v. BRP US Inc.* (2014) 230 Cal.App.4th 1442, involved a product-liability action against a personal-watercraft manufacturer. The manufacturer argued on appeal that the trial court erred in admitting evidence of the manufacturer's awareness of other claims of orifice jet-thrust injuries to passenger's riding on their jet skis. In affirming the lower court's evidentiary ruling, the appellate court stated that such evidence "was relevant to show BRP, before the injury to plaintiffs, knew of a potential defect to its PWC's." (*Id.*, 230 Cal.App.4th at p. 1475.)

When seeking to admit a traffic collision report for the limited purpose of proving notice, the report is not subject to a hearsay objection since it is not being used to prove the truth of the matter asserted. Nevertheless, the report would still be subject to a Government Code section 20013 objection. Actual witness testimony regarding the circumstances of the prior accident may therefore still be necessary.

Dangerous conditions and causation

Ault was a products-liability action against the manufacturer of an off-road vehicle, the "Scout." Plaintiff alleged that the vehicle's gear box, which was made of aluminum 380, failed due to metal fatigue. When the gear box failed, the vehicle plunged 500 feet to the bottom of a canyon.

In appealing the judgment for Plaintiff, Defendant International Harvester argued the trial court erred in permitting expert witnesses to testify about two other accidents where gear boxes made of aluminum 380 in Scout vehicles allegedly failed due to metal fatigue. In finding the evidence was properly admitted, the court stated that "[a]lthough the purpose of the testimony was to indicate that all three accidents occurred because of the failure of the gear box, the focus was not on the accidents themselves but upon the inherent similarity in the physical and mechanical properties of the three gear boxes, all of which purportedly contained similar defects." (*Id.*, 13 Cal.3d at p. 122.) Thus, the court found that the evidence was relevant not only on causation, but to show a dangerous condition as well.

Punitive damages

In *Hasson v. Ford Motor Co.* (1982) 32 Cal.3d 388, 403-404, a products-liability action arising out of a brake failure, Plaintiff introduced at trial letters sent to Ford regarding brake failures in 1965 and 1966 Lincoln Continentals. On appeal, Ford argued the letters should not have been admitted since the circumstances surrounding the brake failures in the

Copyright © 2025 by the author.
For reprint permission, contact the publisher: **www.plaintiffmagazine.com**



two letters were not similar to Plaintiff's accident. In affirming the lower court's decision to admit the letters, the Supreme Court referenced the relaxed circumstances of similarity when the evidence is admitted only to show notice. Moreover, the Court held the customer complaints together with other evidence supported the jury's award of punitive damages against Ford since Ford was aware of the "probable dangerous consequences" of its defective brakes and "willfully and deliberately failed to avoid those consequences." (*Id*. at p. 402.)

Vehicle collisions

Notice and dangerous condition

Usually when issues of notice and dangerous condition arise in an automobile accident context, it is where a claim is directed at a public or private entity based on the condition of its road or crossway. In that context, there are several cases that have held that prior similar accidents are admissible to show notice as well as a dangerous condition. (See *Simmons v. Southern Pac. Transportation Co*. (1976) 62 Cal.App.3d 341, 365 (dangerous condition); *Genrich v. State of California* (1988) 202 Cal.App.3d 221, 227-28; *Hilts v. County of Solano* (1968) 265 Cal.App.2d 161, 169 (notice of dangerous condition).)

Causation

In *Leighton v. Dodge* (1965) 236 Cal.App.2d 54, Plaintiff was injured when rear-ended by a car driven by Dodge. The jury returned a verdict for Dodge based on the defense that the condition of the road was wet, drizzly, and slippery, making it impossible for Dodge to timely stop the vehicle. In support of the defense, Dodge introduced evidence of three other skidding occurrences at the accident location on the night of the accident. The appellate court found that the trial court properly admitted the evidence since it was "offered to show a physical condition, namely the slipperiness of a portion of the highway" which could have caused the accident. (*Id*. at p. 59.)

Punitive damages

There are numerous circumstances where prior accidents may be relevant to a punitive damage claim in auto cases. For example, multiple accidents regarding texting, elderly drivers, or vision issues may show a conscious disregard for the safety of others using the public roads. There are other automobile accident circumstances such as drunk driving (see *Taylor v. Superior Court* (1979) 24 Cal.3d 890) or reckless driving (See *Davies v. Superior Court* (1980) 11 Cal.App.3d 82, 88) where courts have held that punitive damages may be warranted for only one accident. Obviously, multiple accidents caused by the same egregious conduct would undoubtably warrant serious consideration of punitive damages.

Negligent-entrustment cases

A recent decision stated the test for negligent entrustment this way: "It is negligence to permit a third person to use a thing or to engage in an activity which is under the control of the actor, *if the actor knows or should know that such person intends or is likely to use the thing or to conduct himself in the activity in such a manner as to create an unreasonable risk of harm to others*."(*Mo Ghezavat v. Harris* (2019) 40 Cal.App.5th 555, 559 (emphasis added).)

In negligent-entrustment cases directed against employers for the actions of their employee drivers, it is often the practice of employers to admit negligence to keep out prior incidents that might otherwise be relevant in a negligent entrustment case. (See *Diaz v. Carcamo* (2011) 51 Cal.4th 1148,1151.) However, evidence of prior accidents is relevant and admissible on a punitive-damages claim, even where the employer admits vicarious liability of the driver. (See, *CRST, Inc. v. Superior Court* (2017) 11 Cal.App.5th 1255, 1262-65.)

What better proof that a person may create an unreasonable risk of harm to others by driving a car than evidence of previous accidents involving that same driver? Key to the presentation of that evidence would be the circumstances of the prior accident, which would need to be supplied by witnesses. Witness information contained within traffic collision reports would be crucial to that inquiry and *Paniagua* permits discovery of that information for all who have a "proper interest."

Conclusion

Evidence of prior accidents may be used in products-liability suits or automobile-accident cases to show notice, causation, a dangerous condition, or serve as a basis for punitive damages. To the extent proof of, or the circumstances involving, such prior accidents becomes an issue, witness information contained in traffic-collision reports could prove crucial. The *Paniagua* case supports a litigant's right to obtain such crucial witness information in discovery if the litigant has a "proper interest" in such information.

Lucas A. Whitehill is an attorney at The Simon Law Group *where his practice focuses on catastrophic personal injury, wrongful death, products liability, and governmental liability cases. Law School: Pepperdine University School of Law. Email: Lucas@justiceteam.com.*



Whitehill

Copyright © 2025 by the author.
For reprint permission, contact the publisher: **www.plaintiffmagazine.com**