

# Kimball, Tirey & St. John LLP

## Legal Alert

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### **Beware Commercial Landlords: Court Expands Duty to Inspect**

A commercial landlord is not ordinarily under a duty to inspect its premises once the tenant has taken possession. However, a new Court ruling may change all that. In *Stone v. Center Trust* (2007) 146 CA4th 1435, the Court of Appeal for the Second Appellate District, expanded a commercial landlord's duty to inspect its property for dangerous conditions after a judgment for possession was entered by the Court, but before the sheriff could effectuate the lock-out of the tenant.

The case involved a commercial shopping mall where a customer was injured on a slippery dance floor. The Court found that Civil Code section 1714, which places a duty on a landlord to use reasonable care to protect people who come onto the property, and applies to the time period between an unlawful detainer judgment, but before possession is returned to the landlord. The Court predicated its ruling on several grounds, including the fact that the landlord knew that defaulting tenants sometimes neglected their property; the fact that the property involved use by the public; and the fact that the Lease Agreement explicitly gave the landlord the right to inspect if the tenant was in default.

The Court's ruling has expanded a commercial landlord's liability in the arena of personal injury on its property. It further increases the need for a commercial landlord to be vigilant and consider an inspection of the property at least after an unlawful detainer judgment has been awarded but before the lock-out has taken place.

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