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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

COUNTY OF SAN BERNARDINO,

Petitioner,

v.

THE SUPERIOR COURT OF  
SAN BERNARDINO COUNTY,

Respondent;

DEMETRIUS JACKSON, a Minor, etc., et.  
al.,

Real Parties in Interest.

E056320

(Super.Ct.No. CIVDS1102023)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Donald R. Alvarez,  
Judge. Petition granted.

Jean-Rene Basle, County Counsel, and Matthew J. Marnell, Deputy County  
Counsel, for Petitioner.

No appearance for Respondent.

No appearance for Real Parties in Interest.

In this matter, we have reviewed the petition and offered real parties in interest the opportunity to respond; no response has been filed. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

Real parties in interest are attempting to hold petitioner County of San Bernardino (County) liable on a theory of “nuisance” for releasing a dog back to its owner after concerns had arisen concerning its temperament. County ordinances expressly authorize County personnel to make a *discretionary* decision with respect to such an animal, which includes the decision to return it. The County is therefore entitled to immunity under Government Code sections 815.2, subdivision (b), and 820.2. Casting the claim under the imaginative label of “nuisance” does not change this result.

Real parties in interest also attempted to allege that County’s actions created a “special relationship” with him. This legal theory is essentially a shorthand way of indicating that the totality of the circumstances justifies imposing a duty of care. (*Hansra v. Superior Court* (1992) 7 Cal.App.4th 630.) Furthermore, the duty only runs to a specifically foreseeable victim. (See *Rice v. Center Point, Inc.* (2007) 154 Cal.App.4th 949.) There are no allegations that it was foreseeable that real parties in interest would be specifically at risk if the subject dog were returned to its owner, and we otherwise find the doctrine of “special relationship” inapplicable.

Accordingly, the trial court erred in overruling petitioner’s demurrer to the nuisance cause of action, and we will grant the petition.

DISPOSITION

Let a peremptory writ of mandate issue directing the Superior Court of San Bernardino County to vacate its order overruling petitioner's demurrer to the nuisance cause of action, and to enter a new order sustaining the demurrer without leave to amend.

Petitioner is directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

In the interests of justice, the parties shall bear their own costs.

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MILLER  
\_\_\_\_\_ J.

We concur:

RAMIREZ  
\_\_\_\_\_ P. J.

KING  
\_\_\_\_\_ J.