



Respondeat superior gone awry

By Harvey A. Saltz

I think the doctrine of “respondeat superior” (let the master answer) has gone amuck and it’s time to rein it in. I became very upset when I heard a recent newscast report that another lawsuit is to be filed against the Los Angeles Unified School District for sexual misconduct by a teacher. Damn it, I can’t afford it. I have a hard enough time getting by on my retirement income; I can’t afford to pay higher taxes to continue to support a misapplied legal doctrine.

Respondeat superior, as you may know, was a concept of law devised to allow an injured victim to recover damages from an employer (the master) because the employee (the servant) generally could not provide adequate compensation for the injuries inflicted while doing his or her job. If that person were to have caused the very same injuries while not working for a master, he or she, and only he or she, would be liable for the damages.

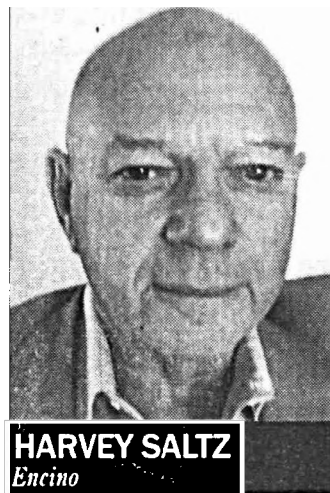
The doctrine made sense for the circumstances which caused its creation. The master was to profit by the servant’s acts. To make the master liable for the servant’s conduct in pursuit of that profit was not unfair. It was just another risk of doing business and could be factored in when budgeting business activities.

Tax supported public entities should not be bundled with, or confused with, private enterprise. It is not the Board of Education’s purpose to operate for a profit. Nay, it is operating for the benefit of the public in general. It is merely fulfilling a duty placed upon it by society and government. It is doing the bidding of the public — me and you. If I am to be held liable for the wrongdoing of employees of the educa-

tion process, then my choice is to close-down business and eliminate the possibility of financial loss. Can we do that? Of course we can’t. And that, my fellow citizens, is precisely why the doctrine of respondeat superior should not be applied to tax supported public entities. Recovery from a wage-earning wrongdoer should be sufficient without digging into my pockets.

Is it punishment that is sought? Well, the wrongdoer will personally have to pay damages, suffer loss of employment, face public disgrace and criminal prosecution, serve time in prison, and be marred for life as a sex-offender. Was the school district negligent in its hiring or monitoring and have to be taught a lesson? Perhaps, but it should only be the negligent individual that is held personally accountable, not me nor the rest of the public who had no hand in the negligent hiring, or the monitoring, or the perpetration of the criminal act.

Harvey Saltz is a former attorney in Encino. He can be reached at (818) 907-7258.



HARVEY SALTZ
Encino