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DESIGN IMMUNITY - CALIFORNIA

Curtis v. County of Los Angeles

Court of Appeal, Second District, Division 4, California - July 30, 2013 - Cal.Rptr.3d - 13 Cal. Daily Op. Serv. 8212

Motorist brought action against county for injuries sustained in a vehicle collision precipitated by another driver while on highway, alleging that lack of a center median space or barrier constituted a dangerous condition.

The Court of Appeal held that:

- Summary judgment evidence established that lack of median space or barrier was not a proximate cause of accident;
- Drawings and declaration established that deputy director exercised discretionary authority in rejecting median space of barrier, as required for design immunity; and
- There was no increase in highway traffic flow, speed, or accidents which supported claim that county lost design immunity through changed conditions.

In order to demonstrate entitlement to design immunity, a public entity must establish three elements: (1) a causal relationship between the plan or design and the accident, (2) discretionary approval of the plan or design prior to construction, and (3) substantial evidence supporting the reasonableness of the plan or design.

Drawings and declaration were sufficient to show that deputy director considered a median space and/or barrier for highway, but rejected those features in the exercise of his discretionary authority, as required for county to have design immunity in action arising out of motor vehicle accident on highway. Design drawings showed neither a median space nor a barrier, and deputy director stated that, in his professional engineering judgment, a center median was “not feasible due to a variety of technical reasons,” and that “technical, property ownership and environmental considerations precluded any immediate installation of a center median that is 10′ in width,” which was required to “even consider installing a center median barrier.”

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