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MUNICIPAL LIABILITY - CALIFORNIA

Montenegro v. City of Bradbury

Court of Appeal, Second District, Division 4, California - April 25, 2013 - Cal.Rptr.3d - 3 Cal. Daily Op. Serv. 4206

Pedestrian who tripped over protruding tree trunk while walking on pathway brought action against city, alleging negligence, willful failure to warn of a dangerous condition, and dangerous condition of public property.

The Court of Appeal held that pathway was a "recreational trail" such that city had immunity.

A governmental entity is absolutely immune from liability for injuries caused by a physical defect of a recreational trail. Pathway on which pedestrian was injured was a "recreational trail" such that city had statutory immunity from liability for pedestrian's injuries. Even if pedestrian was not engaged in recreation but only was acting as an ordinary pedestrian seeking to avoid traffic by using the pathway, where pathway was designed to be used by the public for multiple recreational purposes, including jogging, hiking, bicycling, and horseback riding, pathway was landscaped to simulate a natural area to encourage such activity, and pathway was in fact used for numerous recreational purposes, including horseback riding and hiking.

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