

Bond Case Briefs

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LIABILITY - COLORADO

Rieger v. Wat Buddhawararam of Denver, Inc.

Colorado Court of Appeals, Div. A - November 21, 2013 - P.3d - 2013 COA 156

Tree trimmer brought action against temple premises owner after he was struck and injured by falling tree limb. After temple designated lead volunteer as a nonparty at fault, tree trimmer filed amended complaint naming lead volunteer as a defendant, voluntarily dismissing lead volunteer from the action on immunity grounds, and seeking to hold temple vicariously liable for lead volunteer's negligence. The District Court granted temple's motion for summary judgment, and tree trimmer appealed.

The Court of Appeals held that:

- Tree trimmer was a "volunteer";
- Tree trimmer was a "licensee"; and
- As a matter of first impression, temple was not vicariously liable under the Colorado Premises Liability Act for lead volunteer's negligence.

Volunteer Service Act provision stating that nothing in the Act "shall be construed to bar any cause of action against a nonprofit organization" or "change the liability otherwise provided by law of a nonprofit organization" arising out of an act or omission of a volunteer exempt from liability under the Act does not create a new cause of action that does not otherwise exist under the law, nor does it expand landowner liability beyond that recognized in the Colorado Premises Liability Act.

Temple premises owner was not vicariously liable under the Colorado Premises Liability Act for lead volunteer's negligence in allowing tree limb to fall on volunteer tree trimmer while conducting tree trimming on temple property, as tree trimmer was a licensee rather than an invitee, and temple did not create any danger, nor did it provide any supervision or control over the project or the volunteers.