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INVERSE CONDEMNATION - CALIFORNIA

City of Pasadena v. Superior Court

Court of Appeal, Second District, Division 3, California - August 14, 2014 - Cal.Rptr.3d - 2014 Daily Journal D.A.R. 10, 981

During a windstorm, a tree owned by the City of Pasadena fell on the residence of James O'Halloran. As a result of the damage caused to the house, the insurer Mercury Casualty Company paid benefits to O'Halloran pursuant to his homeowner's insurance policy. Mercury then sued the City for inverse condemnation and nuisance based on the damages caused by the tree.

On appeal, the City contended that the trial court should have granted summary adjudication of the inverse condemnation and nuisance causes of action because (1) the subject tree was not a work of public improvement, and (2) Mercury failed to submit any evidence that the City was negligent such that it can be held liable for nuisance.

The Court of Appeal held that:

- The trial court properly denied summary adjudication as to the inverse condemnation cause of action because there were triable issues of material fact as to whether the tree was part of a work of public improvement; and
- The city failed to meet its burden on summary adjudication of establishing that Mercury could not show nuisance.