

Bond Case Briefs

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LIABILITY - CALIFORNIA

Un Suk Guernsey by and Through Guernsey v. City of Salinas

Court of Appeal, Sixth District, California - December 17, 2018 - Cal.Rptr.3d - 2018 WL 6598867 - 18 Cal. Daily Op. Serv. 11, 875

Pedestrian brought negligence action against city and truck driver after pedestrian was struck by truck while crossing driveway on city property.

Following jury trial, the Superior Court entered judgment against truck driver and in favor of city. Pedestrian appealed.

The Court of Appeal held that:

- Instruction on design of driveway was erroneous, and
- Such error was reversible error.

Pedestrian did not forfeit her challenge to trial court's instruction on design of driveway, arguing that instruction was irrelevant, ambiguous and unduly emphasized factors jury could not rely on to find a dangerous condition, in pedestrian's negligence action against city arising out of accident in which pedestrian was struck by vehicle while crossing driveway on city property, where pedestrian objected in trial court that instruction was "misleading," not necessary, and confusing because instruction made it "sound like the [c]ity should be entitled to design immunity."

Instruction on design of city's driveway, which stated that in order to find driveway presented dangerous condition, jury could not rely on characteristics of driveway itself, including placement of stop sign and presence of pink cement, was erroneous, in pedestrian's negligence action against city; instruction implicitly presumed that city was entitled to design immunity without that issue ever having been presented to court, pink cement and stop sign were on adjacent property and thus could not be subjects of a design immunity defense, and instruction conflicted with another instruction stating that city's property could be considered dangerous if a condition on adjacent property, such as pink concrete or stop sign, exposed persons using city property to substantial risk of injury.

Error in giving of instruction which referenced design immunity defense was reversible error, in pedestrian's negligence action against city arising out of pedestrian being struck by vehicle while crossing driveway on city property, where handwriting on instruction by member of jury, associating verdict form's questions with erroneous instruction, strongly supported conclusion that jury used erroneous sentences of instruction to answer questions on verdict form, and challenged instruction conflicted with another instruction which otherwise could have provided substantial support for a finding that city's property was in dangerous condition.