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Stack v. City of Lemoore

Court of Appeal, Fifth District, California - May 3, 2023 - Cal.Rptr.3d - 2023 WL 3220918

After breaking his wrist when he tripped and fell on defect caused by uneven sidewalk, jogger sued city for general negligence and under the Government Claims Act for maintaining a dangerous condition of public property.

Following judgment of nonsuit on negligence cause of action, and denial of city's motions for a nonsuit and for a directed verdict on the cause of action for maintaining a dangerous condition, the Superior Court entered judgment on jury verdict in favor of jogger, awarding $90,000 in damages. City appealed.

The Court of Appeal held that:

- Height differential between slabs of sidewalk weighed heavily against finding that defect was trivial as a matter of law;
- Factor of the nature of the defective condition weighed against ruling that defect was trivial as a matter of law;
- Factor of the quality of the defect weighed against ruling that defect was trivial as a matter of law;
- Factor of obstruction of the defect weighed against ruling that defect was trivial as a matter of law; and
- Factors of weather and lighting conditions weighed in favor of ruling that defect was trivial as a matter of law.

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