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Carr v. City of Newport Beach

Court of Appeal, Fourth District, Division 3, California - August 29, 2023 - Cal.Rptr.3d - 2023 WL 5596339 - 2023 Daily Journal D.A.R. 8998

Swimmer, who sustained injuries after diving headfirst into shallow waters, from a 20-inch-wide seawall, called a groin, at city beach, brought action against city for creating or maintaining a dangerous condition of public property and failure to warn.

The Superior Court granted city's motion for summary judgment. Swimmer appealed.

The Court of Appeal held that:

- Swimmer engaged in a "hazardous recreational activity" triggering city's statutory immunity from liability;
- Gross negligence exception to city's statutory immunity did not apply;
- Dangerous condition exception to city's statutory immunity did not apply; and
- City was immune from liability for swimmer's injuries to the extent that they were caused by lifeguard's failure to warn him that diving from the groin was prohibited.

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