Public Entity Immune From Liability To Plaintiff Injured By "Tree Swing" On Public Property

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ATTORNEYS

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The Court of Appeal has held that a governmental entity was immune from liability where a plaintiff was injured while using a "tree swing" on public property. In County of *San Diego v. Superior Court*, a high school student was injured when the rope on a tree swing broke, and he fell into a ravine. The County did not own or maintain the tree swing, although it knew of its existence.

The Court found that use of a tree swing was a "hazardous recreational activity" under Government Code Section 831.7. The Court rejected two arguments by plaintiff.

First, the Court found that the fact that the County allegedly had notice of the swing did not create an affirmative duty on the part of the County to maintain it. The Court's ruling rejected plaintiff's attempt to "impose a duty on public entities to bear the cost of continually policing potentially large expanses of public lands for recreational equipment left by third parties and become experts in various pieces of abandoned recreational equipment..."

Second, the Court found that the fact that the County allegedly deposited wood in the ravine, and plaintiff landed on that wood, did not give rise to liability, noting that "Landing on the ground or something located on the ground that could cause injury is reasonably assumed as an inherent risk of tree rope swinging."
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