



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

FOR IMMEDIATE RELEASE: October 6, 2015

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Court Dismisses \$25 Million Tree Branch Lawsuit *City Attorney's Office successfully argues City had no liability in 2013 incident*

A Superior Court judge has dismissed a lawsuit filed by a woman who was injured when a eucalyptus branch fell on her as she walked along a paved path near Mission Bay.

Lorin Toeppe sought \$25 million from taxpayers – \$5 million in economic damages and \$20 million in punitive damages – for injuries she sustained when the branch struck her in 2013. She alleged that the Mission Bay path was a dangerous condition for which the City was responsible.

Her lawsuit was found meritless after the City Attorney's Office argued that cities have statutory immunity for the conditions of pathways, such as the Mission Bay trails, which give the public access to recreational or scenic areas.

Public entities were given this immunity to encourage them to open their property to the public. Otherwise, courts have found, municipalities would sooner close their recreation areas to the public than bear the burden and expense of maintaining perpetually "safe" conditions and defending and paying claims of injuries.

In its motion for summary judgment, the City noted that hundreds of thousands of people annually use the Mission Bay trail on which Toeppe was injured. Many are bicyclists, rollerbladers, skateboarders and walkers, traveling at different speeds, who are vulnerable to collisions with each other and encounters with debris, rocks and tree branches.

"Clearly, if the City could be liable any time someone was injured while doing any one of a myriad of available recreational activities on the path, including recreational walking, the City would have to close the park," the City argued.

Superior Court Judge Eddie C. Sturgeon agreed.

"San Diego is rightly famous for the beautiful parks and trails it maintains for its residents and visitors," City Attorney Jan Goldsmith said. **"But we could not afford these amenities if taxpayers were on the hook for every unfortunate accident that occurs when people use public spaces for recreation."**

The City was represented in the case by Deputy City Attorney Catherine Richardson and Deputy City Attorney George Schaefer.

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