

Court Rejects District Liability for Use of Facilities at Carnival

Vol. 2019, No. 5 | May 13, 2019

A California appellate court recently examined the scope of liability for injuries that occurred when third-parties were using school district property pursuant to the Civic Center Act. (*Grossman v. Santa Monica-Malibu Unified School District* (2019) 33 Cal.App.5th 458.) The Court of Appeal confirmed that a school district is not liable for personal injuries that occurred during the PTA's annual carnival on school district property absent evidence that the injuries were caused by the negligent ownership or maintenance of school facilities. In this case, because the injury was attributable to the PTA's use of school district property, the District was not liable.

Background

The Plaintiff filed a lawsuit against the District after sustaining a serious injury while attending a PTA-sponsored carnival on District property. The Plaintiff had climbed to the top of an inflatable slide when the landing at the top of the slide collapsed, causing Plaintiff to fall to the concrete below. The cause of the collapse was attributed to gusty winds and the failure of carnival staff to attach safety tethers to the top of the slide.

The carnival was hosted by the local PTA every year on District property pursuant to the Civic Center Act and was operated by a third-party. The District's involvement with the fundraiser was limited. It helped promote the event through printing of advertisements and advertised the carnival on the District's website. Additionally, the carnival itself was staffed with District employee volunteers.

Decision

The Court affirmed judgment in favor of the District. It noted that the Civic Center Act does not impose liability on school districts for the negligent *use* of facilities, only for injuries arising from the negligent *ownership or maintenance* of school district property. (Ed. Code, § 38134, subd. (i).) The Court found that Plaintiff's injuries were the result of the PTA's operation of the carnival and not the result of any District negligence in its ownership or maintenance of facilities.

The Court further rejected Plaintiff's claim that the inflatable slide was a dangerous condition of District property as the Plaintiff did not offer any evidence supporting the contention that the



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District was aware of the danger and because the slide itself was not District property. Interestingly, the Court also rejected the District's alleged negligence in failing to enforce a policy expressly precluding the erection of any structure on school property because the slide was inflated, as opposed to being constructed.

Impact

The case highlights the potential risks involved in the Civic Center Act use of school district property. Generally, a district is not liable for the negligent use of its property, only negligent ownership and maintenance. But this distinction becomes less certain the more involved a district becomes in the underlying activity. Finally, districts should work to ensure that any proposed use complies with district policies.

If you have questions about the use of facilities under the Civic Center Act or liability, please do not hesitate to contact a DWK attorney in our Business, Property, and Construction or Litigation practice groups.

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