

SIGNIFICANT APPELLATE DECISION WON BY ALVAREZ-GLASMAN & COLVIN ON BEHALF OF CITY OF CHICO ON PETITION FOR WRIT OF MANDATE BASED ON NATURAL CONDITION IMMUNITY (GOV'T CODE § 831.2)

Alvarez-Glasman and Colvin (AGC) is extremely pleased to announce that the California Court of Appeal agreed with an important legal argument made by Senior Partner Sharon Medellin regarding the scope of the natural condition immunity set forth in Government Code section 831.2 raised in a petition for a peremptory writ of mandate after the trial court's denial of the City's motion for summary judgment. The motion for summary judgment is a pre-trial motion seeking dismissal of the lawsuit. The Court of Appeal ruling results in the dismissal of the case without the need for costly litigation and potential damages.

This case involved a lawsuit filed by a party who was injured by a falling tree branch while jogging on a bike path located in a municipal park owned by the City. She sued the City for the alleged existence of a dangerous condition of public property. On behalf of The City, Ms. Medelin filed a motion for summary judgment based, in part, on Government Code section 831.2, which provides immunity to public entities for injuries caused by natural conditions of unimproved public property. Plaintiff's lawyers submitted evidence that the tree had been pruned and that pruning can push growth into the remaining branches, increasing their size. They did not submit evidence that previous pruning actually caused the subject branch to break. The trial court denied summary judgment, finding triable issues of fact on whether the injuries were caused by a natural condition of unimproved public property.

Sharon Medellin of Alvarez-Glasman & Colvin filed a petition for peremptory writ of mandate with the Court of Appeal arguing that the trial court erred in denying the motion for summary judgment by failing to recognize the natural condition immunity as applied to the undisputed facts of the case. The Court of Appeal, Third Appellate District, issued a writ of mandate overturning the trial court's decision and directed the trial court to vacate its order denying the motion for summary judgment. The Court of Appeal issued a ruling granting the City's motion based on the natural condition immunity. The Court concluded that the natural growth of indigenous trees in natural habitats is a natural condition and that pruning that occurred some 18 years earlier did not alter that fact absent evidence that such pruning caused the branch to drop. The Court of Appeal further determined that the immunity was not lost because the tree grew between two manmade pathways because the area where the tree grew, as opposed to where the injury occurred, was unimproved. Plaintiffs' filed to the California Supreme Court a Petition to Review and Request to de-publish the Court of Appeal decision. The Court denied both the Petition and Request. The Court of Appeal ruling is a significant victory for all cities.