



September 25, 2013

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Honorable Elena J. Duarte
Honorable M. Kathleen Butz
Honorable William J. Murphy, Jr.
Third Appellate District
914 Capitol Mall, 4th Floor
Sacramento, CA 95814

Re: *Meddock v. County of Yolo*, Case No. C070262
Request for Publication (Rule 8.1120)

Dear Justices Duarte, Butz and Murphy:

The California State Association of Counties (CSAC) and the League of California Cities (League) respectfully join in the requests of the Attorney General and the County of San Mateo that the Court publish its opinion in *Meddock v. County of Yolo*.

Interest of CSAC and the League

CSAC is a non-profit corporation. The membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the State. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all counties.

The League is an association of 467 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. The League is advised by its Legal Advocacy Committee, comprised of 24 city attorneys from all regions of the State. The Committee monitors litigation of concern to municipalities, and identifies those cases that have statewide or nationwide significance. The Committee has identified this case as having such significance.

CSAC and the League's member cities and counties have a strong interest in this opinion's publication. Access to recreational opportunities in a natural environment is one of the important services that local governments provide to the

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Clerk, Court of Appeal,
Third Appellate District

public. The Legislature recognized that if government entities could be subject to liability for injuries that are inherent in interacting with the natural environment, government would have little choice but to severely restrict access to their parklands. Thus, Government Code section 831.2 was created to provide immunity from liability and permit the public to enjoy public natural resources. The Legislative Committee Comment to Government Code section 831.2 makes clear that section's purpose:

This section provides an absolute immunity from liability for injuries resulting from a natural condition of any unimproved public property. . . . [para.] . . . It is desirable to permit the members of the public to use public property in its natural condition and to provide trails for hikers and riders and roads for campers into the primitive regions of the State. But the burden and expense of putting such property in a safe condition and the expense of defending claims for injuries would probably cause many public entities to close such areas to public use. In view of the limited funds available for the acquisition and improvement of property for recreational purposes, it is not unreasonable to expect persons who voluntarily use unimproved public property in its natural condition to assume the risk of injuries arising therefrom as a part of the price to be paid for benefits received.

Despite the intent of this legislation, cases like this one continue to be filed against government entities in an attempt to find or create exceptions to the "absolute" natural conditions immunity. This case warrants publication in order to provide guidance to local government and park users alike on the apportionment of risk when recreating on parkland in its natural condition.

The Opinion Meets the Standard for Publication

The opinion in *Meddock v. County of Yolo* meets the standards for publication set forth in California Rules of Court, rule 8.1105, subdivision (c) because of the manner in which the opinion applies, explains, and advances existing law, and because it addresses an issue of continuing public interest.

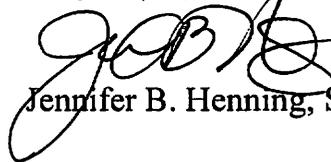
As noted in the Attorney General's publication request, there are no other published cases addressing the facts presented in this case—e.g., a tree in its natural condition causing injury to a person on improved park property. Indeed, CSAC and the League are aware of only one published case addressing falling trees in any context at all, and that case involved injury on adjacent, private property, which is a separate legal issue from the one addressed in this Court's opinion in *Meddock*. (*Milligan v. City of Laguna*

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Beach (1983) 34 Cal.3d 829.) Yet, this is an issue that occurs with some regularity. Falling trees occur naturally due to old age, borers, erosion, floods, lightning strikes, or other natural events. Publication of this opinion would, for the first time, establish that the natural conditions immunity applies to injuries caused by such falling trees on public land, even if the injury itself occurs on improved property.

For this reason, and for the reasons set forth in the publication requests filed by the Attorney General and the County of San Mateo, CSAC and the League believe the opinion meets the standards for publication, and urge this Court to order the opinion published.

Respectfully Submitted,



Jennifer B. Henning, SBN 193915

Counsel for California State Association of Counties
and League of California Cities

Proof of Service Attached

Proof of Service by Mail
Meddock v. County of Yolo
Case No. C070262

I, Mary Penney, declare:

That I am, and was at the time of the service of the papers herein referred to, over the age of eighteen years, and not a party to the within action; and I am employed in the County of Sacramento, California, within which county the subject mailing occurred. My business address is 1100 K Street, Suite 101, Sacramento, California, 95814. I served the within **REQUEST FOR PUBLICATION** by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee respectively as follows:

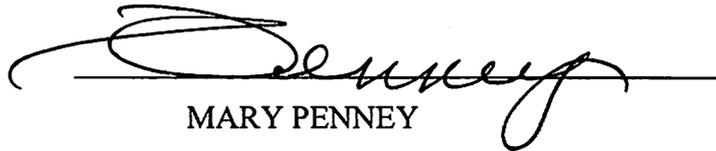
Proof of Service List

| Party | Attorney |
|---|---|
| Dwight Meddock et al. : Plaintiff and Appellant | Jason J. Sigel James J. Ison Dreyer Babich Buccola Wood Campora, LLP 20 Bicentennial Circle Sacramento, CA 95826 |
| County of Yolo : Defendant and Respondent | Bruce A. Kilday Angelo, Kilday & Kilduff, LLP 601 University Avenue, Suite 150 Sacramento, CA 95825 |
| State of California: Publication Requestor | Kamala D. Harris Harry T. (Chip) Gower, III Office of the Attorney General 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 |
| County of San Mateo: Publication Requestor | John C. Beiers David A. Levy Office of the County Counsel Hall of Justice and Records, 6 th Floor 400 County Center Redwood City, CA 94603-1662 |
| Trial Court | Clerk of the Court Yolo County Superior Court 725 Court Street Woodland, CA 95695 |

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and by placing the envelopes for collection and mailing following our ordinary business practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 26, 2013 at Sacramento, California.


MARY PENNEY