

Dobbs v. City of Los Angeles (2DCA) (Oct. 16, 2019)

The City of Los Angeles successfully invoked the statutory design immunity defense because the public employee reasonably exercised discretionary authority to approve bollards at the LA Convention Center

FACTS/PROCEDURE

In broad daylight, Cynthia Dobbs walked into a round concrete pillar. It was 17.5 inches wide and 17.5 inches tall. A group of these unpainted pillars, also called bollards, protects the Los Angeles Convention Center from car bombs. They are the height of an average coffee table. Dobbs sued the City of Los Angeles claiming it allegedly created a dangerous condition that caused her to slip and fall. About 2 million people visit the convention center yearly. More than 50 bollards are in front of the south hall that she fell at. For the 9 years before Dobb's accident, no one else filed an injury claim.

The City successfully invoked the statutory defense of design immunity. Design immunity shields public entities from personal injury claims when a public employee reasonably exercised discretionary authority when approving the design at issue. (Gov. Code § 830.6.) The trial court granted summary judgment in favor of the City.

DISCUSSION/HOLDING

Affirmed. Design immunity has three elements. "A public entity claiming design immunity must establish three elements: (1) a causal relationship between the plan or design and the accident; (2) discretionary approval of the plan or design prior to construction; and (3) substantial evidence supporting the reasonableness of the plan or design." (*Cornette v. Department of Transportation* (2001) 26 Cal.4th 63, 66.) (*Hampton v. County of San Diego* (2015) 62 Cal.4th 340, 342.) The City satisfied the first element according to Dobb's stipulation at oral argument. The second element requires discretionary approval of the design before construction. City Engineer Robert Horii approved the plans, which bore his office's official stamp. This was sufficient to satisfy the second element. The third element is whether there is any substantial evidence of reasonableness of the public entity's approval of the design. The trial court correctly found this exercise of approval to be reasonable. Key evidence included how this bollard looked on the sidewalk. It was big and designed to stop cars. It was obvious to pedestrians who looked where they were going. "There is more proof of reasonableness, but we need not recite it because reasonable minds would agree this bollard in this location was conspicuous and not a danger to pedestrians." It was therefore reasonable to approve this plan. **"Tort law incorporates common sense. When one walks into a concrete pillar that is big and obvious, the fault is one's own."**