

Presbyterian Camp and Conference Centers, Inc. v. Superior Court (Cal Fire)

2021 DJDAR 13063

A corporation can be considered a “person” under H&S Code statutes and be vicariously liable for its employees and agents.

FACTS/PROCEDURE

The Department of Forestry and Fire Protection (CalFire) sued Presbyterian Camp and Conference Centers, Inc. (PCCC), to recover costs arising from a fire allegedly started by a PCCC employee. PCCC demurred to CalFire's complaint, arguing that it could not be held liable for the employee's actions based on *Department of Forestry & Fire Protection v. Howell (2017) 18 Cal.App.5th 154 [226 Cal. Rptr. 3d 727]*. The trial court overruled PCCC's demurrer, holding that *Howell* did not bar CalFire's claims against PCCC. On appeal, PCCC argued that the trial court erroneously overruled its demurrer because a corporation was not a “person” for purposes of sections 13009 and 13009.1.

DISCUSSION

The ability of California's Department of Forestry and Fire Protection (CalFire) to recover the costs of services it provides is limited to the recovery provided by statute. Health & Saf. Code, § 13009, subd. (a)(1), permits CalFire to recover fire suppression costs from any person who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by them to escape onto any public or private property. Health & Saf. Code, § 13009.1, subd. (a)(1), permits CalFire to recover costs for investigating a fire from the same classes of persons. A person includes any person, firm, association, organization, partnership, business trust, corporation, limited liability company, or company. Health & Saf. Code, § 19. Thus, under the plain language of these statutes, CalFire can recover fire suppression and investigation costs from a corporation that negligently or illegally sets a fire, allows a fire to be set, or allows a fire it kindled or attended to escape. And because a corporation necessarily acts through agents, it is vicariously liable if one of its agents sets a fire in the scope of their employment.

The Court held that California's Department of Forestry and Fire Protection could maintain an action to recover fire suppression costs from a corporation based on allegations of negligence or violation of law by an employee who started a fire because a corporation was a person under Health & Saf. Code, §§ 5, 19, for purposes of fire liability under Health & Saf. Code, §§ 13009, 13009.1. Moreover, vicarious corporate liability was consistent with other fire liability laws and with codified principles of common-law vicarious liability in Civ. Code, § 2338, as to which the Legislature was presumed to have been aware. Even if an interpretation allowing vicarious corporate liability resulted in surplusage in a related statute, determining legislative intent did not necessarily require a court to assume the Legislature chose the most economical means of expression in writing every statute.

RULING

Held. PCCC's writ of mandate was denied. CalFire was permitted to recover its costs.