

# Union Pacific Railroad Co. v. Superior Court

(2024) Cal.App.5<sup>th</sup> No. F087132

Railroad company did not have a duty to remove the tree or take measures to protect the public from the alleged dangerous condition posed by the tree on land abutting highway.

## FACTS/PROCEDURE

This case involves three decedents who were killed after their vehicles collided on the highway, veered off the roadway, struck a tree, and burst into flames. The tree was located on land abutting Highway 99, which Union Pacific Railroad Company owned. Relatives of the deceased sued Union Pacific, alleging they were negligent for failing to remove the tree or take other measures to protect the public against the dangerous condition caused by the tree. Union Pacific moved for summary judgment contending, among other things, that plaintiffs cannot establish Union Pacific owed plaintiffs or decedents a duty to remove the tree. Applying the *Rowland* factors, the trial court found the undisputed material facts did not warrant creating a judicial exception to the ordinary duty of care and denied the motion. Union Pacific filed a petition for writ of mandate.

## HOLDING/DISCUSSION

The issue at hand is whether Union Pacific had a duty to remove the tree or take measures to protect the public from the alleged dangerous condition posed by the tree. The court noted that while Civil Code section 1714 establishes a general duty of care, there are exceptions based on policy considerations and specific circumstances. In weighing the policy considerations and facts at issue, the court held that Union Pacific did not create the alleged hazard, did not cause the highway collision, and had no responsibility for the highway's design or clear recovery zones; therefore, no duty was owed.

In its ruling, the court considered the policy of preventing future harm and weighed it against the cost and feasibility of removing the tree. The cost of removing the tree in question was more than \$3,300, which the court found burdensome for landowners who could not absorb such cost. Additionally, the court noted that no moral blame could be attributed to Union Pacific, as it did not create the hazard or have control over the highway conditions that Caltrans manages.

Further, the court compared cases that involved individuals and land possessors who had a duty to warn or protect the public from dangerous conditions. For example, in *Cabral v. Ralphs Grocery Co.* (2011) 51 Cal.4th 764, a motorist struck a truck illegally parked on the shoulder of a highway. In that case, the court determined that the truck driver owed a duty to the motorist as he was on notice when he saw a Caltrans sign advising that only emergency parking was allowed. In contrast, Caltrans never notified Union Pacific that the tree was dangerous. Additionally, no prior accidents involving the tree were reported. Accordingly, the court created a judicial exception to the ordinary duty of care and ordered that the trial court grant the motion for summary judgment.