

California Court of Appeal Interprets Assumption of Risk Doctrine

November 23, 2015

Griffin v. The Haunted Hotel, Inc.
(Oct. 23, 2015, D066715) ___ Cal.App.4th ___

Plaintiff paid to go through a haunted house. When an actor carrying a chainsaw frightened him, he ran away and was injured. The trial court dismissed plaintiff's claims for negligence and assault because "[u]nder the primary assumption of risk doctrine, there is no duty to eliminate or protect a plaintiff against risks that are inherent in a sport or [recreational] activity."

On appeal, plaintiff argued assumption of risk did not apply because the actor appeared to be mishandling a live chainsaw beyond the boundary of the haunted house, a risk he had not assumed when entering the haunted house. The Court of Appeal rejected this subjective fear argument because "primary assumption of risk focuses on the question of duty [and] is *not* dependent on either the plaintiff's implied consent to, or subjective appreciation of, the potential risk." The court affirmed the summary judgment, stating that "[t]he risk that a patron will be frightened, run, and fall is inherent in the fundamental nature of a haunted house attraction," which plaintiff "voluntarily paid money to experience."

More Information

For more information about this case, contact Shane McKenzie (818.995.0800)