

GOVERNMENTAL IMMUNITIES – PART I: MASTERING THE BIG 7 CACI DEFENSES

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PART I: GOV'T CODE IMMUNITIES - AFFIRMATIVE DEFENSES IN CACI

- 1 CACI 1110: Natural Conditions (GC 831.2)
- 2 CACI 1111: Conditions Created by a Reasonable Act or Omission (GC 835.4(a))
- 3 CACI 1112: Reasonable Act or Omission to Correct (GC 835.4(b))
- 4 CACI 1120: Failure to Provide Traffic Control Signals (GC 830.4)
- 5 CACI 1121: Failure to Provide Traffic Warning Signals, Signs or Markings (GC 830.8)
- 6 CACI 1122: Weather Conditions Affecting Streets and Highways (GC 831)
- 7 CACI 1123: Design Immunity (GC 830.6)
- 8 CACI 1124: Loss of Design Immunity (Cornette v Dep't Transportation (2001) 26 Cal 4th 63)

CACI 1110: Natural Conditions (GC 831.2)

- CACI 1110 – A public entity is not responsible for harm caused by a natural condition of an unimproved public property.
- How do cases define a “natural condition”, “unimproved” and “improved” public property.
- Practical application: These often arise in landslide cases in which a plaintiff combines a DCPD claim with inverse condemnation.

CACI 1111: Conditions Created by a Reasonable Act or Omission (GC 835.4(a))

CACI 1111 - A public entity is not responsible for harm caused by a dangerous condition, if the act or omission of its employee that created the dangerous condition was reasonable.

The employee's conduct must be weighed against the likelihood and seriousness of the potential injury against the practicality and cost of either taking alternative action not to have created the condition or protecting against the risk of injury.

Reasonableness is a "negligence" standard but it is qualified for the public entity to be weighed against practicality and costs to the public entity.

What do the cases say?

CACI 1112 – Reasonable Act or Omission to Correct (GC 835.4(b))

- CACI 1112 – A public entity is not responsible for harm caused by a dangerous condition if its failure to take sufficient steps to protect against the risk of injury was reasonable.
- In assessing reasonableness, you must consider the time and opportunity it had to act, and must weigh the likelihood and seriousness of the potential injury against the practicality and cost of protecting against the risk of injury.



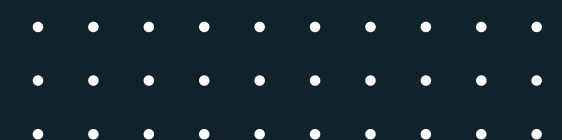
What do the cases say?

CACI 1120 – Failure to Provide Traffic Control Signals (GC 830.4), and

CACI 1121 – Failure to Provide Traffic Warning Signals, Signs ... (GC830.8)

- CACI 1120 – No liability for a dangerous condition solely due to no traffic controls.
- However, you may consider the lack of [the] traffic control device with other circumstances to determine whether the property was a dangerous condition.
- CACI 1121 – A public entity is not responsible for harm caused by a lack of warning unless a reasonably careful person would not notice the dangerous condition without the warning.
- What is the intersection between 830.4 and 830.8 (failure to provide and failure to warn and the reasonably careful person)?

What do the cases say?



CACI 1122 – WEATHER CONDITIONS AFFECTING STREETS AND HIGHWAYS (GC 831)



CACI 1122 – A public entity cannot be responsible for [plaintiff's] harm caused by weather conditions (e.g. fog, wind, rain, ice) affecting the use of the street or highway.

The public entity must prove that the weather was the cause of the harm, and that a reasonable user of the street or highway would have noticed the weather condition and anticipated the effect on the street or highway.

What do the cases say?

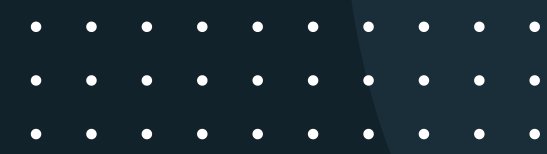


CACI 1123 – DESIGN IMMUNITY (GC 830.6)

- CACI 1123 – A public entity claims it is not responsible for the harm caused by the plan or design of the public property . To prove this defense, the entity must prove:
 - That the plan or design was prepared in conformity with standards previously approved before construction by a legislative body or civil engineer exercising discretionary authority, and
 - That the plan or design was a substantial factor in causing the harm to plaintiff.
- Practical effect: reliant on public records and how thorough the public entity is.
- What do the cases say about design immunity after *Tansavadi v City of Rancho Palos Verdes*?

CACI 1124 – Loss of Design Immunity

(CORNETTE V. DEP'T TRANSPORTATION)



- CACI 1124 – The public entity is responsible for the harm caused by the plan or design if plaintiff proves:
 - The street or highway became a dangerous condition due to a change in physical conditions;
 - The entity had notice the dangerous condition due to the change in physical conditions; and,
 - The entity had reasonable time to obtain funds to carry out the corrections to cause the property to conform to the plan or design – Or – the entity was unable to correct the condition due to practical impossibility or lack of funds but did not reasonably attempt to provide adequate warnings.
- What is the interaction between CACI 1123 and 1124?
- What do the cases say?

CONCLUDING COMMENTS

- Using the immunity on summary judgment/adjudication or at trial.
- Which elements are questions of fact?

THANK YOU



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