

Swigart v. Bruno, CA Courts of Appeal, No. D071072, July 17, 2017

Primary assumption of the risk bars experienced horseback rider's claims against fellow rider for injuries suffered during an organized event.

FACTS/PROCEDURE

Experienced horseback endurance riders, Kathleen Swigart and Carl Bruno, were part of a group of riders participating in an organized horseback riding event. At one point, Swigart was in the lead and had dismounted at a required checkpoint when Bruno's horse struck her, injuring her. Swigart sued Bruno alleging causes of action for negligence, reckless or intentional misconduct, and having an animal with a dangerous propensity. Ultimately, the trial court granted Bruno's motion for summary judgment pursuant to the primary assumption of risk doctrine.

HOLDING/ DISCUSSION

Affirmed. The doctrine of primary assumption of risk relieves the defendant of any duty to the plaintiff when the plaintiff is injured due to a risk that is inherent in an activity in which the plaintiff chose to participate. It operates as a complete bar to the plaintiff's recovery and applies to co-participants in activities.

Here, horseback riding was already an "inherently dangerous sport" and, consequently, the doctrine generally applies to the sport. Moreover, while physical contact or "tailgating" was "not integral" and may even be prohibited in endurance riding, such contact was nevertheless an inherent risk in the sport. Further, there was no evidence that Bruno intentionally injured Swigart or engaged in reckless conduct. Hence, the trial court properly applied the doctrine to bar Swigart's claim for negligence. Swigart likewise failed to meet her burden of establishing an issue of material fact as to her other causes of action. Thus, this court upheld the judgment in favor of Bruno. Nevertheless, this court upheld a post-judgment order on costs, favoring Swigart.