

## SDRMA safety claims education day

**On** Tuesday, March 17, SDRMA held the Northern California Safety / Claims Education Day at the Radisson Hotel in Sacramento. There were over 100 attendees representing 70 SDRMA Property / Liability and Workers' Compensation participating member agencies. In addition, for the first time, CSDA presented a Special District Leadership Academy - Governance Foundations class presented by Davis Campbell.

On behalf of the SDRMA Board of Directors we would like to thank the following presenters;

- David Aranda, General Manager, Stallion Springs Community Services District
- Eileen Gould, Vice President, Gregory B. Bragg & Associates
- Linda Durrer, Return to Work Specialist
- Davis Campbell, CSDA Leadership Academy
- Jim Emerson, Lapidus Safety Consulting
- Greg Hall, Chief Administrative Officer, SDRMA
- Dennis Timoney, Chief Risk Officer, SDRMA

If you would like copies of the SDRMA Safety / Claims Education Day PowerPoint presentations, please email SDRMA Chief Risk Officer Dennis Timoney at [dtimoney@sdrma.org](mailto:dtimoney@sdrma.org).

### Recreational Immunities

Summer is fast approaching and for many public entities this means a dramatic increase in the number of people using the entity's facilities for recreational purposes. Members have called inquiring if their public entity has some type of liability exposure for allowing recreational activities to be conducted at their facilities. While the public entity has a general liability exposure for allowing any type of event to occur on premises or facilities that the entity owns or controls, California Government Code provides public entities with specific immunities against liability for injuries to individuals arising out of recreational activities.

California Government Code §811.2 defines who or what a "Public Entity" is. The code states:

811.2. "Public entity" includes the State, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State.

The code goes on to define who a "Public employee" is and what an "Injury" is:

811.4. "Public employee" means an employee of a public entity.

810.8. "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to his person, reputation, character, feelings or estate, of such nature that it would be actionable if inflicted by a private person.

### How is liability established?

815. Except as otherwise provided by statute:

- (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person.
- (b) The liability of a public entity established by this part (commencing with Section 814) is subject to any immunity of the public entity provided by statute, including this part, and is subject to any defenses that would be available to the public entity if it were a private person.

815.2.

- (a) A public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee or his personal representative.
- (b) Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability.

#### Officers

Ken Sonksen, President, Sanger-Del Rey Cemetery District  
John Yeakley, Vice President, Bear Valley Community Services District  
John Woolley, Secretary, Redwood Coast Energy Authority

#### Members of the Board

David Aranda, Stallion Springs Community Services District  
Jerry Ledbetter, Alameda County Water District  
Thomas Lewis, Trinity County Waterworks District #1  
Bill Miller, North of the River Municipal Water District

#### Consultants

Lauren Brant, Public Financial Management  
David Ruff, Forward Management, LLC  
Dick Molin, Stewart Humpherys Burchett & Molin  
David McMurchie, McMurchie Law  
Glenn Evans, Pacific Actuarial Consultants  
Ron Kozlowski, Tillinghast - Towers Perrin  
Catherine Gon, California Bank and Trust  
Jim Marta, CPA, Auditor  
Karl Snearer, Apex Insurance Agency  
Doug Wozniak, Alliant Insurances Services, Inc.

#### SDRMA Staff

Jim Towns, ARM, Chief Executive Officer  
Greg Hall, ARM, Chief Operating Officer  
C. Paul Frydendal, CPA, Chief Financial Officer  
Dennis Timoney, Chief Risk Officer  
Barbara Tyler, Claims/Loss Prevention Manager  
Nicole Rushing, Senior Business Analyst  
Ellen Doughty, Senior Member Services Representative  
Karen Lafferty, AIC Senior Claims Examiner  
Wendy Tucker, Claims Assistant  
Shawn Vang, Accounting Technician  
Rachel Saldana, Administrative Assistant  
Alana Batzianis, Administrative Assistant



#### *What recreational activities does your agency allow or sponsor?*

Under Government Code §831.7 a Hazardous Recreation activity is defined as:

831.7.

- (a) Neither a public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.
- (b) As used in this section, "hazardous recreational activity" means a recreational activity conducted on the property of a public entity which creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury to a participant or a spectator.

"Hazardous recreational activity" also means:

- (1) Water contact activities, except diving, in places where or at a time when lifeguards are not provided and reasonable warning thereof has been

given or the injured party should reasonably have known that there was no lifeguard provided at the time.

- (2) Any form of diving into water from other than a diving board or diving platform, or at any place or from any structure where diving is prohibited and reasonable warning thereof has been given.
- (3) Animal riding, including equestrian competition, archery, bicycle racing or jumping, mountain bicycling, boating, cross-country and downhill skiing, hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rockeering, rodeo, spelunking, sky diving, sport parachuting, paragliding, body contact sports (i.e., sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants), surfing, trampolining, tree climbing, tree rope swinging, waterskiing, white water rafting, and windsurfing. For the purposes of this subdivision, "mountain bicycling" does not include riding a bicycle on paved pathways, roadways, or sidewalks.

#### *What about unimproved land and walking/hiking trails?*

831.4. A public entity, public employee, or a grantor of a public easement to a public entity for any of the following purposes, is not liable for an injury caused by a condition of:

- (a) Any unpaved road which provides access to fishing, hunting, camping, hiking, riding, including animal and all types of vehicular riding, water sports, recreational or scenic

areas and which is not a (1) city street or highway or (2) county, state or federal highway or (3) public street or highway of a joint highway district, boulevard district, bridge and highway district or similar district formed for the improvement or building of public streets or highways.

- (b) Any trail used for the above purposes.
- (c) Any paved trail, walkway, path, or sidewalk on an easement of way which has been granted to a public entity, which easement provides access to any unimproved property, so long as such public entity shall reasonably attempt to provide adequate warnings of the existence of any condition of the paved trail, walkway, path, or sidewalk which constitutes a hazard to health or safety. Warnings required by this subdivision shall only be required where pathways are paved, and such requirement shall not be construed to be a standard of care for any unpaved pathways or roads.

831.2. Neither a public entity nor a public employee is liable for an injury caused by a natural condition of any unimproved public property, including but not limited to any natural condition of any lake, stream, bay, river or beach.

This is not meant to be an exhaustive list of all of the immunities available to a public entity arising out of public participation in recreational activities. The purpose of this article is to provide your agency with some general information regarding liability exposures for certain recreational activities. Please contact the SDRMA claims staff at 800.537.7790 if you have any questions regarding the material contained in this article or discuss this with your agency's counsel before sponsoring or allowing any recreational activity. ▲