

A Scary Lesson: Terror in the Courtroom

By Barry P. Goldberg

YOU MAY NOT BELIEVE IN EVIL spirits but the California Court of Appeal gave the “undead” a major victory in an unpublished 2015 decision. Delivered right before Halloween, the Court of Appeal upheld the right of “The Haunted Hotel” to scare you and your friends to the point of injury without facing civil liability in the case of *Griffin v. The Haunted Hotel*.¹

Since many will attend “scare” events this Halloween at Universal Studios, Knotts “Scary” Farm and other venues, the facts in the *Griffin* are instructive. Scott Griffin, a normal and mortal human, purchased a ticket to experience The Haunted Trail, an outdoor haunted house type attraction, where actors jump out of dark spaces often inches away from patrons, holding prop knives, axes, chainsaws, or severed body parts. He survived the experience safely—or so he thought!

After passing what he believed was the exit and “giggling and

laughing” with his friends about how much fun they had, Griffin unexpectedly was confronted by a final scare known as the “Carrie” effect—so named because, like the horror film *Carrie*, patrons are led to believe the



attraction is over, only to be met by one more extreme fright. In this case, the final scare (or one for the road) was delivered by an actor wielding a gas powered chainsaw, who approached Griffin, frightened him, and gave chase when Griffin ran away. Griffin was injured when he fell while fleeing.

Griffin alleged negligence and assault. The court found that the risk that a patron will be frightened, run, and fall is inherent in the fundamental nature of a haunted house attraction. Therefore, any action is barred by the legal doctrine of primary assumption of the risk. “Under 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.”²

One of the arguments made by the injured Griffin was that he subjectively thought that the attraction was over. Therefore, he had no reason to believe that he would endure further (and probably anticipated) scares. However, this Haunted Trail was counting on the patron to relax before handing him the Carrie effect by chasing the patron out a false exit. When patrons have walked through the opening in the fence, they regroup on the park access road, thinking the attraction is over. But this is a fake



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exit. The access road is controlled by Haunted Hotel. A chainsaw-wielding actor with a gas powered chainsaw suddenly appears, starts the chainsaw, and charges at the patrons—providing a final scare. Although the chain has been removed from the chainsaw, it “still has the whole sound, the whole smell of a chain saw, and that’s what gives the effect of—people think it’s a real chain saw.” During this last encounter, patrons are most prone to run away, with the actor giving chase.

Families “actually come and camp out and watch” because “it’s fun to see when someone gets freaked out when a chain saw comes and chases an individual” for the final scare. Mr. Griffin failed to see the humor! His lawyers argued that he was not injured on the actual Haunted Trail. Thus, he never assumed any risk at the false exit.

The court was unsympathetic to Mr. Griffin: “the point of The Haunted Trail is to scare people, and the risk

that someone will become scared and react by running away cannot be eliminated without changing the basic character of the activity. As the trial court aptly noted, “[W]ho would want to go to a haunted house that is not scary?” (See also Moar, *Case Law from the Crypt, The Law of Halloween* 83-Oct N.Y. St. B.J. 10, (Oct. 2011) [discussing haunted house personal injury cases and concluding, “Patrons in a Halloween haunted house are expected to be surprised, startled and scared by the exhibits but the operator does not have a duty to guard against patrons reacting in bizarre, frightened and unpredictable ways.”].)

The lesson this Halloween—if you and your friends go somewhere to be frightened—you assume the risk of an injury if you run and fall.

Happy Halloween! 

¹ *Griffin v. The Haunted Hotel*, 4th App. Dist. D066715 (October 23, 2015).

² *Calhoun v. Lewis*, 81 Cal.App.4th 108, 115 (2000).



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