

## Estate of Rebecca L. Clark vs Montgomery County of Pennsylvania, et al:

Recently secured a Motion for Summary Judgment victory for a municipal defendant in the Court of Common Pleas of Montgomery County. In this tragic case, the decedent, a 21-year-old college student, was at a bonfire with friends on the evening of September 4 and into the morning of September 5, 2014 at the recreational area owned by the municipal defendant. As the decedent stepped away from the bonfire to make a call to her boyfriend on her cell phone, she was tragically killed by a long-dead tree when it fell and struck her in the head. Plaintiffs, the decedent's parents and the Administrators of her Estate, brought a survival and wrongful death suit against the municipality and other defendants, claiming they were negligent in failing to identify and remove the tree.

In ruling the municipality was entitled to summary judgment in its favor, Judge Jeffrey S. Saltz agreed that it was immune from liability under the Act of February 2, 1996, P.L. No. 586, more commonly known as the Recreational Use of Land and Water Act, 68 P.S. §§ 477-1 to -8. Under the Act and applicable case law, Judge Saltz noted that to qualify for immunity, the land must be largely unimproved; the more developed a property is, the less likely it will receive immunity protection under the Act. In his January 7, 2019 opinion, Judge Saltz reasoned the municipality was immune from liability under the Act because the area where the decedent was killed was, among other things, not developed enough to fall outside the blanket of immunity provided by the Act. Specifically, the Judge found that a staked-out trash barrel, a circle of bonfire stones, and a parking lot near the area where Plaintiff was killed were not significant improvements on the property such that they would disqualify the municipality from immunity under the Act.