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LIABILITY - GEORGIA

City of Brunswick v. Smith

Court of Appeals of Georgia - June 17, 2019 - S.E.2d - 2019 WL 2497797

Bicyclist brought premises liability action against city alleging city was liable for injuries sustained when he hit a pothole and fell from bicycle.

The trial court denied city's motion for summary judgment, and city appealed.

The Court of Appeals held that:

- Bicyclist was a "licensee," and thus, under general premises liability principles, city owed only a duty not to willfully and wantonly injure him;
- No evidence to demonstrate that pothole was created, concealed, or maintained wilfully or wantonly, that is, with an intent to injure or with any conscious indifference as to infer an intent to injure, as required to support bicyclist's premises liability claim; and
- Photographic evidence of a pothole, taken sometime before bicyclist hit pothole and fell from his bicycle, did not establish, on motion for summary judgment, that city's notice of defect may have been superior to that of bicyclist, as required to support allegation that city was liable for damages for failing to maintain a public roadway.

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