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NEGLIGENCE - GEORGIA

Clark v. City of Atlanta

Court of Appeals of Georgia - June 7, 2013 - S.E.2d - 2013 WL 2450871

Pedestrian filed suit against city and other defendants for injuries sustained when she tripped and fell on uneven sidewalk pavers.

The court of appeals held that fact issue remained whether city had constructive notice of uneven sidewalk pavers, thus precluding summary judgment.

Constructive notice of a defect in the public roads or sidewalks, as a prerequisite to imposing liability on the city for any injuries resulting therefrom, may be imputed through the knowledge of the city's employees or agents, or may be shown by testimony as to how long the defect existed prior to the injury, objective evidence that the defect existed over time, or evidence that others were injured as a result of the same condition over a period of years.

The question of the city's constructive notice of a defect in a sidewalk or public road ordinarily is for the jury, except in the absence of any evidence of constructive notice that could create a fact question, and in such an instance, the issue of negligence is a matter of law.

The length of time a defect in a public road or sidewalk must exist in order for an inference of constructive notice of the defect to arise, as a prerequisite to holding the city liable for any injuries resulting therefrom, is ordinarily a jury question.

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