

Bond Case Briefs

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LIABILITY - ILLINOIS

Smart v. City of Chicago

Appellate Court of Illinois, First District, Third Division - October 9, 2013 - N.E.2d - 2013 IL App (1st) 120901

Bicyclist brought negligence action against city, alleging that city had left a street in an unsafe condition during a resurfacing project, and that as a result bicyclist had fallen and suffered injuries. After a jury trial, the Circuit Court entered judgment in favor of bicyclist, and city appealed.

The Appellate Court held that:

- City's special interrogatory on contributory negligence did not ask a single direct question, and
- Bicyclist was entitled to pursue a general negligence claim and was not required to prove elements of a premises liability claim.

City's special interrogatory on contributory negligence, asking whether bicyclist's contributory negligence was greater than 50% of the proximate cause of his injuries, did not ask a single, direct question, as required for city to be entitled to submission of special interrogatory to jury. Special interrogatory was impermissibly compound because it would have required the jury to consider multiple questions relating to the cause of bicyclist's injuries.

Bicyclist was entitled to pursue a general negligence claim, and was not required to prove elements of a premises liability claim, including that city knew or should have known of both a dangerous condition and the risk posed by the condition since bicyclist's claim arose from city's activities on its property. Even if city employees were not actively working on resurfacing project at time of accident, resurfacing project was ongoing at the time of the accident and city was directly responsible for completing and overseeing the resurfacing activities.