Bond Case Briefs

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LIABILITY - LOUISIANA

Fuselier v. City of Oakdale

Court of Appeal of Louisiana, Third Circuit - January 15, 2014 - So.3d - 2013-640 (La.App. 3 Cir. 1/15/14)

Motorist brought action against city, seeking to recover for personal injuries allegedly sustained in one-car accident when she ran off roadway into a ditch. The District Court entered judgment for city after a bench trial. Motorist appealed.

The Court of Appeal held that condition of road where motorist swerved into ditch was not an unreasonable risk of harm.

A finding of the existence of a defect alone is not a sufficient analysis to establish liability for a city for damages caused by a building or thing; in order for there to be liability, the defect must create an unreasonably dangerous risk. The standard for public entities in maintaining roads under risk-utility test is not perfection but rather that roads be kept reasonably safe for persons exercising ordinary care and reasonable prudence. The duty to maintain roads and rights of way does not require bringing old highways up to modern standards unless a new construction or a major reconstruction of the highway has taken place.

Condition of road where motorist swerved into ditch, allegedly to avoid driver that took wide turn into her lane, was not an unreasonable risk of harm, as required for motorist's action seeking to recover for personal injuries allegedly sustained in the one-car accident. Road was two-lane and paved, it provided access to medical facilities, ditch provided drainage to prevent flooding, there were no prior accidents or complaints regarding condition of road, conditions of road were open and obvious, cost to city would be high to improve road, and gravity of harm suffered by motorist was questionable due to motorist having gaps in treatment, failing to follow through with treatment, not reporting accidents, and having positive drug tests, among other things.