

Bond Case Briefs

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LIABILITY - RHODE ISLAND

Roy v. State, Rhode Island Dept. of Environmental Management

Supreme Court of Rhode Island - June 23, 2016 - A.3d - 2016 WL 3449951

Swimmer who was paralyzed after diving into a man-made pond brought action against Department of Environmental Management (DEM) for negligence and premises liability.

After a jury ruled in DEM's favor, the Superior Court granted swimmer's motion for a new trial. DEM appealed, and swimmer cross-appealed.

The Supreme Court of Rhode Island held that:

- The Recreational Use Statute granted DEM immunity, and
- The danger of diving is an open and obvious danger.

There was no evidence to support finding that Department of Environmental Management (DEM) willfully or maliciously failed to guard or warn against dangerous condition after discovering user's peril, and therefore Recreational Use Statute granted DEM immunity as to swimmer's premises liability action, brought after swimmer dove into man-made pond and suffered paralyzing neck injury. Even though DEM admitted knowledge of unique features of pond, swimmer also admitted that he was aware of danger of making dive into shallow water and that way that he checked water depth was probably irresponsible, swimmer confirmed that he knew that soil was added to pond, and there was only one indication of relatively minor injury reported several days before swimmer's catastrophic injuries.

The danger of diving into water in and of itself is an open and obvious danger, one of common knowledge, such that a landowner does not owe a duty of care to warn individuals who enter the premises.