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Degliomini v. ESM Productions, Inc.

Supreme Court of Pennsylvania - June 22, 2021 - A.3d - 2021 WL 2546382

Bicyclist who was injured when he rode into unmarked and un-barricaded sinkhole on city street during charity bike ride brought negligence action against city, among other parties.

Following jury verdict in favor of bicyclist, the Court of Common Pleas denied city's motion for post-trial relief and granted bicyclist's motion for delay damages. City appealed. The Commonwealth Court reversed. Bicyclist petitioned for discretionary review.

The Supreme Court held that pre-injury exculpatory release granting city immunity from duty to maintain city streets violated public policy, and was thus invalid.

Enforcement of pre-injury exculpatory release to grant city immunity in negligence action by bicyclist who was injured when he rode into unmarked and un-barricaded sinkhole during charity bike ride would have jeopardized health, safety, and welfare of public at large by removing any incentive for city to exercise minimal standards of care due to maintain public streets in reasonably safe condition for reasonably foreseeable uses, thus rendering release invalid as it violated public policy principles definitively stated in Political Subdivision Tort Claims Act; city's duty to exercise reasonable care in discharging its independently-derived and essential function of street repair arose long before event, when city had actual notice or could reasonably have been charged with notice of existence of sinkhole.

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