
LIABILITY - KENTUCKY

City of Barbourville v. Hoskins

Supreme Court of Kentucky - October 20, 2022 - S.W.3d - 2022 WL 12196572

Visitor to water park owned by city brought action against the city under theories of premises liability, strict liability, and breach of contract to recover for burns she sustained on the bottom of her feet after visiting the park.

The Circuit Court granted summary judgment to city, and visitor appealed. The Court of Appeals affirmed in part and reversed in part. Discretionary review was granted.

The Supreme Court held that:

- Visitor was an invitee at the park, and thus, city owed her a duty to discover unreasonably dangerous conditions and either eliminate or warn of them;
- The sun-heated walkways at the water park were not an unreasonably dangerous condition, and thus, city had no duty to warn of or ameliorate the condition; and
- The burns visitor sustained from the sun-heated walkways were not foreseeable to the city, and thus it had no duty to eliminate the allegedly dangerous condition.

Visitor who sustained burns on the bottom of her feet after visiting city-owned water park was an "invitee" at the park, and thus, city owed her a duty to discover unreasonably dangerous conditions on the land and either eliminate or warn of them, for purposes of her premises liability claim, where visitor was an individual present on the premises at the explicit or implicit invitation of the city, as property owner, to do business or otherwise benefit the city.

The sun-heated walkways at city-owned water park were not an unreasonably dangerous condition, and thus, city had no duty to warn of or ameliorate the condition, precluding city's liability for burns invitee sustained on the bottom of her feet after visiting the park; there was no evidence that the walkways at the water park were negligently maintained or defectively designed, that other water parks took steps to minimize the sun-generated heat of their concrete walkways, or that the park failed to comply with industry standards or practices.

The burns invitee, who had diabetic neuropathy that caused a loss of protective sensation in her feet, sustained from walking on sun-heated walkways at city-owned water park were not foreseeable to the city, and thus the city had no duty to eliminate the allegedly dangerous condition; there was no evidence of any feasible means the city could have undertaken to lessen the alleged risk created by heat radiating from sidewalks warmed by the summer sun, no evidence that the city acted outside of industry standard practices, and no evidence why the city would have anticipated injuries like invitee's to take place.

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