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**NEGLIGENCE - MISSOURI**

## Sender v. City of St. Louis

**Supreme Court of Missouri, en banc - January 9, 2024 - S.W.3d - 2024 WL 98380**

Bicyclist brought action against city, asserting claims for negligence based on premises and personal liability and seeking to recover for injuries allegedly sustained when bicyclist encountered a purported defect on public bike path.

The Circuit Court granted city's motion to dismiss on basis of improper statutory notice. Bicyclist appealed.

On transfer from the Court of Appeals held that:

- Paved public bike path fell within statutory definition of "thoroughfare" under notice of claim statute, and
- Bicyclist's failure to include the circuit court hearing in the appellate record precluded Supreme Court review.

Paved public bike path, on which bicyclist allegedly encountered defect on path and sustained injuries after wrecking bicycle, fell within statutory definition of "thoroughfare" under notice of claim statute, and thus required bicyclist to give notice to the city of her negligence claims; although the bike path itself was a closed circuit, it was intersected by streets and connector paths and persons using it could get on and off the path as they chose, and the path was thus a thoroughfare subject to statutory notice requirements.

Bicyclist's failure to include a transcript of circuit court's hearing precluded appellate review of her claim that circuit court erroneously applied the law when it dismissed her negligence claims against city for failure to provide the required statutory notice of her injury on allegedly defective bike path; absence of any record of circuit court's hearing prevented the Supreme Court from knowing the predicate facts necessary to determine whether the circuit court erroneously misapplied the law in finding bicyclist's notice insufficient.

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