



Court Throws Out Lawsuit Filed by Bicyclist on Street

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On June 14, 2018, a twelve-year-old boy was riding his bike when his front tire hit a sinkhole in the street, causing him to fall from his bike and break his wrist. He was treated in the emergency room, where the left wrist was splinted. A short arm cast was applied later. Upon removal of the cast the forearm demonstrated a gross deformity. The family opted for surgery which consisted of breaking the wrist to reduce it and pinning it. A lawsuit was filed against the Member seeking recovery for the injuries sustained.

Following discovery, the Village moved for summary judgment asserting that the Plaintiff was not both an intended and permitted user of the street according to section 3-102(a) of the Tort Immunity Act. Section 3-102(a) codifies, for the benefit of intended and permitted users, the common law duty of a municipality to maintain its property. Generally, streets are intended for vehicular traffic. *Curatola v. Village of Niles*, 154 Ill. 2d 201,210 (1993). Although the Village's Code did not prohibit bicyclists' use of streets, there are no signs, pavement markings, or other physical manifestations demonstrating that the Village intended, rather than simply permitted, that bicyclists use the street. *Boub v. Township of Wayne*, 183 Ill. 2d 520, 528 (1998). Therefore, the court concluded that the boy was not both an intended and permitted user of the street where the accident occurred. *Boub*, 183 Ill. 2d at 524, 535-36. The trial court rejected Plaintiff's arguments that if the condition was dangerous to an intended user, the Village owed a duty to permitted users, and that there was a question of fact whether the Village's Code reflected an intent that bicyclists use the streets. It also rejected Plaintiff's arguments that riding in the street was the only way to cross the intersection and that the defect was near where a crosswalk would have been.