Recreational Activity Immunity Extended to Recreational Bicycling Injuries

An Ohio Court of Appeals recently held that a pedestrian who negligently caused a bicyclist to fall off his bike could not be held legally responsible for the bicyclist’s injuries. The court based its decision upon the fact that riding a bike on a multi-purpose trail is a purely recreational activity and falling off your bike is a known risk common to this type of activity.

Ohio law provides that when people engage in recreational or sports activities, they must assume the ordinary risks associated with that activity. As such, a person who is injured while engaging in a recreational activity cannot recover for the injury unless it can be shown that the person who caused the injury acted in a “reckless” or “intentional” manner. This rule is based on the principle that a person who plays a sport or engages in a recreational activity must accept those risks commonly associated with that sport or activity. Historically, this rule has been limited to activities considered purely recreational, such as playing soccer, weightlifting, or skiing. This concept is commonly referred to as the “recreational activity immunity for negligence doctrine.”

In Deutsch v. Birk, 189 Ohio App. 3d 129, 2010-Ohio-3564, the Twelfth Appellate District expanded the application of the recreational activity exception to liability to apply to injuries sustained by a bicyclist while riding his bike on a park trail.

By way of background, on June 10, 2007, Suzanne Birk was rollerblading on the Little Miami Bike Trail and her minor daughter, Michaela, was riding her bicycle. Plaintiff Todd Deutsch was also riding his bicycle on the trail that day. At one point, Michaela stopped her bicycle, got off of it, and began to cross the path. When she did, she pushed her bicycle into the path of Mr. Deutsch, which caused an impact resulting in him being thrown from his bicycle and sustaining serious injuries. Mr. Deutsch sued Michaela and her mother.

In analyzing the merits of Mr. Deutsch’s claim, the trial court recognized that there are numerous Ohio statutes that are applicable to bicyclists whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles. However, because the court determined that the pathways that make up the Little Miami Bike Trail are used for various activities including biking, walking, jogging, skateboarding, rollerblading, and horseback riding, the court declined to apply these statutes to this case. Instead, the court determined that Mr. Deutsch was engaged in a recreational activity when the incident occurred and by choosing to participate in such an activity, he implicitly accepted those risks associated with biking.

In affirming the decision of the trial court, the appellate court held that the cause of Mr. Duetsch’s injuries, which was a collision with another bike on a bike trail where cyclists ride at speeds in excess of 20 m.p.h., is a foreseeable risk inherent in this activity. Based upon these facts, the court concluded that there was no evidence presented that the collision was anything other than accidental and Michaela could not be held liable for Mr. Duetsch’s injuries.

The Deutsch decision is particularly useful to insurers who now have a new standard by which to ensure that their insureds are not held liable for accidents stemming from the recreational use of bicycles. For more information about this decision, or to discuss any general liability issues, feel free to contact any of Reminger’s General Property and Casualty Group attorneys.