

Bicycle accidents and municipal liability: learnings from the claims desk

By Tiffany Ambrose

A recent bicycle accident underscores the liability challenges municipalities face when roadway design and user behavior intersect. A claimant was riding with a group of cyclists when his tire struck the edge of a raised, unpainted curb separating the two areas, causing him to fall.



The crash resulted in a hip fracture requiring total hip arthroplasty, aggravation of a prior knee injury, and significant road rash. Defense counsel emphasized that the roadway already included a designated bike lane, the curb was visible with raised pavement markers, and accident history at the location was minimal, all of which supported the City's position that the design was not an unreasonably dangerous condition. Plaintiffs argued that a jury would sympathize with an injured cyclist and accept expert testimony that the grey on grey hazard should have been painted or treated differently.

Washington case law provides important context for understanding this risk. In *Keller v. City of Spokane*, the Washington Supreme Court held that municipalities owe a duty to keep roads reasonably safe for ordinary travel. Later, the Court of Appeals built on this reasoning in *O'Neill v. City of Port Orchard*, where a bicyclist crashed after her tire caught on an uneven pavement at an intersection. The court confirmed that bicycles are part of "ordinary travel" and extended the same duty of reasonable care to cyclists as motorists.

The O'Neill case is a higher burden as maintaining roads safe for bicycles can be much harder: smaller tires, reduced stability, and heightened sensitivity to surface irregularities make defects that are harmless to cars potentially dangerous to cyclists. While the legal duty is just to keep a road "reasonably safe" when jurors are confronted with an injured party, they tend to assume the duty was breached because the person was hurt. The O'Neill court confirmed that while cyclists accept the general risks of riding, they do not assume the risk of a municipality failing to repair known hazardous conditions. These rulings expanded the municipal duty and make dismissal of bicycle cases at summary judgment very difficult, since questions about danger and notice are often left for juries.

Courts require proof of truly dangerous defects, yet plaintiffs often point to curbs, edges, or surface changes as hazards. These cases show that the most effective defense against claims is proactive prevention. When bike lanes begin, end, or transition to shared walkways, signage should be clear so that cyclists know exactly where their travel lanes are intended to be. Hazards that blend into the roadway, such as unpainted curbs or surface irregularities that are difficult to distinguish from surrounding pavement, should be identified and treated (with paint, reflectors, or stanchions) before they cause accidents. Signage should be considered to warn cyclists of specific hazards. The installation of delineators at bike lane edge and transitions can also reduce confusion and improve visibility.

As Washington courts continue to expand legal duty's owed by municipalities, members must remain diligently engaged in risk management.