

Index
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DON'T GIVE MDC IMMUNITY FROM LAWSUITS

The recent jury verdict awarding \$2.9 million to a woman injured eight years ago while biking at the West Hartford Reservoir owned by the Metropolitan District Commission has brought calls to give the MDC broad immunity from lawsuits. Before closing the courthouse doors to all people injured on MDC property, however, a closer look is in order.

First, Connecticut law has defenses that protect landowners, especially municipalities. Second, juries are generally not receptive to such claims. If a person trips on a sidewalk crack, a jury is just as likely to find the injured person responsible as the landowner or municipality.

When juries do find for the injured person, the amounts awarded are usually reasonably related to the severity of the injury and the nature of the negligent conduct. In short, jurors take their jobs seriously and the jury system works.

Common sense tells us, if the biker at the reservoir ran into the gate, then she bears a large portion of the responsibility for the injury. By the same token, mountain bikes can reach fairly high speeds, and they can't

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stop on a dime. Does it make sense to place a gate directly across the traveled portion of a bike path?

The jurors in the MDC case, who were accepted by the attorneys from both sides, were in the best position to evaluate the evidence. Those jurors spent days in the courtroom listening to testimony, looking at photographs, hearing from both parties' experts and finally deliberating. Unless I sat in court listening to all the evidence, I would be hesitant to criticize the jury's decision, especially based on brief news summaries.

Nor should this one case be reason enough to provide the MDC with immunity from all legal claims for compensation. Imagine the following hypothetical facts:

Suppose one of the MDC's vehicles drives directly into a bike lane and severely injures a biker as she is coming down a hill at a high rate of speed. Suppose further that the operator of the vehicle is intoxicated. The biker receives a traumatic brain injury. Her

future life care costs will be in the millions.

Do we really want to deprive this injured biker from being able to bring a case against the MDC?

It does not make sense to enact broad and far-reaching legislative changes based on one jury verdict. Moreover, if the MDC, or any entity for that matter, is granted broad immunity from lawsuits, then it has absolutely no incentive to take measures to protect the safety of the public. Although the phrase "fear of lawsuit" is routinely used in a pejorative sense, in fact, the threat of civil liability prompts property owners to shovel sidewalks, erect warning signs, and generally take reasonable measures to protect the public. This is a good thing.

Some now fear that the MDC may have to spend funds to make its property safe, and it might determine that it would be easier to close the property to public recreation rather than risk another expensive jury verdict.

Wait a minute! We all have a right to use the MDC property. The MDC is a nonprofit municipal corporation. The land for which it serves as steward is public land. This is our property. The MDC is subject to democratic forces, and its tyrannical suggestion that it will simply close the property to public use cannot, and should not, be countenanced by any of us.

The MDC should spend money to keep the trails and public walking areas in a reasonably safe condition. If a person is severely injured on MDC property, the MDC, like every other private landowner in Connecticut, should carry a policy of insurance to protect against the risk of a liability award.

The recent jury verdict, and the media attention it has attracted, once again gave rise to the claim that jury verdicts are out of control. Most jury verdicts are reasonable, based soundly and logically on the evidence presented, and entirely in line with community standards.

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