

*Daniel Klein v. Quinnipiac University (AC 41964)*

The plaintiff in this case sought damages from the defendant for injuries sustained while riding a bike on the campus of a private university belonging to the defendant. The plaintiff sustained his injuries while riding his bike down a hill which had speedbumps at the bottom. When the plaintiff reached the speedbumps, he was thrown over the handlebars of his bike. The plaintiff alleged that the defendant acted negligently by having dangerous and defective speedbumps on their property. In response, the defendant denied negligence and raised the defense of contributory negligence on the part of the plaintiff. The trial court rendered judgment in favor of the defendant. The plaintiff appealed the decision of the trial court, claiming the court had improperly instructed the jury.

The issue before the Appellate Court in this appeal is “whether the plaintiff, an experienced bicyclist, who was injured while riding his bicycle on the York Hill campus of the defendant, a private university, was entitled to have the jury instructed on the definition of, and the duty owed to, a licensee.” The Appellate Court determined that the plaintiff could not prevail in this claim. In reaching this conclusion, the Court reasoned that the plaintiff was not a licensee and therefore was not owed a duty of care by the defendant. The Court was unpersuaded by the plaintiff’s argument that, because there were no “no trespassing” signs on the defendant’s property, the plaintiff had implied consent to ride his bike on the campus. The Court determined that in order for the question of whether the plaintiff was a licensee by virtue of implied consent, the plaintiff had to provide more evidence than a lack of “no trespassing” signs. The Court determined that if it were to find otherwise, it would have a significant societal impact as private properties which are used for recreational purposes would become “fenced, gated and covered in

‘no trespassing signs’” by owners so as to avoid liability for injuries to trespassers who could claim they have implied consent.

The Court additionally determined that regardless of the plaintiff’s status as a trespasser or a licensee, the defendant still would not have breached a duty to the defendant by failing to warn him of the obvious danger associated with “riding his bicycle over a speed bump as he proceeded down a hill with no intention of obeying the stop sign that lay just beyond the speed bump.” The Court determined that the lower court did not err in declining to instruct the jury on the duty owed to a licensee as the plaintiff could not be considered a licensee and even if they were I licensee, the defendant owed them no duty on care in regard to the allegedly dangerous speedbump.

The Court further found that the plaintiff’s claim that the trial court erred in allowing an employee of the defendant who witnessed the accident to testify regarding the speed at which the plaintiff was traveling at the time the accident occurred. The Court reasoned that under the general verdict rule, which applied to this case, the Court was “required to presume that the jury found every issue in favor of the defendant, including that the defendant was not negligent.” Therefore, under the general verdict rule, the court could not review this claim because it related only to the defendant’s special defense of contributory negligence. Because the Court ruled that the defendant was not negligent, there was no need for the court to consider the defense of contributory negligence.

Ultimately, the Appellate Court upheld the decision of the lower court, finding that the instructions to the jury were proper.