

PennDOT Tort Liability

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What is a Tort?

Tort = A civil wrong that results in some type of injury for which the court will provide a remedy.



What is a Tort?



Negligence = Failure to do what an ordinary, reasonably prudent person would do under the circumstances; a failure to use reasonable care in dealing with others.

PennDOT Tort Liability

PennDOT has a duty to make the highway “safe for the activities for which it is regularly used, intended to be used, or reasonably foreseen to be used.”

Snyder v. Harmon



PennDOT Tort Liability

Sovereign Immunity:

" [I]t is hereby declared to be the intent of the General Assembly that the Commonwealth, and its officials and employees acting within the scope of their duties, shall continue to enjoy sovereign immunity and official immunity and remain immune from suit **except as the General Assembly shall specifically waive the immunity.**"

1 Pa.C.S. 2310

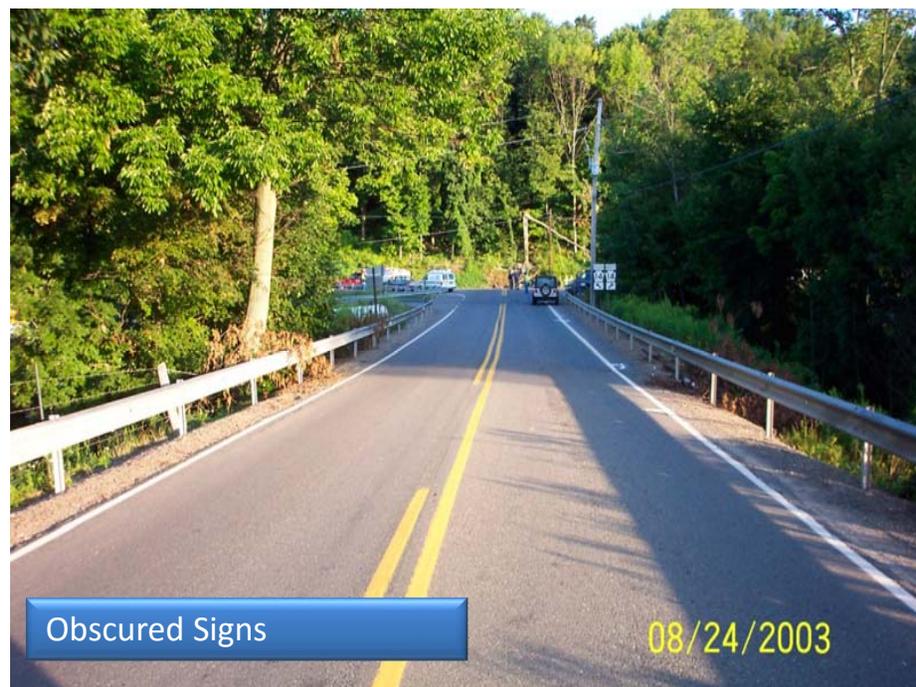


PennDOT Tort Liability

PennDOT can be held liable for a:

“**dangerous condition** of Commonwealth agency real estate and sidewalks, including Commonwealth-owned real property, leaseholds in the possession of a Commonwealth agency and Commonwealth-owned real property leased by a Commonwealth agency to private persons, and highways under the jurisdiction of a Commonwealth agency”

42 Pa. C.S. 8522(b)(4)



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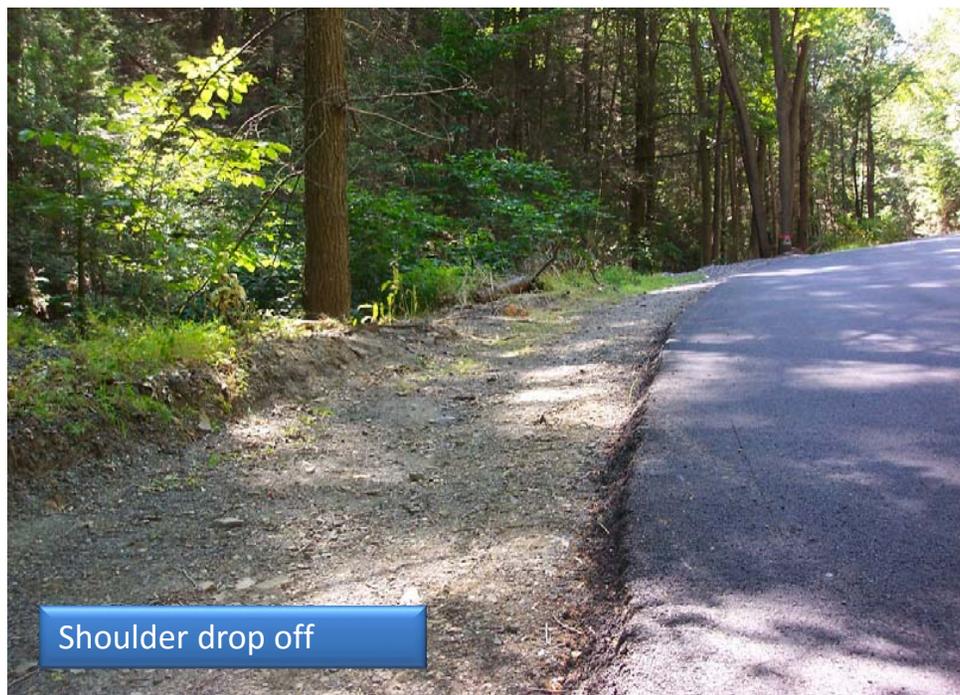


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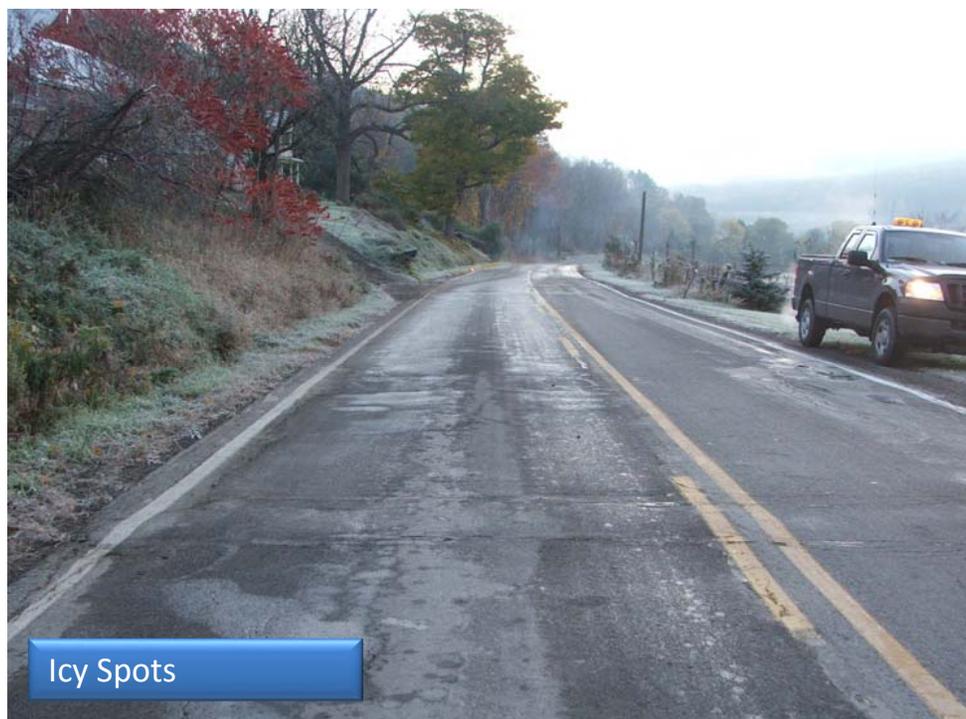


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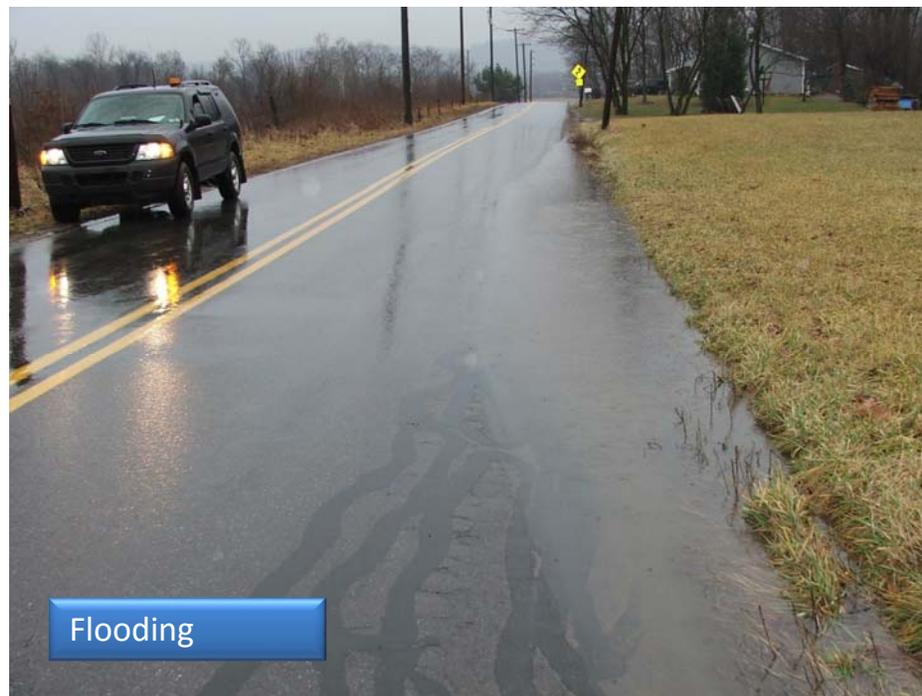


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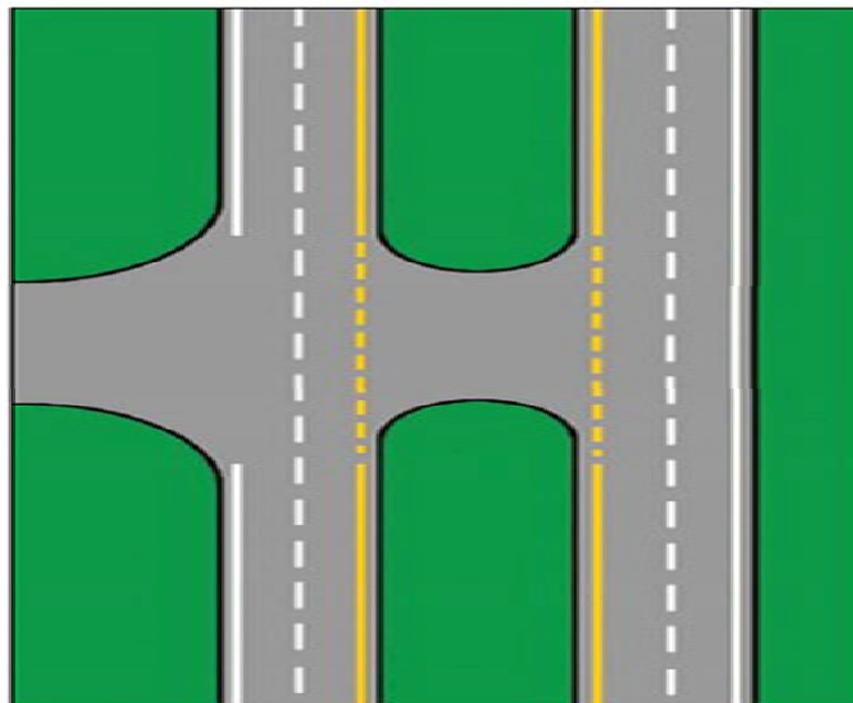
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PennDOT Tort Liability

A dangerous condition is “a state of affairs that hampers or impedes or requires correction.”

“Even if adoption of an original design plan of a highway was not negligent, a change in circumstances can support a finding of negligence when the governmental entity fails to make necessary improvements to protect the innocent wayfarer from foreseeable harm.”



Wyke v. Ward

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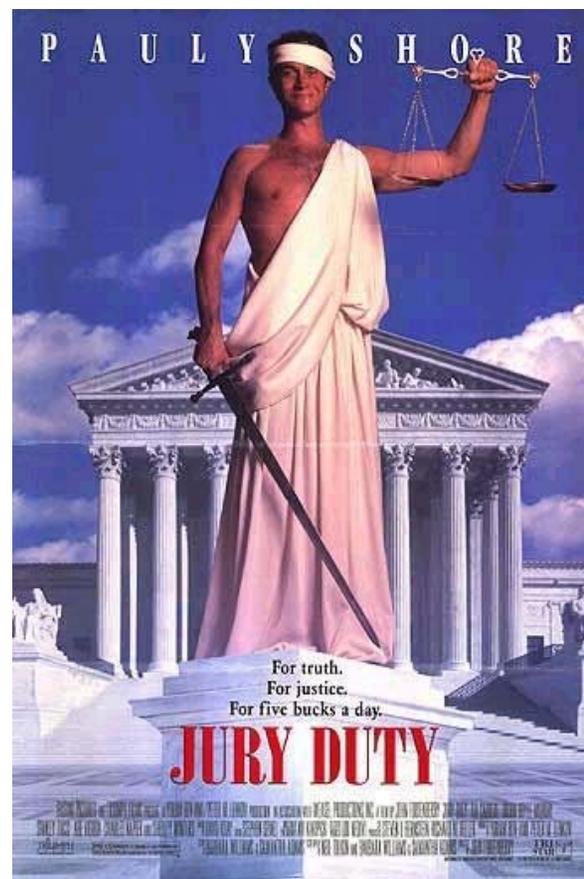
PennDOT may be required to foresee the actions of [drivers, bicyclists or pedestrians] even where they are negligent if a reasonable [designer] would do so under the circumstances.

Wyke v. Ward

PennDOT Tort Liability

The question of what is or is not a dangerous condition must be addressed by a jury.

Bendas v. White Deer



PennDOT Tort Liability



The plaintiff's expert has to show there exists a reasonable alternative design based upon engineering principles.

Kosmack v. PennDOT



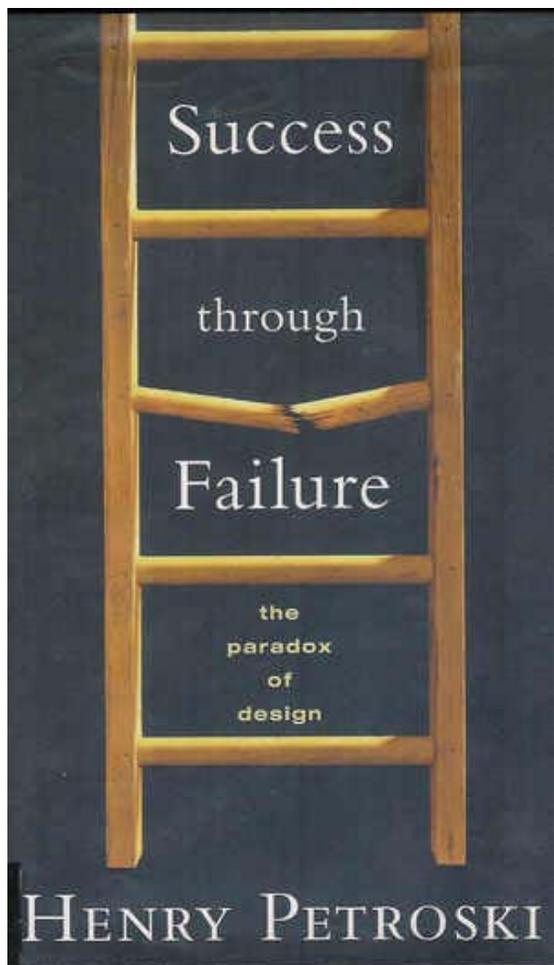
PennDOT Tort Liability

PennDOT can be liable for failing to select the most appropriate safety measure, and cannot defend by claiming its discretion as a defense; there is no discretionary immunity.

Starr v. Veneziano



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There is no liability for failing to regulate or negligent policies.

Bufford v. PennDOT
Shakoor v. PennDOT
Walters v. PennDOT
Kline v. Pa. Mines



PennDOT Tort Liability

Motorists must use the highways in an ordinary and usual manner and with reasonable care.

Felli v. PennDOT



PennDOT Tort Liability



"A landowner may not alter the natural flow of surface water on his property by concentrating it in an artificial channel and discharging it upon the lower land of his neighbor, even though no more water is collected than would naturally have flowed upon the neighbor's land in a diffused condition."

Staffaroni v. City of Scranton



PennDOT Tort Liability

PennDOT is not responsible for a contractor's negligence where there was no PennDOT negligence. *Furyesz v. Lane Constr. Corp.*





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