

Tort Liability: Its Different in Cities



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Californians Live in a High Liability State

- No Limits on Economic Damages
 - Medical, Loss of Wages
- Low Driver Insurance Limits
- High Exposure to Vulnerable Users
- Joint & Several Liability



Areas of Frequent Litigation

Rural, County and State

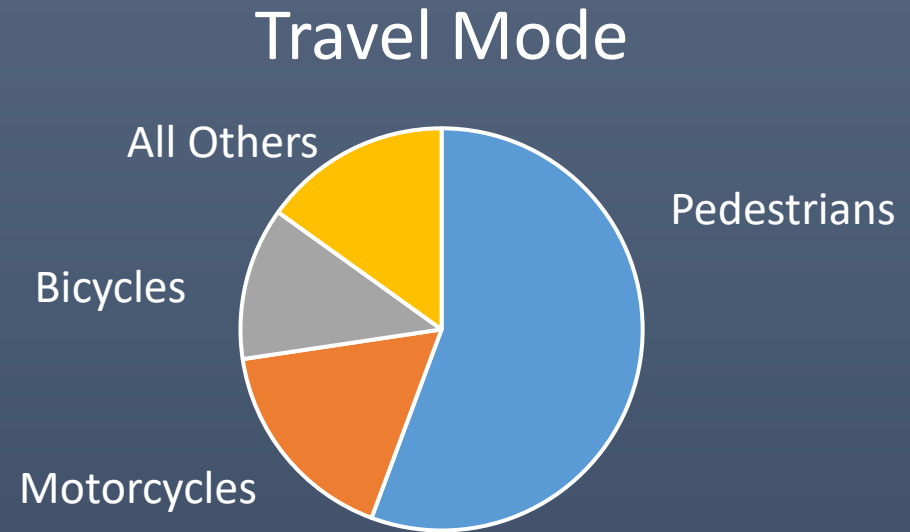
- Roadway departures
- Crossovers
- Weather Events
- Solo Vehicles
- Construction

Urban and Suburban

- Vulnerable Users
- Sight Distance
- Uninsured Damages
- Traffic Controls
- Maintenance

Sampling of My Recent Cases

• Bikes Involved	13
• Motorcycles	18
• Pedestrians	59
• All Others (Autos)	16



Fatalities vs Recent Cases

<u>Involvement</u>	<u>2023 Fatal</u>	<u>MyCases</u>
• Autos Only	31%	15%
• Bikes Involved	6%	12%
• Motorcycles	13%	17%
• Pedestrians	46%	56%

Pedestrian Case Locations

- In Street, not at Intersection 11%
- Crossing Mid Block, No Crosswalk 7%
- Marked, Uncontrolled Crosswalk 33%
- Intersection, No marked Crosswalk 18%
- At Traffic Signal 17%

Recent Pedestrian Case

- Location at Beach in Bar Area
- RRFB at Busy Crosswalk
- History of Ped Collisions (Alc/Drugs, darkness)
- Pedestrian did not Press Button (Security video)
- History of Battery Issues, working
 - But Working at the Time
- Pedestrian and Driver both VERY drunk
- City Found Not Liable

Common Motorcycle Case Issues

- Sight Distance Limitation Claims
- Visibility of Motorcyclist
- Historically, Often Only Severe Collision At Site

Recent Motorcycle Case

- Suburban Intersection with Stops on Side Street
- Very Good Collision History, Controls Appropriate
 - Motorcyclist was only severe/fatal collision in 10 years
- Parking prohibition FIVE FEET less than plan/policy
- Sight Distance not per AASHTO 7.5 Second Criteria
- Sight Distance Adequate if Creep Forward
- Severely & Permanently Injured Motorcyclist
- Plaintiff awarded \$9 million, City 15% at fault

Common Bicycle Case Issues

- Downhill Speed
- No Infrastructure
- Poor Road Condition
- Turning Vehicles
- E-Bikes

Recent Bicycle Case

- Downhill Grade
- Fit Bicyclist at 35-40 mph
- Bicyclist Passed to the Right of Moving Van Turning Right
- Bike Lane Not Present
- Plaintiff appealed City Dismissal to CA Supreme Court
- Court Ruled to Refer back for Trial
 - Apparent Failure to Warn
- Trial Court again dismissed, Warning Signs were on the Plans

Common Auto/Other Case Issues

- Fast Suburban Area Streets
- Lower Income Areas
- Traffic Signal Left Turn Phase Treatment
- Fixed Objects

Appealed Case Issues

- Design Immunity Exceptions
 - Failure to Warn (Tansavadti)
 - Median Trees not on Plans
 - Added controls not on Plans (Castro)