

# Cyclist settles over grip on rental bike

*By FRED HORLBECK, Senior Staff Writer*

An Ohio man whose elbow shattered when he fell off a rented bicycle has settled a negligence suit against a rental shop after claiming that a loose handlebar grip caused his fall.

The man, who received more than \$74,000 in medical treatment, and his wife settled for an undisclosed amount in Charleston County Court of Common Pleas.

The terms of the settlement were confidential, said Duke Highfield of Charleston, a lawyer for the defendant.

Mount Pleasant attorney Nathan Hughey said the man, his wife and their daughter were riding bikes during a vacation at Seabrook Island in August 2008 when the injury occurred.

Hughey said the rubber grip slipped off the left handlebar of the man's rental bike and the front wheel turned, throwing him to the ground.

The rental shop said that the grip was still on the handlebar when it inspected the bike after the accident, but a Charleston County EMS worker testified to the contrary in a deposition, Hughey said.

Other deposition testimony revealed that the rental shop kept a supply of replacement grips, Hughey said.

"It was a very interesting case and a very unusual case," he said.

The plaintiffs sued for negligence, products liability/strict liability, violation of the S.C. Unfair Trade Practices Act, breach of the implied warranty of merchantability and breach of implied warranty of fitness for a particular purpose. They sought compensatory and punitive damages.

In its answer, the rental shop denied the claims and asserted comparative negligence, intervening negligence, failure to state a claim, assumption of risk and other defenses.

Highfield, the shop's lawyer, declined to discuss the case.

A key issue was whether the grip was still attached when the rental business inspected the bike after the accident, according to Hughey.

But the EMS technician testified he could rely on his accident report to verify whether the grip was attached, he said.

In the report, the technician wrote "38 yr w/m found con & alert lying on L side after falling off his bike when the grip came off."

The technician testified that he routinely distinguished between direct knowledge and second-hand knowledge in his accident reports. "He was able to say, based on what he'd seen, that the grip had come off," Hughey said.

Another break in the plaintiffs' case came when a rental shop employee said during a deposition that the shop regularly ordered new bike grips.

"I was just trying to think of everything I could ask them i% and out of nowhere he started talking about how often grips start coming off," Hughey said.

That opened a new vein of inquiry in which the shop said bike grips become defective about 50 times per year and that it kept a supply for replacement.

"Unfortunately, this easily done replacement was overlooked on the bike rented to my client," Hughey said.

## **Settlement Report**

**Brief statement of claim:** Negligence, products liability/strict liability, violation of the S.C. Unfair Trade Practices Act, breach of the implied warranty of merchantability and breach of implied warranty of fitness for a particular purpose

**Principal injuries (in order of severity):** Triad injury of the left upper extremity; fracture dislocation; scrapes; bruises

**Special damages:** \$74,716

**Tried or settled:** Settled

**County and court where tried or settled:** Charleston County Court of Common Pleas

**Case name and number:** Confidential

**Date concluded:** Sept. 21, 2009

**Name of judge:** N/a

**Amount:** Confidential

**Insurance carrier:** Confidential

**Expert witnesses, areas of expertise and hometown:** N/a

**Attorney for plaintiff:** D. Nathan Hughey of Hughey Law Firm (Mount Pleasant)

**Other useful info:** In August 2008, the plaintiffs were vacationing with their daughter at Seabrook Island. They rented bikes from the defendant rental shop. The plaintiffs claimed that they were on a bike ride when a rubber grip slipped from the end of one plaintiff's left handlebar, causing his hand to fall from the left handlebar. The plaintiff claimed that the slippage resulted in his losing control of the bike's steering. He said that, as he tried to regain his hold on the bike, the handlebars turned the wheel, throwing him off the bike to the ground.

The plaintiffs said that Charleston County emergency medical technicians were called to the scene and that an EMT reported to dispatchers that one plaintiff was riding a bicycle "and the grip came off, causing him to fall." Additionally, the EMT's report stated "38 yr w/m found con & alert lying on L side after falling off his bike when the grip came off," according to the plaintiffs.

The man was taken to a hospital. Among other injuries, including scrapes, bruises and soreness, he claimed he had shattered his elbow, suffering "a fracture dislocation and a terrible triad injury of the left

upper extremity." He said he underwent emergency surgery and thereafter developed pneumonia, necessitating an extended stay in the hospital.

According to the plaintiffs, the defendant testified that it was aware that the bicycle grips could become defective and further testified such happened about 50 times per year. The business also testified that, in such instances, "we just slap a new set of grips on them. We have a big supply. And it's just easily done." The plaintiffs asserted that the replacement was overlooked on the bike at issue in their case.

**Submitted by:** D. Nathan Hughey