

IN THECOUNTY COURT

CASE NO _____

B E T W E E N

UNHAPPY BIKER

CLAIMANT

- and -

POTHOLE COUNTY COUNCIL

DEFENDANT

PARTICULARS OF CLAIM

1. At all material times the Claimant was a motorcyclist lawfully riding a Suzuki motorcycle along the B 12345 road, between Anytown and Anyvillage in the County of Pothole. The Defendant was and is the highway authority for this road.
2. On the 17th of June 2014 the Claimant was negotiating a moderate left hand curve along the said road in the general direction of Any Village when as a result of his tyres sliding whilst in a rut caused by the passage of traffic over an extended period of time (or a failed trench or whatever caused the rut), his tyres slid. This then caused his motorcycle to slide out from underneath the Claimant and he was unseated from his motorcycle.

3. The road surface at the locus was of a different consistency to the straight sections of carriageway and had two distinct grooves within the fabric of the road surface.
4. It is averred that the cause of the grooves was sideways force exerted by the sidewalls of the tyres of four wheeled vehicles over time or failure to properly reinstate the road after road works ;
5. The outer edge of each of the grooves or ruts had a build up of displaced road surface.
6. The depth of the grooves varied between 25mm and 35mm.

THE NATURE OF THE DANGER FOR MOTORCYCLISTS

7. The presence of the grooves or ruts were dangerous, in particular to motorcyclists due to the nature of the steering of a motorcycle at any speed greater than walking speed. In particular a motorcycle is steered by the motorcyclist changing his direction of travel by leaning the motorcycle (and therefore the contact patch between tyre and road) so that in a left hand bend the contact patch moves from the centre of the tyres towards the left of the tyres. The contact patch is approximately the size of the palm of a man's hand on each tyre on a sports machine such as that ridden by the Claimant.
8. The grooves or ruts described caused the contact patch of the tyre to fail to be in contact with the road surface, which caused the motorcycle to slide from beneath the Claimant.

9. The Claimant's accident was caused by the Defendant's breach of statutory duty under s41 of the Highways Act 1980.

PARTICULARS OF BREACH OF STATUTORY DUTY

- (a) The Defendant allowed the carriageway to become so rutted that it caused a foreseeable risk to motorcyclists who are vulnerable road users, within the meaning of the Highway Code and the Well Maintained Highways Code of Practice 2005 (hereafter the Code of Practice) and Institute of Incorporated Engineers Guidelines for Motorcycle Safety (which is incorporated into the Code of Practice);
- (b) Failing to maintain the highway until it degraded to the point that the contact patch of a motorcyclists tyre became materially compromised and dangerous;
- (c) The Defendant neglected to consider properly or at all the effect of ruts or grooves forming in the carriageway and the effect that such grooves or ruts would have on a vulnerable group of road users, namely motorcyclists;

10. By reason of the Defendant's said Breach of Statutory Duty the Claimant has sustained personal injuries and has suffered loss and damage.

PARTICULARS OF INJURY

11. The Claimant who was born on and is now years of age suffered the following injuries:

- a) If your injuries lasted longer than about a month or impact on your life or work for any thing more than a few months you really ought to at least discuss your case with a solicitor.
- b) If you claim for injury you should have a doctor's report setting out your injuries

PARTICULARS OF SPECIAL DAMAGES

12. List your damaged kit, additional costs, recovery, policy excess etc here. You should advise your insurers if they have paid out for your bike that you are suing the Council – they may well want to put their “outlay” (ie your repair costs) in as part of your claim – but make sure the whole claim comes in at less than £5000 otherwise you are out of the small claims court and you really do need a solicitor.

13. The Claimant claims interest pursuant to Section 69 of the County Courts Act 1984 until judgment or sooner payment on general damages at 2 per cent per annum from service of the summons herein and on special damages at the Special Account Rate from the date of the accident alternatively at such rate and for such period as the Court thinks fit.

AND THE CLAIMANT CLAIMS:

- a) Damages limited to £5,000.00
- b) Interest pursuant to Section 69 of the County Courts Act 1984 as pleaded

The Claimant believes that the facts stated in this Particulars of Claim are true

Signed:

Claimant

Dated this _____ day of _____ 20_____

This is a Court form you may use as a template. Do read it carefully and don't just copy it out. It must represent the facts of your case. So don't just copy it down and hope for the best. Paragraph 9 is essential but you do not need to create a document this formal.

The law and procedure is correct as at 17/6/14 – but this document is not intended as a substitute for professional legal advice on your case.

You will need to sign your version of the document as true so if in doubt, leave it out. Do not make an allegation which you do not believe to be true.

And for Highways cases, photographs with clear measurements are key – as are witnesses who can say how long the road has been in a bad state for.