

## PJI 2:76A Motor Vehicle Accidents—Bicyclist Along Roadway

As you have heard, the plaintiff AB claims that [state plaintiff's contentions] [add where appropriate: that the defendant CD violated section 1146 of the Vehicle and Traffic Law by (state plaintiff's contentions)], and that CD thereby caused injury to AB. CD claims that [state defendant's contentions]. [add where appropriate: and that AB violated section 1234 of the Vehicle and Traffic Law by (state defendant's contentions)].

AB and CD were each under a duty to use the same degree of care that a reasonably prudent person would have used under the same circumstances. As a motorist, CD was required to keep a reasonably vigilant lookout for bicyclists, to sound the vehicle's horn when a reasonably prudent person would do so in order to warn a bicyclist of danger, and to operate the vehicle with reasonable care to avoid colliding with anyone on the road. As a bicyclist, AB was required to use reasonable care for (his, her) own safety, to keep a reasonably vigilant lookout for vehicles, and to avoid placing (himself, herself) in a dangerous position.

AB and CD also required to obey the statutes governing traffic and each was entitled to assume that the other would do so. Section 1146 of the Vehicle and Traffic Law provides:

“... every driver of a vehicle shall exercise due care to avoid colliding with any ... bicyclist ... upon any roadway and shall give warning by sounding the horn when necessary.”

Section 1234(a) of the Vehicle and Traffic Law provides [*Caution: VTL § 1234 does not apply in the City of New York.*]:

“Upon all roadways, any bicycle shall be driven either near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing for a left turn or when reasonably necessary to avoid conditions that would make it unsafe to continue along or near the right-hand curb or edge. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards or traffic lanes too narrow for a bicycle and a vehicle to travel safely side-by-side within the lane.”

If you find, by a preponderance of the evidence, that CD failed to give warning when a reasonably prudent person would have done so, or failed to maintain a reasonably vigilant lookout, or failed to use reasonable care to avoid the collision, you will find that CD was negligent. If you find, by a preponderance of the evidence, that AB failed to use reasonable care for (his, her) own safety, or failed to keep a reasonably vigilant lookout for vehicles or failed to avoid placing (himself, herself) in a dangerous position, then you will find that AB was negligent. Additionally, if you find, by a preponderance of the evidence, that AB failed to ride near the right-hand curb or usable right-hand shoulder when it was safe for (him, her) to do so, or that AB failed to use reasonable care in riding the bicycle, then you will find that AB was negligent.