

## City settles for \$9.5M with cyclist

By [Jordyn Reiland](#)

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A bicyclist who sustained a traumatic brain injury when his bike tire clipped an exposed rail from a shuttered trolley system has settled his lawsuit against the city for \$9.5 million.

The [Chicago City](#) Council gave final approval to the settlement agreement Wednesday during its monthly meeting. Attorneys reached a deal in June at the start of a trial before Cook County Associate Judge [Bridget Jane Hughes](#) prior to jury selection.

On Oct. 25, 2014, Catalin Dumitrescu was riding east on 56th Street in Hyde Park on a designated bike route when he heard a car approaching behind him.

Dumitrescu turned to see where the vehicle was and, when he turned forward, his tire became lodged in a trolley rail exposed under corroded pavement. He flew over his handlebars and landed on the street, according to court records. There were no eyewitnesses.

Dumitrescu sustained a traumatic brain injury, skull fractures and brain bleeding. For about two years after the incident, Dumitrescu had trouble recalling how it occurred, but he regained some memory and his attorneys were able to reconstruct the incident while the case was ongoing.

The plaintiff is represented by [Todd A. Smith](#) and [Brian LaCien](#) of [Power Rogers & Smith LLP](#).

Dumitrescu and his wife, Alexandra, filed a lawsuit against the city contending the city was negligent for improperly maintaining the street by "placing pothole patch upon pothole patch," designating the street a bike route without first inspecting the roadway and failing to remove the rail all together.

Smith said evidence showed the streetcar service was ended by the 1950s, but some rails still remained in the streets almost 70 years later. [Chicago Department of Transportation](#) officials used a "haphazard" approach to patch the streets, but the temporary fixes only last for a short time.

[Renai S. Rodney](#), the [Law Department's](#) first assistant corporation counsel, briefly testified about the lawsuit at the council's [Finance Committee](#) meeting Monday.

The roadway was resurfaced in the late 1990s, but the unused rail was not removed.

A CDOT crew was sent in June 2014 to inspect and repair the roadway, but the project foreman was not trained to patch over exposed rails, Rodney said.

Resurfacing was eventually done in early November, a few months after Dumitrescu's crash.

Rodney said the city retained an expert to contend Dumitrescu was negligent when he was not looking where he was going and not wearing a helmet, but they would not be able to present evidence that Dumitrescu was not wearing a helmet at trial given past [Illinois Supreme Court](#) rulings.

LaCien said the city argued, as part of the Tort Immunity Act, their client was a "permitted user" of the roadway but not an "intended permitted user." The city contended because there were no physical bike lanes they should not be responsible for the condition of its property.

There was, however, signage for bicyclists and a Divvy bike-share station nearby. And the location where the incident occurred was designated as a bike route, Dumitrescu's attorneys said.

Now at 46, Dumitrescu has difficulty focusing, processing information and remembering things he previously knew. Dumitrescu has a Ph.D. in computer science and prior to the incident worked at Fermilab in Batavia.

Additionally, Dumitrescu has left side visual field neglect, meaning both of his eyes have sight but he lacks awareness of what he sees from the left side of his visual field.

Smith said Dumitrescu was a "very high functioning person" with a "terrific career going for him" prior to what occurred.

"It's a big deal for this family to get it resolved," he said.

LaCien said the family is relieved to have been able to reach a settlement.

A spokesperson with the city's Law Department declined to comment further.

The case is Catalin L. Dumitrescu, et al., v. City of Chicago, 15 L 10629.

**VIEW** the official [Jury Verdict Reporter case summary](#).

Practice Areas: [Personal Injury Law](#), [Tort Law](#)

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