2015 IL App (2d) 140547-U
No. 2-14-0547
Order filed January 29, 2015

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

KAREN L. RAUCH,	)	Appeal from the Circuit Court
	)	of McHenry County.
Plaintiff-Appellant,	)	
	)	
v.	)	No. 11-LA-387
	)	
THE BIG PICTURE, INC., d/b/a	)	
WOODSTOCK HARLEY DAVIDSON,	)	Honorable
	)	Thomas A. Meyer,
Defendant-Appellee.	)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices Zenoff and Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in granting defendant summary judgment on the basis that a release plaintiff executed waived her claims of negligence relating to defendant's motorcycle riding course. Affirmed.

¶ 2 After she was injured while participating in defendant's, The Big Picture, Inc.'s, d/b/a Woodstock Harley Davidson's, motorcycle riding course, plaintiff, Karen L. Rauch, sued defendant for negligence. Defendant moved for summary judgment, arguing that a release of liability plaintiff had signed released and discharged any claims she could bring against it arising out of her participation in the course. The trial court granted defendant's motion. Plaintiff

appeals, arguing that the release: (1) did not include defendant's negligent instructional activities; and (2) violated public policy. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On November 10, 2011, plaintiff, age 53, sued defendant for negligence. In an amended complaint, she alleged that defendant owned and operated a Woodstock motorcycle shop engaged in the business of selling, renting, repairing, and educating people about motorcycles. Plaintiff, who informed defendant that she had no previous motorcycle riding experience, engaged defendant to teach her about the safe handling, riding, and use of motorcycles.

¶ 5 During the course, defendant provided plaintiff with a riding school handbook, which stated that "you will be fitted to a motorcycle that is appropriate for you based on your skill level, comfort, and riding style." Plaintiff alleged that she was provided with an FDXC Super Glide Custom motorcycle, commonly known as a Harley Davidson Lowrider. The motorcycle weighs in excess of 650 pounds and has in excess of 90 horsepower.

¶ 6 Plaintiff alleged that defendant owed her a duty to properly instruct her on riding the motorcycle, as well as properly fitting her with a motorcycle that matched her size and riding experience. Defendant, she alleged, also owed her a duty to provide a safe environment in which to learn to ride a motorcycle. According to plaintiff, defendant breached its duties by: (1) providing a motorcycle that was too heavy and powerful for a woman of her size, stature, and riding experience; (2) failing to properly instruct her on safe motorcycle handling; (3) failing to properly prepare plaintiff in the handling and safety of the FDXC Super Glide Custom Harley Davidson; and (4) failing to provide a safe setting and location for instruction, where the riding course was confined in between buildings.

¶ 7 Defendant generally denied plaintiff's allegations and raised two affirmative defenses: comparative negligence and waiver/release. As to the second affirmative defense, defendant alleged that plaintiff signed a "Motorcycle Release of Liability" that released and discharged any claims she could bring against it arising out of her participation in the Rider Training Program. Thus, it argued, plaintiff was barred from bringing her negligence claim.

¶ 8 The release that plaintiff signed contains the heading "Woodstock Harley Davidson Riding School" and is entitled "**MOTORCYCLE RELEASE OF LIABILITY**." It states that plaintiff, in consideration for the use of a motorcycle "and/or the permission to ride" one, "**RELEASE[S] AND DISCHARGE[S]**" defendant:

> "from **ANY AND ALL CLAIMS, DEMANDS, RIGHT[S] AND CAUSES OF ACTION** ("Claims") **OF ANY KIND WHATSOEVER WHICH I OR ANY OF MY HEIRS AND ASSIGNS NOW HAVE OR LATER MAY HAVE AGAINST ANY RELEASED PARTY RESULTING FROM OR ARISING OUT OF MY USE OR ANY USE BY ANY PERSON OF THE MOTORCYCLE, REGARDLESS OF WHETHER SUCH CLAIMS MAY RELATE TO THE DESIGN, MANUFACTURE, REPAIR, OPERATION OR MAINTENANCE OF THE MOTORCYCLE OR THE CONDITIONS UNDER WHICH THE MOTORCYCLE IS USED**." (Emphases in original.)

¶ 9 The document further states that the signer acknowledges and understands:

> "that this release **EXTENDS TO AND RELEASES AND DISCHARGES ANY AND ALL CLAIMS** I or any of my Heirs or Assigns have or may have against [defendant] *arising out of* my rental or *any use by any person of the Motorcycle*, including without limitation all such Claims resulting from the **NEGLIGENCE** of any released party or

> arising from **STRICT PRODUCT LIABILITY** or resulting from any **BREACH OF ANY EXPRESS OR IMPLIED WARRANTY** by any Released Party, and regardless of whether such Claims now exist or hereafter arise or are known or unknown, contingent, or absolute, liquidated or unliquidated or foreseen or unforeseen or arise by operation of law or otherwise." (Emphases added.)

Also, the document states that the signer agrees not to sue "any or all of the Released Parties for any injury or death to myself, my property, any other person or such person's property resulting from or arising out of my use or any use by any person of the Motorcycle."

¶ 10 On February 26, 2013, defendant moved for summary judgment (735 ILCS 5/2-1005 (West 2012)), arguing that no material factual issues existed and that a binding release of liability discharged any claims plaintiff could bring against it that arose out of her participation in defendant's rider training program.

¶ 11 At her deposition, plaintiff, who is 5 feet 7 inches tall, testified that she completed three years of college. She enrolled in defendant's course because her husband owns and drives a motorcycle. She selected defendant's particular course because it was limited to female students. Prior to the accident, plaintiff had ridden as a motorcycle passenger for less than one year and had ridden only twice on her husband's motorcycle, which she did not intend to drive herself because it was "too big." Plaintiff testified that she understood that motorcycle riding could be a dangerous activity and that drivers need to take more precautions when they drive a motorcycle than when driving a car. One week prior to the course, plaintiff obtained an M class motorcycle permit, which was required for the course.

¶ 12 Defendant's course began on May 19, 2010, and plaintiff received written course materials that day. The materials stated that plaintiff would "be fitted to a motorcycle that is

appropriate for you based on your skill level, comfort, and riding style—we do this to avoid a 'one-size-fits-all' scenario because we want you to ride a motorcycle similar to one you might ride on the road, outside of the classroom setting." There were two instructors during the in-class portion of the course and two additional instructors on the range. Plaintiff and the other students did not ride until the second day of the five-day course, which is when plaintiff sustained her injuries.

¶ 13 During the in-class portion, plaintiff was instructed on the use of the clutch and was told to ease it out. Also, if she had trouble on the bike, she was instructed to push in the clutch. When the instructor presented plaintiff with her assigned motorcycle, plaintiff asked if they were certain that it was assigned to her; she asked because it appeared too large. Plaintiff was told it was for her use. On the second day, the students drove in a circle, practicing starting and stopping maneuvers, and plaintiff drove several times in the circle before her accident. Plaintiff testified that she did not start her bike right away and told the instructors that she was nervous "with this bike." "[I]t was too big." They instructed her to take a pass. Plaintiff did not ask for a different motorcycle. An instructor assisted plaintiff in balancing her motorcycle, and plaintiff was able to maintain control of her bike during that drill. The students started another drill, which involved continuous riding without stopping on the course. Plaintiff maintained her bike in first gear. During a break, it began to rain; a "steady rain," but not a downpour. After the break, plaintiff again needed assistance starting her bike; she "kept on killing it." She started riding, and, after one or two laps, a rider approached her (in a "T-bone") from her right. She was about 10 feet away. Plaintiff swerved left about 90 degrees and "must have grabbed the handle bars and went off." She drove into a building with corrugated metal siding and drove through an exterior wall.

¶ 14 Plaintiff sustained broken wrists, a forehead laceration, a fractured left toe, whiplash, drooping eyelid, a hairline pelvic fracture, burn marks and scars on her legs and upper arm, and large areas of bruising on her body. She underwent surgeries on her wrists and several months of occupational therapy. She was off of work for three months.

¶ 15 Addressing the release, plaintiff testified that she read it and understood it. When she signed it, she understood that it was a release of liability for the people offering the class should plaintiff be injured during the course of the class.

¶ 16 Robert A. Ritter, plaintiff's expert, opined that: (1) defendant's curriculum was not specifically designed for training novice riders, did not have specified training for instructors, and did not employ pass/fail criteria to evaluate capabilities; (2) if the curriculum had required use of the front brake in the starting exercises, plaintiff would likely have used it in conjunction with the rear brake, which could have prevented the accident; (3) if the curriculum required students to cover the clutch in the first half of riding, plaintiff would likely have pulled in the clutch as she fell back with the acceleration or panic and this would have reduced the motorcycle's speed and allowed her to regain control; and (4) the motorcycles used for training novice students were excessive in size, weight, and engine power and the excessive engine size can cause the motorcycle to accelerate too quickly. As to his final opinion, Ritter stated that plaintiff's assigned motorcycle weighed 647 pounds and had an engine rating of 1549 cc's, whereas the standard set by the National Motorcycle Safety Foundation for training novices is 500 cc's and where most national motorcycle rider education programs limit motorcycles used for training novices to 250 cc's and 240 pounds.[1]

[1] He further noted that smaller engines reduce the acceleration rate when a student over-applies the throttle and give the novice greater time to react. Also, if a crash occurs, the small-

¶ 17 Plaintiff argued that her expert's testimony demonstrated that defendant breached its duty to properly instruct, fit, and provide a safe environment and program for plaintiff, a novice rider, and, thus, summary judgment was not warranted. She also argued that the release was invalid and unenforceable against her because it did not contain any explicit language waiving the possible danger from negligent instruction, provide notice of the dangers associated with negligent instruction, and because it violated public policy and the social relationship between the parties.

¶ 18 On May 22, 2014, the trial court granted defendant's summary judgment motion, finding that the release was clear and explicit in releasing defendant from all claims arising out of the use of the motorcycle. "While the Plaintiff has argued that this is an instruction case, the fact remains that it's an accident that arises out of the use of the motorcycle. And I believe that the case law supports enforcing this release, and I think it is explicit enough that I will have to grant summary judgment." The court added, pursuant to Illinois Supreme Court Rule 304(a) (eff. Feb. 26, 2010), a finding that "there is no reason to delay enforcement of this order." Plaintiff appeals.

¶ 19 II. ANALYSIS

¶ 20 A. Standard of Review and Negligence

¶ 21 A trial court is permitted to grant summary judgment only "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c) (West 2012). The trial court must view these documents and exhibits in the light most favorable to the nonmoving party. *Home Insurance Co. v. Cincinnati Insurance Co.*,

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weight motorcycle can eliminate or reduce the severity of injury.

213 Ill. 2d 307, 315 (2004). A genuine issue of material fact precluding summary judgment exists where the material facts are disputed or, if the material facts are undisputed, reasonable persons might draw different inferences from the undisputed facts. *Adames v. Sheahan*, 233 Ill. 2d 276, 296 (2009). "Summary judgment is a drastic measure and should only be granted if the movant's right to judgment is clear and free from doubt." *Outboard Marine Corp. v. Liberty Mutual Insurance Co.*, 154 Ill. 2d 90, 102 (1992). We review *de novo* a trial court's decision to grant a motion for summary judgment. *Id.* Similarly, the interpretation of a contract presents a question of law, which we review *de novo*. *Carr v. Gateway, Inc.*, 241 Ill. 2d 15, 20 (2011).

¶ 22 In order to recover damages based upon a defendant's alleged negligence, a plaintiff must prove that: (1) the defendant owed the plaintiff a duty; (2) the defendant breached the duty; and (3) the breach was the proximate cause of the plaintiff's injuries. *Perfetti v. Marion County*, 2013 IL App (5th) 110489, ¶ 16.

¶ 23 B. Release

¶ 24 Plaintiff argues first that the trial court erred in granting defendant summary judgment, where the release was not specific as to the risks she assumed and because the risk of defendant's negligence was not foreseeable. Plaintiff contends that, as a matter of law, the release does not include defendant's negligent instructional activities, or, alternatively, that a material factual question concerning the foreseeability of negligent instruction precluded summary judgment. We reject her arguments.

¶ 25 "An exculpatory agreement constitutes an express assumption of risk wherein one party consents to relieve another party of a particular obligation." *Platt v. Gateway International Motorsports Corp.*, 351 Ill. App. 3d 326, 330 (2004). Courts disfavor such agreements and construe them strictly against the benefitting party. *Id.* However, "contracting parties are free to

'allocate the risk of negligence as they see fit, and exculpatory agreements do not violate public policy as a matter of law.' " *McKinney v. Castleman*, 2012 IL App (4th) 110098, ¶ 14. Generally, an otherwise valid exculpatory agreement is enforceable unless: (1) " 'it would be against a settled public policy of the State to do so, or (2) there is something in the social relationship of the parties militating against upholding the agreement.' " *Harris v. Walker*, 119 Ill. 2d 542, 548 (1988) (quoting *Jackson v. First National Bank*, 415 Ill. 453, 460 (1953)).

¶ 26 "An agreement in the nature of a release or exculpatory clause is a contract, and the legal effect is to be decided by the court as a matter of law." *Johnson v. Salvation Army*, 2011 IL App (1st) 103323, ¶ 19. To be enforceable, an exculpatory agreement "must contain clear, explicit, and unequivocal language referencing the type of activity, circumstance, or situation that it encompasses and for which the plaintiff agrees to relieve the defendant from a duty of care." *Garrison v. Combined Fitness Centre, Ltd.*, 201 Ill. App. 3d 581, 585 (1990). However, it is not required that the parties contemplated "the precise occurrence which results in injury." (Internal quotation marks omitted.) *Johnson*, 2011 IL App (1st) 103323, ¶ 19. Rather, "[t]he injury must only fall within the scope of possible dangers ordinarily accompanying the activity and, therefore, reasonably contemplated by the parties." (Internal quotation marks omitted.) *Hamer v. City Segway Tours of Chicago, LLC*, 402 Ill. App. 3d 42, 45 (2010). "The foreseeability of a specific danger defines the scope." *Cox v. U.S. Fitness, LLC*, 2013 IL App (1st) 122442, ¶ 14. "The relevant inquiry *** is not whether [the] plaintiff foresaw [the] defendants' exact act of negligence," but "whether [the] plaintiff knew or should have known" the accident "was a risk encompassed by his [or her] release." *Hellweg v. Special Events Management*, 2011 IL App (1st) 103604, ¶ 7.

¶ 27 The release that plaintiff signed contains the heading "Woodstock Harley Davidson Riding School" and is entitled "**MOTORCYCLE RELEASE OF LIABILITY**." It states that plaintiff, in consideration of the use of a motorcycle "and/or the permission to ride" one, discharged defendant from any and all claims resulting from her use of the motorcycle, regardless of whether the claims related to the operation or maintenance of the motorcycle or the conditions under which it was used. The document further stated that plaintiff released and discharged any and all claims arising out of her rental or any use by any person of a motorcycle, including claims resulting from negligence, regardless of whether the claims were foreseen or unforeseen.

¶ 28 Plaintiff argues that the release is unenforceable because it does not contain language "that would suggest that it refers" to negligently providing an inappropriate vehicle and failing to properly instruct plaintiff in its use. Plaintiff further argues that a participant's experience is fundamental to the assessment of the enforceability of exculpatory clauses. Plaintiff asserts that, when a participant, such as herself, is inexperienced, he or she cannot be aware of all of the risks being released. She urges that it constitutes at least a factual question precluding summary judgment as to whether a person seeking motorcycle riding instruction understands that a general release relieves the instructor of the liability alleged here.

¶ 29 Plaintiff urges that *Poskozim v. Monnacep*, 131 Ill. App. 3d 446 (1985), a parachute jumping case, it instructive. In that case, the plaintiff broke his leg during the second day of a class and while making his first parachute jump. He had executed an exculpatory agreement, which stated that, in consideration for participating "in a course of parachuting instruction [and] parachuting training," the plaintiff released and discharged the defendants "from any and all other claims *** arising out of parachute jumps" including "all such personal injuries, conscious

suffering, death or property damage resulting from or in any way connected with or arising out of instructions, training, and ground or air operations incidental thereto.' " *Id.* at 448. The trial court dismissed the plaintiff's complaint, finding that the agreement was unambiguous in its intent to exculpate the defendants from liability arising out of the skydiving class.

¶ 30 The appellate court affirmed, holding that the agreement was unambiguous, where it contained no limiting language (to exclude negligence claims) and set forth the specific activities to which it applied. *Id.* at 448. The court furthermore held that, if the defendants were negligent in approving the plaintiff's use of certain boots during the jump, "such conduct would be characterized as instructional and the instant exculpatory agreement is explicit in its exculpation of all matters having to do with instructions." *Id.* at 449.

¶ 31 Again, here, plaintiff argues that, like the plaintiff in *Poskozim*, she is a novice and her injuries occurred during instructional training by defendant, who provided the equipment. However, she notes that the *Poskozim* release, unlike the release here, specifically referred to "instructions" and "training." There is no such language, plaintiff emphasizes, in the release at bar.

¶ 32 Plaintiff's reliance on *Poskozim* misplaced, as that case does not stand for the proposition (indeed, it nowhere explicitly states) that a specific reference to negligent *instruction* is required or is a condition precedent to uphold an exculpatory clause. Further, and in any event, the release here was entitled "Woodstock Harley Davidson Riding *School*." (Emphasis added.) Also, the *Poskozim* court did not specifically rely on the plaintiff's lack of skydiving experience. However, we acknowledge that there is case law holding that it is reasonable to interpret a broadly-worded release to have "intended coverage to be as broad as the risks that are obvious to *experienced* participants." (Emphasis added.) *Harris*, 119 Ill. 2d at 549 (horseback riding

release enforceable against experienced rider who rented horse; "[w]e believe that only the most inexperienced of horseback riders would not understand that under certain circumstances a horse may become spooked or 'side-shocked' and cause a rider to fall from the horse. Yet [the] plaintiff was an experienced rider who claimed to understand the release he signed"); see also *Platt v. Gateway International Motorsports Corp.*, 351 Ill. App. 3d 326, 332 (2004) (release enforceable against experienced auto racing track worker after he was injured by tow truck engaged in a common practice of circling the track to dry it). However, we fail to see the relevance of this case law to allegations of negligent instruction, which necessarily involve inexperienced plaintiffs. Thus, we reject plaintiff's argument that her lack of experience with motorcycle riding, on its own, warrants reversal.

¶ 33 Plaintiff further argues that *Diedrich v. Wright*, 550 F. Supp. 805 (N.D. Ill. 1982), another parachute jumping case, supports her argument that summary judgment was improper here. In *Diedrich*, the plaintiff took an instructional course from the defendants. During a jump, her chute failed to fully open and she sustained injuries and became a paraplegic. The plaintiff had signed a release that stated that the sport entailed " 'certain unforeseen and unforeseeable risks and hazards over which' " the defendants had " 'no control' " and over which she assumed the risks. *Id.* at 806. It further provided that the plaintiff released and held harmless the defendants " 'from any and all claims, demands, damages, rights of action or causes of action, present or future, whether the same be known, anticipated or unanticipated, resulting from' " her use of the premises, services, or equipment. *Id.* at 806-07. Addressing the release, the trial court granted the plaintiff's motion for partial summary judgment, declaring that the affirmative defense based on the release be stricken. Specifically, the court found that the exculpatory clause did not preclude an action based on negligence, where the only explicit reference in the release to fault

was that the plaintiff assumed " 'certain unforeseen and unforeseeable risks and hazards over which' " the defendants had " 'no control' ." *Id.* at 808. This specific language, the court found, exempted the "defendants from injuries that ordinarily occur, without any fault of the defendant, in such a hazardous sport." *Id.* The court relied on a case where the court took issue with a release that did not explicitly exempt the defendant from liability for injuries resulting from his failure to use due care during training exercises or in furnishing equipment. *Id.* at 808-09 (quoting *Gross v. Sweet*, 400 N.E.2d 306, 310-11 (N.Y. 1979).

¶ 34 Here, plaintiff again argues that the release, like that in *Diedrich*, is general and does not specifically refer to defendant's negligence in the course of its instructional training. She also notes that it refers to the signor's motorcycle rental; thus, it did not give plaintiff notice that she was releasing defendant from negligence arising from its instructional activities (rather than from mere rental activities). She urges that it would not be foreseeable to a novice student that she would assume the risk of being provided with an improperly-fitted vehicle (in derogation of defendant's specific representations that it would provide a proper fit) and faulty training (*i.e.*, mis-instruction in the use of the brake and clutch). Alternatively, plaintiff argues that a material factual question precluded summary judgment; specifically, whether defendant's negligence was foreseeable and, therefore, within the terms of the release.

¶ 35 We reject plaintiff's arguments. Her claim that negligent *instruction* is not covered (or constitutes a material factual question) in a release executed as part of a motorcycle riding *course* (and where the first line of the release reads "Woodstock Harley Davidson Riding *School*" (emphasis added)) is not well-taken. Unlike the release in *Diedrich*, the riding school release here explicitly refers to negligence claims (and, again, contains a heading reflecting its an instructional course). We conclude that *Falkner v. Hinckley Parachute Center*, 178 Ill. App. 3d

597 (1989), is most instructive. In that case, the decedent's estate sued a parachuting and sky diving school for negligence and willful and wanton conduct. The decedent died after a parachute that the defendants provided him became entangled and did not slow his fall. The decedent, who was 65 years old at the time of his death, was an officer and pilot during World War II and had "limited parachute training during World War II in which he had jumped three to four times, but never had free-fall instruction." *Id.* at 600. The trial court granted defendants summary judgment, finding that the estate's claims were barred by exculpatory clauses in an agreement signed by the decedent. The estate had alleged that the defendants were negligent for improperly and inadequately instructing the decedent in the type of equipment, including that he was given a parachute that contained a bridle cord that was too long for a *novice* parachutist of his size, weight, and experience. The exculpatory clause in the agreement stated that the decedent exempted and released the defendants "from any and all liability claims, demands, or actions or causes of action whatsoever arising out of any damage, loss or injury to the" decedent while on the premises or aircraft "or while participating in any of the activities contemplated by this agreement, whether such loss, damage, or injury results from the [defendants'] negligence" or "some other cause." *Id.* at 601.

¶ 36 The appellate court affirmed as to the negligence counts, holding that "some risk of fatal injury is ordinarily attendant to the sport of parachute jumping and that the decedent, a former officer and pilot in the Army Air Corps, would have been aware of this risk." *Id.* at 602. Further, the court held that the exculpatory clause contemplated exemption from liability, "including risks of unsafe equipment and negligent instruction, notwithstanding advertising that the sport is generally safe." *Id.* at 603. Noting the *broad* language in the clause, the court concluded that decedent's accident *was* within the scope of the document. *Id.* "*The risk of*

unsafe equipment, negligent instruction, and death can be contemplated by a participant[.]" (Emphasis added.) *Id.* The clause exempted the defendants from liability whether the decedent's injuries resulted from the defendants' negligence or other causes. *Id.* "Therefore, we find no merit in plaintiff's contentions that a genuine issue of material fact exists and that the exculpatory clause is unclear and equivocal because the clause does not specifically contemplate or mention the risk from unsafe equipment, from negligent instruction, or of death." *Id.* at 604.

¶ 37 The similarities between the circumstances here and those in *Falkner* warrant similar results. Both plaintiff here and the student in *Falkner* were relative novices[2] (as alleged in the respective complaints), the respective releases contained general language and did not explicitly refer in the text body to instructional activities as covered therein (although, here, the facts are stronger because the release's heading reflects that it was for a riding school), but they *did* specifically include negligence claims. Strictly construing the release against defendant, we conclude that it was sufficient from which to find, as a matter of law, that plaintiff's negligence claim was barred. The risks that caused plaintiff's injuries, as alleged in her complaint, were that defendant provided her with inappropriate equipment and instruction in an inappropriate setting. Strictly construing the release against defendant, we believe that these risks are of the types that *ordinarily* accompany motorcycle use and instruction, even if plaintiff herself did not specifically anticipate it. As defendant notes, this is not a case that involves an injury outside the

[2] Plaintiff's deposition testimony reflected that she had previously ridden as a passenger on a motorcycle (including her husband's), had executed releases in the past, and understood that a motorcycle could be more dangerous to ride than an automobile. Further, she understood that the release at issue released from liability (for any injuries plaintiff sustained during the class) the people who offered the class.

classroom due to something unrelated to motorcycle riding, such as a roof collapse, the type of occurrence that plaintiff may not have reasonably anticipated when signing up for a training program. *Cf. Simpson v. Byron Dragway, Inc.*, 210 Ill. App. 3d 639, 648-49 (1991) (factual question precluded summary judgment, where the danger that caused the decedent's, an experienced racecar driver's, accident—*i.e.*, his dragster colliding with a deer during a race—was not the type of risk ordinarily accompanying auto racing); *Larsen v. Vic Tanny International*, 130 Ill. App. 3d 574, 577-78 (1984) (the plaintiff health club member raised factual issues concerning validity of health club's exculpatory clause after he was injured by inhaling dangerous vapors generated by a mixture of combustible cleaning compounds; a plaintiff agreeing to assume risk of injury in exchange for using gym facilities would not necessarily contemplate this danger). Rather, plaintiff enrolled in a motorcycle riding course, which reasonably contemplates riding a motorcycle, an admittedly risky activity. Accordingly, the trial court did not err in granting defendant summary judgment on the basis that the release barred plaintiff's negligence claim.

¶ 38 C. Public Policy

¶ 39 Plaintiff's second argument is that the release cannot be enforced because it violated public policy. She contends that, when motorcycle instruction is negligent and results in injury, the training itself is inconsistent with the public policy of promoting safety in the use and operation of motorcycles.

¶ 40 Again, an otherwise valid exculpatory agreement is enforceable unless: (1) " 'it would be against a settled public policy of the State to do so, or (2) there is something in the social relationship of the parties militating against upholding the agreement.' " *Harris*, 119 Ill. 2d at 548 (quoting *Jackson*, 415 Ill. at 460).

¶ 41 Plaintiff's argument is that interpreting the exculpatory agreement here to release defendant from negligence in the course of instruction (*i.e.*, holding in defendant's favor on plaintiff's first argument) offends public policy. This assertion is somewhat undeveloped and otherwise reflects a misunderstanding of Illinois law. As noted, exculpatory contracts, although disfavored and strictly construed against the benefitting party, are generally upheld and " 'do not violate public policy as a matter of law.' " *McKinney*, 2012 IL App (4th) 110098, ¶ 14. Because we rejected, above, plaintiff's argument that her negligence claim was not barred by the release, we find no merit to this claim. As to the parties' social relationship, we note that this case does not involve plaintiff being in an unequal bargaining position. She was under no compulsion to sign the release (or to even take the class), but, rather, voluntarily enrolled in the riding class. *Harris*, 119 Ill. 2d at 550. Accordingly, we reject her public policy argument.

¶ 42 III. CONCLUSION

¶ 43 For the reasons stated, the judgment of the circuit court of McHenry County is affirmed.

¶ 44 Affirmed.