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Velez v. City of New York

United States Court of Appeals, Second Circuit - September 18, 2013 - F.3d - 2013 WL 5225784

Mother, representing estate of her son who was murdered for providing confidential tip, brought action alleging that municipality and police officers were liable for her son's death.

The Court of Appeals held that:

- Issue of whether municipality and police officers had special relationship with informant properly was submitted to the jury and
- Municipality did not acquire knowledge that inaction could lead to harm to informant.

To establish a special relationship beyond the duty that is owed to the public generally, in the context of a negligence claim under New York law against a municipality or its employees acting in a governmental capacity, four elements must be present: (1) an assumption by the municipality, through promises or actions, of an affirmative duty to act on behalf of the party who was injured; (2) knowledge on the part of the municipality's agents that inaction could lead to harm; (3) some form of direct contact between the municipality's agents and the injured party; and (4) that party's justifiable reliance on the municipality's affirmative undertaking.

Municipality did not acquire knowledge that inaction could lead to harm to informant, and thus informant's estate could not establish a special relationship beyond duty that was owed to public generally on negligence claim under New York law against municipality acting in governmental capacity, where police officers who dealt with informant did not know that he was in danger.

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