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LIABILITY - NEW YORK

Gammons v. City of New York

Court of Appeals of New York - December 18, 2014 - N.E.3d - 2014 N.Y. Slip Op. 08869

City police officer who was injured when she fell from a police flatbed truck while loading wooden police barriers onto it brought action against city and its police department, seeking to recover damages both under common law negligence theory and under statute creating cause of action for a police officer injured by another's failure to comply with requirements of any statute, ordinance, rule, or order, predicated upon violation of Public Employee Safety and Health Act (PESHA), which set forth safety and health standards for public employees. The Supreme Court, Kings County, granted defendants' motion for summary judgment as to officer's common law negligence claim, but denied it as to statutory claim. Parties cross-appealed. The Supreme Court, Appellate Division affirmed. Defendants appealed.

The Court of Appeals held that:

- PESHA's general duty clause was proper predicate for police officer's statutory claim, and
- Defendants failed to establish their *prima facie* entitlement to judgment as a matter of law on the statutory claim.