

Bond Case Briefs

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LIABILITY - NEW YORK

Caramanno v. City of New York

Supreme Court, Queens County, New York - September 3, 2015 - N.Y.S.3d - 2015 WL 5166177 - 2015 N.Y. Slip Op. 25301

Paving subcontractor brought action against city, city department of sanitation, and owner of junkyard after department removed subcontractor's legally parked steam roller following completion of paving work and subsequently sent it to junkyard, where it was destroyed. City and department moved for summary judgment.

The Supreme Court, Queens County, held that:

- Genuine issue of material fact as to whether department's actions were discretionary or ministerial precluded summary judgment, and
- Even if department engaged in ministerial act, subcontractor adequately alleged that it had special relationship with city and department, giving rise to a special duty supporting imposition of municipal liability.

Even if city department of sanitation engaged in ministerial act when it removed paving subcontractor's legally parked steam roller following completion of paving work and subsequently sent it to junkyard, where it was destroyed, subcontractor adequately alleged that it had special relationship with city and department, giving rise to a special duty supporting imposition of municipal liability. Subcontractor alleged that defendants affirmatively acted on its behalf by assuming control of its vehicle, that it had direct contact with department's employees, and that it detrimentally relied on employees' representations that department did not have the roller.