

# **Bond Case Briefs**

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## **IMMUNITY - PENNSYLVANIA**

### **Brewington v. City of Philadelphia**

**Commonwealth Court of Pennsylvania - November 14, 2016 - A.3d - 2016 WL 6677925**

Parent, as guardian for her son, brought action against school district alleging negligence arising out of injuries to son when he hit his head on a concrete wall during a relay race in gym class.

The Court of Common Pleas granted school district's motion for summary judgment. Parent appealed.

The Commonwealth Court held that:

- Genuine issue of material fact existed as to whether school gymnasium was unsafe for its intended and regular use, and
- Parent's claims alleged an injury caused by school district's negligence in its care, custody, and control of real property, overruling *Rieger v. Altoona Area School District*, 768 A.2d 912.

Genuine issue of material fact existed as to whether school gymnasium, which had a concrete floor and concrete walls but no safety mats on walls, was unsafe for its intended and regular use, as required by the statutory real property exception to local government tort immunity, thus precluding summary judgment in negligence action arising from student tripping during a relay race in gym class and hitting his head on the wall.

Student's claims of a "defective and dangerous condition of the premises" and school district's failure "to conform to" its "own specifications and standards as to the design" of the school gymnasium, which had a concrete floor and concrete walls but no safety mats on walls, were claims alleging injury caused by school district's negligence in its care, custody, and control of real property, as required by the statutory exception to local government tort immunity in action arising from student tripping during a relay race in gym class and hitting his head on the wall; overruling *Rieger v. Altoona Area School District*, 768 A.2d 912.