

# **Bond Case Briefs**

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## **LIABILITY - NEW YORK**

### **Tracy v. City of Buffalo**

**Supreme Court, Appellate Division, Fourth Department, New York - February 2, 2018 - N.Y.S.3d - 2018 WL 669567 - 2018 N.Y. Slip Op. 00704**

Plaintiff brought action against city, seeking to recover damages for injuries allegedly sustained in motor vehicle accident allegedly caused by potholes on city street.

The Supreme Court, Erie County, denied city's motion for summary judgment dismissing the complaint. City appealed.

The Supreme Court, Appellate Division, held that city was not liable for plaintiff's damages allegedly caused by potholes.

Plaintiff's verbal or telephonic communication to city regarding pothole condition on city street, even if reduced to writing, did not satisfy general rule mandating that city receive prior written notice of defect to be liable for personal injuries caused by the condition, and thus, absent demonstration by plaintiff that exception to the general rule applied, city's lack of prior written notice of the pothole condition precluded its liability for plaintiff's damages sustained in motor vehicle accident allegedly caused by potholes.