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Theisz v. Massachusetts Bay Transportation Authority

Supreme Judicial Court of Massachusetts - December 12, 2018 - N.E.3d - 481 Mass. 1012 - 2018 WL 6520976

Bus passenger who was allegedly assaulted by bus driver brought action against transportation authority for negligence and vicarious liability.

The Superior Court allowed in part and denied in part authority's motion for judgment on the pleadings. Authority appealed.

The Supreme Judicial Court held that authority waived defense of adequacy of presentment under Tort Claims Act.

Transportation authority did not deny with adequate specificity that complaint of bus passenger, who had allegedly been assaulted by bus driver, failed to state claim for negligent hiring, training, and supervision, and thus authority waived defense of adequacy of presentment under Tort Claims Act; authority's answer provided only a general denial, and authority failed to claim that presentment was inadequate because passenger's letter failed to notify authority of negligence claim that passenger eventually raised in his complaint.