

# **Bond Case Briefs**

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## **TORT CLAIMS - NEW JERSEY**

### **O'Donnell v. New Jersey Turnpike Authority**

**Supreme Court of New Jersey - January 14, 2019 - A.3d - 2019 WL 179054**

Surviving spouse and mother of automobile accident victims brought action against New Jersey Turnpike Authority (NJTA) to recover for wrongful death in head-on collision with ambulance after crossing into opposite lane of traffic.

The Superior Court denied NJTA's motion to dismiss and granted cross-motion to file late notice of claim. NJTA appealed, The Superior Court, Appellate Division, reversed. Spouse's petition for certification was granted.

The Supreme Court of New Jersey held that spouse demonstrated extraordinary circumstances for filing late notice of claim.

Any doubts as to whether extraordinary circumstances exist should be resolved in favor of application of extraordinary circumstances exception allowing late notice of claim under Tort Claims Act; generally, Supreme Court examines more carefully cases in which permission to file a late claim has been denied than those in which it has been granted, to the end that wherever possible cases may be heard on their merits.

Surviving spouse and mother of automobile accident victims involved in collision with ambulance after crossing over to opposite side of Turnpike demonstrated extraordinary circumstances for filing late notice of claim against New Jersey Turnpike Authority (NJTA), where spouse quickly pursued claims against NJTA in good faith and identified it as responsible party in properly completed notice of claim, but her attorney improperly served state, ambulance driver served timely notice of claim on NJTA listing exact circumstances and same theory of liability about missing safety barriers, and spouse pursued statutory procedure for permission to file a late notice of claim within one year of accident.