

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **IMMUNITY - TEXAS**

### **PHI, Inc. v. Texas Juvenile Justice Department**

**Supreme Court of Texas - April 26, 2019 - S.W.3d - 2019 WL 1873431 - 62 Tex. Sup. Ct. J. 851**

Provider of helicopter-transport services brought negligence suit against State Juvenile Justice Department, alleging that, by and through its employees, Department had breached its duty to maintain and safely operate its vehicle, causing damages to provider's helicopter when cargo van collided with helicopter in hospital parking lot.

Department filed a plea to the jurisdiction and a motion for summary judgment. The District Court denied the plea and the motion. Department took interlocutory appeal. The Fort Worth Court of Appeals reversed and rendered, and appeal was taken.

The Supreme Court of Texas held that:

- Department employee's failure to set emergency brake on cargo van, which subsequently rolled into grounded helicopter, qualified as "operation or use" of vehicle within meaning of Tort Claims Act section, waiving sovereign immunity for property damage arising from operation or use of motor vehicle;
- Tort Claims Act section, waiving sovereign immunity for property damage arising from operation or use of motor vehicle, does not explicitly require that the operation or use be "active" or that it be ongoing at time of incident;
- Close temporal proximity between employee's allegedly negligent parking of van, van's beginning to roll, and subsequent collision between van and grounded helicopter satisfied the "active operation of vehicle at time of incident" inquiry under Act; Court of Appeals erred by rigidly requiring "active" operation "at the time of the incident" as if those were elements of Act; and
- Operation of vehicle included making sure it did not roll away after it was parked within meaning of Act.