

Bond Case Briefs

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LIABILITY - NEW YORK

Zurich American Insurance Company v. City of New York

Supreme Court, Appellate Division, Second Department, New York - October 23, 2019 - N.Y.S.3d - 176 A.D.3d 1145 - 2019 WL 5406553 - 2019 N.Y. Slip Op. 07640

Insurer and insured warehouse operators brought separate actions against city, alleging negligent performance of governmental function, after fire department personnel shut off main water supply valve to warehouse's sprinkler systems, and warehouse was destroyed during fire.

Following consolidation, the Supreme Court, Kings County, denied city's motion to dismiss. City appealed.

The Supreme Court, Appellate Division, held that insurer and insureds sufficiently alleged special relationship with city, so as to state claim for negligent performance of governmental function.

Insurer and insured warehouse operators sufficiently alleged special relationship with city, so as to state claim for negligent performance of governmental function; complaint alleged that city fire department personnel, upon arriving at scene and assuming control over ongoing fire, shut off main water supply valve to warehouse's sprinkler systems, then certified to warehouse employees that it was safe to reenter building when in fact the fire was still at risk of rekindling, which it did within minutes after fire department personnel left premises.