

# **Bond Case Briefs**

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## **IMMUNITY - ILLINOIS**

### **Andrews v. Metropolitan Water Reclamation District of Greater Chicago**

**Supreme Court of Illinois - December 19, 2019 - N.E.3d - 2019 IL 124283 - 2019 WL 6907197**

Wife of contractor's employee, individually and as his plenary guardian, brought action against water reclamation district which owned construction project at which employee suffered an accident, alleging willful and wanton construction negligence and loss of consortium for willful and wanton construction negligence.

The Circuit Court dismissed willful and wanton supervision claims and entered summary judgment for district on remaining claims based on immunity under Local Governmental and Governmental Employees Tort Immunity Act. Wife appealed. The Appellate Court reversed and remanded. Water reclamation district's petition for leave to appeal summary judgment was granted.

The Supreme Court held that:

- Water reclamation district was not entitled to discretionary immunity, and
- A municipal defendant asserting discretionary immunity must present evidence of a conscious decision by its employee pertaining to the conduct alleged to have caused the plaintiff's injuries, overruling *Cabrera v. ESI Consultants, Ltd.*, 397 Ill.Dec. 306, 41 N.E.3d 957.

Water reclamation district was not entitled to immunity, under section of Local Governmental and Governmental Employees Tort Immunity Act shielding public employees from liability for discretionary acts or omissions in determining policy, from liability for injuries suffered by contractor's employee when he fell while transferring from one ladder to another to reach bottom of settling tank at water reclamation plant, absent showing that any water reclamation district employee made conscious exercise of discretion with respect to safety of using two-ladder configuration.

A municipal defendant asserting immunity under the Local Governmental and Governmental Employees Tort Immunity Act for the discretionary acts or omissions of its employees in determining policy must present evidence of a conscious decision by its employee pertaining to the conduct alleged to have caused the plaintiff's injuries; overruling *Cabrera v. ESI Consultants, Ltd.*, 397 Ill.Dec. 306, 41 N.E.3d 957.