

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - NEBRASKA

Garcia v. City of Omaha

Supreme Court of Nebraska - June 7, 2024 - N.W.3d - 316 Neb. 817 - 2024 WL 2869406

Driver of garbage truck brought negligence action against city under the Political Subdivisions Tort Claims Act (PSTCA), seeking to recover for injuries that he received when his truck fell into a sinkhole on city street.

The District Court denied city's motion for summary judgment based on sovereign immunity. City filed an interlocutory appeal.

The Supreme Court held that:

- Order denying summary judgment based on immunity was a final appealable order, and
- Factual issues as to whether city received notice of sinkhole and reasonable time to repair precluded summary judgment.

Order denying city's motion for summary judgment based on sovereign immunity was a final appealable order, in negligence action against city under the Political Subdivisions Tort Claims Act (PSTCA) arising from a garbage truck falling into a sinkhole on city street, where city asserted in its motion that it had PSTCA immunity from liability claims relating to spot or localized defects in roadways, and trial court denied the motion.

Genuine issues of material fact existed as to whether city had actual or constructive notice of sinkhole in city street and a reasonable time to repair it at the time that garbage truck fell into sinkhole, thus precluding summary judgment based on sovereign immunity in truck driver's negligence action against city under the Political Subdivisions Tort Claims Act (PSTCA) seeking to recover for his personal injuries.