

Bond Case Briefs

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LIABILITY - NEW YORK

Hannibal v. Incorporated Village of Hempstead

Supreme Court, Appellate Division, Second Department, New York - October 23, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 06836

Plaintiff brought action against, inter alia, county, seeking to recover damages for personal injuries allegedly sustained when he tripped and fell on water cap protruding from sidewalk outside county courthouse.

Where a locality has enacted a prior written notice statute, it may not be subjected to liability for injuries caused by an improperly maintained street or sidewalk unless it has received written notice of the defect, or an exception to the written notice requirement applies.

Recognized exceptions to a prior written notice requirement exist where the municipality created the defect or hazard through an affirmative act of negligence, or where a special use confers a special benefit upon it.

In this case, the court found that a genuine issue of material fact existed as to whether “special use” exception to statutory rule requiring prior written notice applied, precluding summary judgment in plaintiff’s personal injury suit against county, seeking to recover damages for personal injuries allegedly sustained when he tripped and fell on water cap protruding from sidewalk outside county courthouse.