

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **LIABILITY - NEW YORK**

### **Freeman v. City of New York**

**Supreme Court, Appellate Division, Second Department, New York - November 20, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 07707**

Daughter of woman who died during snowstorm after ambulance services failed to arrive brought wrongful death action against city, alleging negligent failure to provide emergency services and negligence failure to prepare and respond to snowstorm.

The Supreme Court, Appellate Division, held that:

- Allegations were insufficient to establish existence of a “special relationship” between decedent and city, as required to state negligence claims against city, and
- Trial court should have denied motion for leave to amend pleadings.

As a general rule, a municipality may not be held liable to a person injured by the breach of a duty owed to the general public, such as a duty to provide police protection, fire protection or ambulance services, unless there is a “special relationship” between the municipality and the claimant.

To establish the existence of a “special relationship” between a municipality and a claimant, as would impose a specific duty upon the municipality to act on behalf of the claimant, the claimant must establish the following factors: (1) an assumption by the municipality, through promises or actions, of an affirmative duty to act on behalf of the party who was injured; (2) knowledge on the part of the municipality’s agents that inaction could lead to harm; (3) some form of direct contact between the municipality’s agents and the injured party; and (4) that party’s justifiable reliance on the municipality’s affirmative undertaking.