

# **Bond Case Briefs**

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## **LIABILITY - NEW YORK**

### **Williams v. Gonzalez**

**Supreme Court, Appellate Division, Second Department, New York - January 22, 2014 - N.Y.S.2d - 2014 N.Y. Slip Op. 00345**

Student, by his parents, and his parents derivatively, brought action against town and school district, seeking to recover damages for personal injuries student allegedly sustained when he was struck by motor vehicle while crossing public road on his way to school. The Supreme Court, Westchester County, granted student's motion for leave to serve amended notice of claim on district, denied district's cross-motion for summary judgment or to dismiss, and granted student's motion for leave to serve late notice of claim on town. District and town appealed.

The Supreme Court, Appellate Division, held that:

- Granting leave to file late notice of claim on town was warranted, and
- District established prima facie entitlement to judgment as matter of law.

Granting student leave to serve late notice of claim on town was warranted in personal injury suit arising from incident in which student was struck by motor vehicle while crossing public road on his way to school, as town failed to demonstrate that student's underlying claim was patently without merit. While the merits of a claim ordinarily are not considered on a motion for leave to serve a late notice of claim, leave should be denied where the proposed claim is patently without merit.

School district, moving for summary judgment in student's personal injury suit arising from incident in which student was struck by motor vehicle while crossing public road on his way to school, established its prima facie entitlement to judgment as matter of law by demonstrating that it had no duty to supervise student at time of accident, as he was not within district's custody and control, and that district neither created allegedly dangerous condition on public road, nor had any duty to warn of condition, nor had authority to place traffic signs or markers on any highways.