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Nash v. Duncan Park Com'n

Court of Appeals of Michigan - March 20, 2014 - N.W.2d - 2014 WL 1097444

This wrongful death case arose from a sledding accident that took the life of 11-year-old Chance Nash. The accident occurred at Duncan Park in Grand Haven. The questions presented on appeals centered on the ownership of Duncan Park and whether the governmental tort liability act (GTLA), [MCL 691.1401 et seq.](#), barred plaintiff's claim.

To answer these questions was required to interpret a document drafted 100 years ago. The circuit court ruled that this instrument transferred the park property from Martha Duncan to the city of Grand Haven. However, the district court concluded that the document created a trust which conveyed legal ownership of the land to three trustees rather than to the City.

The more difficult issue was whether the Duncan Park Commission, which was established pursuant to Martha Duncan's trust, constituted a "political subdivision" of the city of Grand Haven. Political subdivision status would cloak the trustees and the Commission with governmental immunity.

The court concluded that, because the Commission was a private organization empowered by the trust to manage the park without any governmental oversight, it could not invoke governmental immunity to avoid liability for Chance's death.