

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - ARIZONA

Ponce v. Parker Fire Dist.

Court of Appeals of Arizona, Division 1 - March 27, 2014 - P.3d - 2014 WL 1257140

Homeowner whose house was almost completely destroyed by fire sued neighbor, in whose home the fire apparently began, and filed amended complaint adding claim of negligence against fire department for failing to fully extinguish fire. Fire department moved for summary judgment. The Superior Court granted motion. Homeowner appealed.

The Court of Appeals held that:

- Fire department waived its notice of claim defense by actively litigating the merits and failing to seek prompt judicial resolution of the defense, and
- Genuine issue of material fact existed as to fire department standards in the use of thermal imaging equipment, precluding summary judgment.

Genuine issues of material fact existed as to fire department standards in the use of thermal imaging equipment, and whether department breached standard of care, precluding summary judgment in homeowner's action alleging that fire department negligently failed to detect ember that had settled in attic insulation following earlier fire that had damaged garage.