

Bond Case Briefs

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LIABILITY - NEW YORK

Dodds v. Town of Hamburg

Supreme Court, Appellate Division, Fourth Department, New York - May 2, 2014 - N.Y.S.2d - 2014 N.Y. Slip Op. 03060

Executor of estates of motorist and his passenger who were killed in collision with unmarked police vehicle filed negligence action against city. The Supreme Court, Erie County, denied both parties summary judgment. Defendant appealed.

The Supreme Court, Appellate Division held that:

- Reckless disregard standard of liability, rather than ordinary negligence standard, applied to officer's conduct, and
- Officer's conduct did not rise to the level of reckless disregard for the safety of others.

City police officer was subject to reckless disregard standard of liability contained in statute governing authorized emergency vehicles, rather than ordinary negligence standard of liability, in action to recover damages for wrongful death of motorist and passenger who had been killed in collision when officer executed a U-turn to stop another vehicle, since officer was the driver of an authorized emergency vehicle involved in an emergency operation, and as such, was permitted to disregard regulations governing directions of movement or turning in specified directions.

City police officer who, while executing a U-turn to stop one driver, struck second vehicle, killing its driver and his passenger, acted under the mistaken belief that the vehicle he struck was sufficiently behind him and that it was, at that moment, safe to execute the U-turn, thus, his actions constituted a momentary lapse in judgment not rising to the level of reckless disregard for the safety of others. Although officer did not activate his vehicle's emergency lights or siren, he looked in his rear-view mirror, observed a couple of vehicles that he believed were sufficiently behind him, looked to his left, and braked before starting to make the U-turn.