

# **Bond Case Briefs**

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## **LIABILITY - MASSACHUSETTS**

### **Estate of Gavin v. Tewksbury State Hosp.**

**Supreme Judicial Court of Massachusetts, Middlesex - May 15, 2014 - N.E.3d - Mass.**

Patient's estate brought wrongful death action against state hospital and against commonwealth, seeking damages arising from patient's death allegedly caused by negligence of hospital staff. The Superior Court dismissed the complaint, and estate appealed. The Appeals Court affirmed. Estate applied for further appellate review.

The Supreme Judicial Court of Massachusetts held that estate was a "claimant" entitled under Tort Claims Act to make presentment of claim.

Patient's estate was a "claimant" entitled under Massachusetts Tort Claims Act to make presentment to Attorney General and state hospital of wrongful death claim arising from patient's death allegedly caused by negligence of staff at state hospital, even though estate lacked statutory authority to bring wrongful death action. Presentment by estate, rather than executor or administrator of the estate, did not prevent commonwealth from investigating claim or initiating settlement negotiations, since there was no question about the identity of the individuals behind the claim presented by the estate.