

# **Bond Case Briefs**

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## **IMMUNITY - GEORGIA**

### **Georgia Dept. of Corrections v. Couch**

**Supreme Court of Georgia - June 16, 2014 - S.E.2d - 2014 WL 2700961**

Inmate filed suit against Department of Corrections for injuries sustained while working on paint detail at warden's house. Following jury trial, the State Court entered judgment on jury's verdict for inmate, and then granted inmate's motion for attorney fees and costs under statute authorizing plaintiff to recover same when offer of settlement is rejected and amount recovered is more than 125 times settlement offer. Department appealed. The Court of Appeals affirmed, and certiorari was granted.

The Supreme Court of Georgia held that:

- Sovereign immunity was waived, under offer of settlement statute, as to award for attorney fees and litigation expenses;
- Trial court could not rely exclusively on contingency fee agreement that inmate had with attorney, in awarding attorney fees; and
- Inmate was not entitled to full amount of fees provided by contingency fee agreement.

Sovereign immunity was waived, under offer of settlement statute, as to award for attorney fees and litigation expenses in inmate's premises liability action against the Department of Corrections. While payment of attorney fees and litigation expenses under the statute were not made as compensation for a tort "claim" within meaning of the Georgia Tort Claims Act (GTCA), they were made as an incident of Department's inappropriate conduct in the underlying tort action.