

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - MASSACHUSETTS

Rodriguez v. City of Somerville

Appeals Court of Massachusetts, Middlesex - July 1, 2014 - N.E.3d - 2014 WL 2932544

In this appeal, the Appeals Court considered whether the doctrine of present execution applies to, and renders immediately appealable, the denial of a motion to dismiss that alleges inadequate presentment under the Massachusetts Tort Claims Act (Act).

The court concluded that the doctrine of present execution does not apply in such circumstances. The presentment requirement imposed on a tort claimant under the Act is not an immunity from suit preserved to the public employer, such as is contained in other provisions of the Act. Rather, presentment is a condition precedent imposed on a claimant that may be waived by the public employer.