

Bond Case Briefs

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LIABILITY - NEW YORK

Coleson v. City of New York

Court of Appeals of New York - November 24, 2014 - N.E.3d - 2014 N.Y. Slip Op. 08213

Wife who was stabbed by her husband brought action on behalf of herself and her son against city and city police department, alleging that defendants were negligent in failing to protect plaintiffs from attacks by husband, and asserting claim for negligent infliction of emotional distress. The Supreme Court, Bronx County granted defendants' motion for summary judgment, and wife appealed.

The Court of Appeals held that:

- Fact issues precluded summary judgment on negligence claim, but
- Son was not in zone of danger for purposes of negligent infliction of emotional distress claim.

Genuine issues of material fact existed as to whether special relationship existed between wife, who was stabbed by her husband after husband was arrested in connection with domestic violence incident and then released, and city, and as to whether wife justifiably relied on police officer's assurances that husband would remain in jail, precluding summary judgment as to wife's negligence claim arising from city's failure to protect her from attack.

Child was not in zone of danger at time his mother was stabbed by his father, as would subject city to liability for negligent infliction of emotional distress arising from its handling of domestic violence situation. Child was in broom closet while mother was stabbed, and thus he neither saw incident nor was immediately aware of incident at time it occurred.