

# **Bond Case Briefs**

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## **IMMUNITY - MISSISSIPPI**

### **City of Magee v. Jones**

**Supreme Court of Mississippi - April 23, 2015 - So.3d - 2015 WL 1848083**

Landowner brought action against city after raw sewage entered her house through a shower drain and flooded several rooms. The Circuit Court denied city's motion for summary judgment. City sought review.

The Supreme Court of Mississippi held that:

- To determine if city's sewage-system operation was discretionary under Tort Claims Act, court must first determine overarching governmental function, and
- Remand was required in light of drastic change to test.

To determine if city's sewage-system construction, operation, and maintenance was discretionary for the purpose of discretionary function exception of Mississippi Tort Claims Act (MTCA), court must first determine whether overarching governmental function at issue is discretionary or ministerial, examine any narrower duty associated with the activity to determine whether a statute, regulation, or other binding directive renders that particular duty a ministerial one, notwithstanding that it may have been performed within the scope of a broader discretionary function.

For a plaintiff to defeat a claim of discretionary-function immunity for the purpose of discretionary function exception of Mississippi Tort Claims Act, the plaintiff must prove that an act done in furtherance of a broad discretionary function also furthered a more narrow function or duty which is made ministerial by another specific statute, ordinance, or regulation promulgated pursuant to lawful authority.