

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - MARYLAND

O'Brien & Gere Engineers, Inc. v. City of Salisbury

Court of Special Appeals of Maryland - April 28, 2015 - A.3d - 2015 WL 1932332

Engineering firm brought action against city, alleging that city violated non-disparagement clause in a settlement agreement resolving claims relating to new wastewater treatment plant that was designed by engineering firm, and whose failure remained the subject of city's ongoing litigation with non-settling parties. The Circuit Court dismissed action. Engineering firm appealed.

The Court of Special Appeals held that city was immune from liability for the words used in arguing its case at trial against non-settling parties.

City that entered into non-disparagement agreement as part of settlement of claims against engineering firm relating to new wastewater treatment plant that was designed by engineering firm, and whose failure remained the subject of city's ongoing litigation with construction manager, was immune from liability, pursuant to the absolute liability privilege, for the words used in arguing its case against construction manager and presenting evidence at trial. Claims against construction manager and engineering firm were facets of same litigation, evidence about flaws in engineering firm's design and cause of plant failure was indispensable to resolution of city's contract claim against construction manager, evidence of flaws in engineering firm's design would necessarily portray firm in a negative light, city was entitled to use court system to recover losses sustained, and administration of justice would be served by application of privilege.