

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **IMMUNITY - ALABAMA**

### **Ex parte Dixon Mills Volunteer Fire Dept., Inc.**

**Supreme Court of Alabama - May 15, 2015 - So.3d - 2015 WL 2340222**

Driver and his passenger, who were injured when their car collided with fire truck, sued volunteer fire department and its assistant fire chief, asserting claims of negligence and wantonness and seeking damages for injuries sustained in the accident. The trial court denied department's and fire chief's motion for a summary judgment. Department and chief filed petition for writ of mandamus.

The Supreme Court of Alabama held that:

- Fire chief did not act willfully or wantonly, and thus, chief was entitled to immunity under Volunteer Service Act, and
- Fire department was expressly foreclosed under Volunteer Service Act from vicariously sharing immunity with the firefighters based on the master-servant relationship.

Volunteer fire department, whose truck collided with car, thereby injuring car's occupants, was a "nonprofit organization," as that term was defined in the Volunteer Service Act, for purposes of determining whether department was entitled to immunity under Act as to occupants' negligence claim. Fire department was incorporated specifically for the purpose of forming a non-profit corporation exclusively for charitable purposes within the meaning of Internal Revenue Service regulations, and fire department's original source of funding consisted of donations of equipment from other fire departments.

Although fire chief knowingly entered the intersection, nothing in record indicated that fire chief acted willfully or wantonly in doing so, and thus, chief was entitled to immunity under Volunteer Service Act with respect to negligence claims brought by occupants of car, who were injured when fire truck collided with their car. Firefighters shouted to chief that a vehicle was approaching, and having already committed to proceeding through the intersection, chief accelerated in an attempt to clear the intersection before making contact with occupants' oncoming vehicle.