

Bond Case Briefs

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CHARITABLE IMMUNITY - VIRGINIA

Councill v. Damascus Volunteer Fire Dept., Inc.

United States District Court, W.D. Virginia, Abingdon Division - June 1, 2015 - Slip Copy - 2015 WL 3459204

The Damascus Volunteer Fire Department is a 501(c)(3) tax exempt non-profit entity that offers fire fighting and rescue services to the Damascus, Virginia, community. Charitable contributions make up a substantial portion of the Fire Department's revenues.

In order to raise funds, the Fire Department owns and operates a bingo hall in Damascus, which is run solely by volunteers. The bingo hall is operated pursuant to a Charitable Gaming Permit from the Commonwealth, and all proceeds of the bingo games are used for the Fire Department's charitable purposes of firefighting and rescue services. On July 13, 2012, the plaintiff, Wanda Councill, tripped and was injured while leaving the bingo hall. Councill claimed that her injuries were attributable to the Fire Department's negligence and sued.

The Fire Department filed a Motion for Summary Judgment on the ground that it is entitled to charitable immunity from suit under Virginia law.

To establish charitable immunity, a defendant entity must prove two distinct elements: a) That the entity is organized with a recognized charitable purpose and that it operates in fact in accord with that purpose; and b) That the plaintiff was a beneficiary of the charitable institution at the time of the alleged injury.

The District Court held that the Fire Department satisfied the first element, but not the second, finding that the plaintiff was not a beneficiary of the Fire Department's charitable purposes at the time of her injury. Thus, the Fire Department was not entitled to charitable immunity.