[Bond Case Briefs](#)

Municipal Finance Law Since 1971

TORTS - MASSACHUSETTS

[Rodriguez v. City of Somerville](#)

Supreme Judicial Court of Massachusetts - July 20, 2015 - N.E.3d - 2015 WL 4389881

Elementary school student's father brought negligence action against city under Massachusetts Tort Claims Act after student suffered injuries when metal door frame fell off school's front door and struck him in head. The Superior Court denied city's motion to dismiss on basis of improper presentment. City appealed. The Appeals Court dismissed appeal. Father sought further appellate review.

The Supreme Judicial Court of Massachusetts held that:

- Appeal was not moot;
- Denial of city's motion to dismiss action for failure to meet presentment requirements of Tort Claims Act was immediately appealable; and
- Letter sent to mayor on behalf of student did not meet presentment requirements set forth in Tort Claims Act.

City's appeal from denial of motion to dismiss student's negligence action was not moot, even though parties had both filed amended pleadings and additional parties had been joined since filing of appeal, where underlying issue was whether student had made proper presentment to city in the first instance.

Orders denying motions to dismiss based on immunity from suit fall into the limited class of cases for which an interlocutory order is immediately appealable under the doctrine of present execution.

Letter sent to mayor on behalf of injured second grade student did not meet presentment requirements of Massachusetts Tort Claims Act as a condition for filing negligence suit against city. Letter did nothing more than state that student was injured in accident at public school and that counsel was seeking a copy of school's report of incident as well as reports of any other incidents at same school, and letter did not identify any legal basis for a claim against city, much less actually present a claim that city could reasonably be expected to investigate.