

Bond Case Briefs

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LIABILITY - NEW YORK

Heather Fox Lima v. Village of Garden City

Supreme Court, Appellate Division, Second Department, New York - September 2, 2015 - N.Y.S.3d - 2015 WL 5125373 - 2015 N.Y. Slip Op. 06714

Pedestrian brought negligence action against municipality, seeking to recover damages for personal injuries allegedly sustained when she slipped on ice in parking lot. The Supreme Court, Nassau County, granted summary judgment's in municipality's favor. Pedestrian appealed.

The Supreme Court, Appellate Division, held that:

- Municipality could not be held liable for injuries allegedly sustained by pedestrian, and
- Municipality's failure to remove snow and ice from parking lot was passive and did not constitute affirmative act of negligence.

Municipality could not be held liable for injuries allegedly sustained by pedestrian who slipped on ice in parking lot, where municipality did not have prior written notice of icy conditions, municipality did not make a special use of parking lot where alleged injury occurred, and municipality did not create the icy condition.

Municipality's failure to remove all snow and ice from the parking lot was passive in nature, and did not constitute an affirmative act of negligence, as required to bring pedestrian's negligence action against municipality, based on allegation that she slipped on ice in parking lot, within exception to the prior written notice requirement.