

Bond Case Briefs

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LIABILITY - MONTANA

Not Afraid v. State

Supreme Court of Montana - December 1, 2015 - P.3d - 2015 WL 7738299 - 2015 MT 330

Passenger, who was paralyzed after being ejected from vehicle driven by intoxicated and speeding driver on a steep, winding, narrow road, brought action against state, county, and city, alleging negligence in placement, installation, and maintenance of concrete barriers. The District Court entered summary judgment in favor of defendants. Passenger appealed.

The Supreme Court of Montana held that:

- Passenger was required to produce expert testimony to establish the standard of care by which to measure defendants' actions, and
- Passenger failed to establish degree of prudence, attention, and caution that county exercised in placing and installing the barriers.

Passenger, who was injured in single-vehicle accident and was required after summary judgment burden shifted to establish with substantial evidence that genuine issues of material fact existed regarding essential elements of passenger's negligence claims, was required to produce expert testimony to establish the standard of care by which to measure the actions of state, county, and city with regard to placement, installation, and maintenance of concrete barriers where accident occurred. Expert testimony would have assisted in determining whether defendants' placement, installation, and maintenance of the barriers kept road reasonably safe.

There was no evidence as to standard of care that applied to city's maintenance of concrete barriers along sharp curve on steep, winding, narrow road, and thus city could not be held liable for injuries that automobile passenger sustained when automobile went over barriers and down steep hillside.