

Bond Case Briefs

Municipal Finance Law Since 1971

LIABILITY - TEXAS

City of El Paso v. Collins

Court of Appeals of Texas, El Paso - January 20, 2016 - S.W.3d - 2016 WL 240882

Parents brought premises liability and negligence action against city after child suffered injuries at a swimming pool owned and operated by city. City filed plea to the jurisdiction. The District Court denied plea. City appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. On remand, parents filed amended petition, and city filed plea to the jurisdiction. The trial court denied plea. City appealed.

The Court of Appeals held that:

- Parents sufficiently alleged that city had subjective knowledge that dangerous conditions existed at pool on day of accident, as would be required under the Recreational Use Statute to defeat city's plea to the jurisdiction as to parents' premises liability claim; and
- Alleged condition of city's swimming pool, which purportedly had suction occurring at drain site that caused child to become entrapped or entangled, constituted a hidden defect that was capable of supporting a determination that city had duty to warn or rectify, and therefore parents' pleading of such defect precluded grant of city's plea to premises liability claim; but
- Parents' purported negligent use claim against city under the Tort Claims Act was not a separate, valid claim from parents' premises liability claim.