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Farrago v. County of Suffolk

Supreme Court, Appellate Division, Second Department, New York - June 21, 2017 - N.Y.S.3d - 2017 WL 2662589 - 2017 N.Y. Slip Op. 05067

Motorcyclist brought personal injury action against driver of vehicle that motorcyclist struck, alleging negligence, and against county defendants, which included county, county police department, and county highway patrol motorcycle division, alleging the failure to properly control traffic along motorcycle route and at accident location, county defendants asserted a cross-claim for comparative negligence against driver, and driver asserted a cross claim against county defendants for contribution and indemnification.

The Supreme Court, Suffolk County, granted county defendants' summary judgment motion on grounds of governmental immunity. Driver appealed.

The Supreme Court, Appellate Division, held that conduct alleged against county defendants was discretionary, and thus county defendants were entitled to governmental immunity.

Failure of county, county police department, and county highway patrol motorcycle division to properly control traffic along route of motorcycle run, and specifically at location of accident between motorcyclist and driver, involved exercise of police officers' professional judgment, and thus was discretionary, such that county, police department, and highway patrol were entitled to governmental function immunity defense to third party claim by driver seeking contribution and indemnification in motorcyclist's personal injury action against driver, county, police department, and highway patrol.