

Bond Case Briefs

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STATUTE OF LIMITATIONS - INDIANA

City of Marion v. London Witte Group, LLC

Supreme Court of Indiana - June 17, 2021 - N.E.3d - 2021 WL 2466180

City brought action against company that provided financial advice to city regarding financing for a construction project and alleged claims for negligence, breach of fiduciary duty, and constructive fraud and unjust enrichment.

The Superior Court granted in part and denied in part financial advisor's motion for summary judgment. City appealed and financial advisor cross-appealed. The Court of Appeals affirmed in part, reversed in part, and remanded with instructions. City sought transfer, and transfer was granted.

The Supreme Court held that:

- As a matter of first impression, the Supreme Court would adopt the equitable tolling doctrine of adverse domination;
- The adverse domination doctrine applied to both private and municipal corporations; and
- Genuine issues of material fact existed as to whether mayor adversely dominated the city, and whether company that provided financial advice to city contributed to it, precluding summary judgment.

The Supreme Court would adopt the equitable tolling doctrine of adverse domination, which was an equitable doctrine that tolled statutes of limitations for claims by corporations against its officers, directors, lawyers and accountants for so long as corporation was controlled by those acting against its interests, as a logical corollary of its discovery rule.

The adverse domination doctrine, which tolled the statute of limitations as long as the corporate plaintiff was controlled by alleged wrongdoers, applied to both private and municipal corporations.

Genuine issues of material fact existed as to whether mayor adversely dominated the city, and whether company that provided financial advice to city contributed to it, precluding summary judgment based on the adverse domination doctrine on company's statute of limitations defense in negligence, breach of fiduciary duty, and constructive fraud action.