

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - MISSOURI

Davis v. Buchanan County, Missouri

United States Court of Appeals, Eighth Circuit - July 20, 2021 - F.4th - 2021 WL 3042232

Mother of former inmate at county jail brought wrongful death action against county, member of sheriff's department, former county jail administrator, and former county sheriff, alleging that defendants had failed during three-day incarceration period to provide appropriate medical care for inmate's endocrine disorders.

The United States District Court for the Western District of Missouri denied county's motion to dismiss on immunity grounds and its subsequent motion for reconsideration, on theory that county had waived its sovereign immunity by "purchasing" insurance. County appealed.

The Court of Appeals held that, under Missouri law as predicted, county that entered into an inmate-health-services contract that required third party provider to "procure and maintain" various liability insurance policies and "to name the county as an additional insured," thereby "purchased" liability insurance.

Under Missouri law as predicted by the Eighth Circuit Court of Appeals, county that entered into an inmate-health-services contract with third party that was to supply health care to inmates at county correctional facility, a contract that, in addition to providing for such health care services, also required the third party to "procure and maintain" various liability insurance policies and "to name the county as an additional insured," thereby "purchased" liability insurance and waived its sovereign immunity for tort claims covered by that insurance; while county did not make direct payment to liability insurer, its payment of roughly \$300,000 per year to third party for services that included the acquisition of liability insurance was in nature of a "purchase" of insurance, as that term was used in Missouri waiver-of-immunity provision.