
IMMUNITY - GEORGIA

Smith v. City of Roswell

Court of Appeals of Georgia - October 18, 2021 - S.E.2d - 2021 WL 4840802

Survivors and administrators of estates of driver and passenger who died after vehicle left the road and collided with two mailboxes brought wrongful death actions against, inter alia, city and mailbox owners, asserting that mailboxes proximately caused the deaths and city negligently failed to remove the mailboxes.

The Superior Court granted city's motions to dismiss, and denied surviving daughter's motion to consolidate wrongful death and estate claims. Plaintiffs appealed.

On consolidated appeal, the Court of Appeals held that:

- Trial court's alleged error in refusing to allow decedent's surviving daughter to bring wrongful death claim when her mother declined to file the claim as surviving spouse was rendered moot when mother passed away;
- Trial court did not abuse its discretion in refusing to order consolidation of wrongful death and estate claims;
- Plaintiffs forfeited right to establish that city waived its municipal immunity by purchasing insurance; and
- Plaintiffs failed to establish that city had ministerial duty to remove mailboxes that were not in or on road.

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