

Bond Case Briefs

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Allen v. 32nd Judicial Circuit

Supreme Court of Missouri, en banc - January 11, 2022 - S.W.3d - 2022 WL 105130

Title insurance company employee brought personal injury action against city, state, and county to recover damages for personal injuries arising from injuries sustained when she fell on stairway leading to courthouse basement.

Following a jury verdict, the Circuit Court entered judgment for employee against the state, for the city and county, denied state's motion for judgment notwithstanding the verdict (JNOV), and denied employee's conditional motion for new trial as to liability by the city and county. State appealed and employee cross-appealed.

On transfer from the Court of Appeals, the Supreme Court held that:

- Employee provided sufficient evidence to find physical defects and deficiencies tantamount to a "dangerous condition";
- Evidence suggested that state had actual notice that stairway could be hazardous;
- State had constructive notice of stairway's defective condition;
- Jury instruction contained an inaccurate statement of the law under the "dangerous condition" waiver of sovereign immunity;
- Prejudice to state from inaccurate jury instruction warranted further proceedings to consider state's liability;
- Employee showed that city was a legal owner of courthouse as required for liability under "dangerous condition" waiver of sovereign immunity; and
- A plaintiff need not demonstrate that a public entity possesses exclusive possession and control of the property to satisfy the "public entity's property" element of the "dangerous condition" waiver of sovereign immunity if the public entity is the legal owner of the property, abrogating *Ford v. Cedar County*, 216 S.W.3d 167.