

Bond Case Briefs

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Cunningham v. Weber County

Supreme Court of Utah - February 17, 2022 - P.3d - 2022 WL 480901 - 2022 UT 8

Special weapons and tactics training (SWAT) class participant and his wife brought action against county, the class provider, alleging claims for negligence and loss of consortium arising from injuries that participant sustained when an explosive by which he was instructed to stand exploded.

The Second District Court entered summary judgment for county. Participant and wife appealed.

The Supreme Court held that:

- Preinjury release of liability was not enforceable;
- As a matter of first impression, Government Immunity Act (GIA) waives immunity for both simple and gross negligence; and
- As a matter of first impression, GIA waives immunity for loss of consortium claims related to injuries for which immunity is waived.

Preinjury release of liability for negligence that special weapons and tactics (SWAT) training class participant signed was not clear and unmistakable, and thus, it was unenforceable, in participant's action against class provider arising out of injuries he sustained after he was instructed to stand a few feet away from an explosive set on a door latch and the explosive detonated, where the release used broad, general language that did not specifically nor unequivocally evince an intent to hold the provider, as the released party, blameless for its own negligent conduct.

The Government Immunity Act (GIA) waives immunity for both simple and gross negligence claims against a governmental entity.

The Governmental Immunity Act (GIA) waives immunity for loss of consortium claims related to injuries for which immunity is waived.