

# **Bond Case Briefs**

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## **IMMUNITY - ILLINOIS**

### **Schultz v. St. Clair County**

**Supreme Court of Illinois - April 21, 2022 - N.E.3d - 2022 IL 126856 - 2022 WL 1180973**

Husband, as special administrator of wife's estate, brought wrongful death and survival action against county, county 911 agency, county emergency telephone system board, and unidentified 911 dispatchers, alleging that defendants engaged in willful and wanton conduct by refusing to dispatch 911 services, which resulted in wife's death.

Defendants moved to dismiss, arguing that they were entitled to absolute immunity under the Local Governmental and Governmental Employees Tort Immunity Act and that wife's conduct was sole proximate cause of her injuries and death.

The Circuit Court granted motion. Husband appealed. The Appellate Court affirmed. Husband petitioned for leave to appeal and petition was allowed.

The Supreme Court held that:

- As matter of apparent first impression, husband's allegations implicated limited immunity provided by Emergency Telephone System (ETS) Act, rather than absolute immunity provided by Tort Immunity Act, but
- Dispatcher's refusal to dispatch police to convenience store to prevent wife from driving under the influence of alcohol was not proximate cause of wife's death.

Husband's allegations that public safety answering point (PSAP) employee's intentional or reckless refusal to dispatch vital emergency services resulted in wife's death implicated limited immunity provided by Emergency Telephone System (ETS) Act, rather than absolute immunity provided by Local Governmental and Governmental Employees Tort Immunity Act; ETS Act's limited immunity provision, by its plain language, governed scope of liability relating to PSAP employee's "performance...or provision of 9-1-1 service[.]" and, further, ETS Act, which provided comprehensive rules and regulations applicable to 911 dispatchers in relation to answering, receiving, or dispatching emergency services, was both more specific and more recent than Tort Immunity Act, indicating that legislature intended it to govern.

Emergency dispatcher's refusal to dispatch police to convenience store to prevent motorist from driving under the influence of alcohol was not proximate cause of motorist's death, which occurred when motorist drove her vehicle off the road while driving away from convenience store, where dispatcher did not furnish motorist with vehicle or alcohol or facilitate her decision to get into her vehicle and drive while intoxicated, and, at most, dispatcher's alleged conduct furnished condition by which motorist's injury was made possible, and thus it could not be established that injury to motorist would not have occurred absent dispatcher's alleged refusal to dispatch police.