

Bond Case Briefs

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IMMUNITY - NORTH DAKOTA

Lovro v. City of Finley

Supreme Court of North Dakota - July 21, 2022 - N.W.2d - 2022 WL 2840065 - 2022 ND 145

Property owner brought action against city alleging negligence, gross negligence, and breach of contract seeking damages after city's water line broke and caused damage to owner's driveway and basement.

The District Court granted city's motion for summary judgment. Property owner appealed.

The Supreme Court held that:

- District court did not abuse its discretion in refusing to allow additional time for owner to conduct discovery before deciding city's motion for summary judgment;
- Owner failed to establish that city could or did waive its governmental immunity, and thus, owner's claims were barred by governmental immunity; and
- Owner waived issue for appellate review that district court erred in granting summary judgment dismissing his breach of contract claim.

Property owner failed to establish that city could or did waive its governmental immunity, and thus, owner's claims were barred by governmental immunity in action seeking damages against city alleging negligence and gross negligence after city's water line broke and caused damage to owner's driveway and basement; owner failed to cite any case law which provided that the discretionary function exception could be waived, and owner alleged the damages were caused by city's failure to property operate, maintain, repair, and inspect their water system.