

Bond Case Briefs

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NEGLIGENCE - GEORGIA

Mercy Housing Georgia III, L.P. v. Kaapa

Court of Appeals of Georgia - May 30, 2023 - S.E.2d - 2023 WL 3710032

Son of elderly tenant in section 8 housing filed a wrongful death, negligence, and negligence per se action against owners and managers of apartment complex after complex failed to provide tenant with an emergency call device, in compliance with the Department of Housing and Urban Development (HUD) regulations, resulting in tenant being unable to call for assistance after he had a stroke, causing a delay in tenant obtaining treatment and tenant's eventual death.

Son filed a motion for summary judgment on issue of negligence per se, and defendants moved for summary judgment on the issues of causation, punitive damages, and owner's status as a defendant. The State Court granted son partial summary judgment and denied defendants' motions for summary judgment. Defendants appealed.

The Court of Appeals held that:

- Trial court's admission of expert testimony from property manager was not an abuse of discretion;
- Owners and managers of apartment complex failed to provide tenant with an emergency call device, in compliance with HUD regulations, and thus were negligent per se; and
- Genuine issue of material fact existed as to whether the lack of an emergency call system actually delayed elder tenant's rescue and treatment following a stroke.