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Canter v. Commonwealth

Court of Appeals of Virginia, Salem - November 19, 2024 - S.E.2d - 2024 WL 4819721

Motorist who was injured when his tractor-trailer overturned brought gross negligence action against Commonwealth, alleging failure of Virginia Department of Transportation (VDOT) to safely maintain highway.

The Circuit Court sustained Commonwealth's demurrers and pleas in bar alleging sovereign immunity. Motorist appealed.

The Court of Appeals held that as a matter of first impression, Commonwealth's decision to maintain portion of interstate highway which contained a pool of water in left-hand lane by placing orange and white barrels in the median, instead of undertaking repairs or a more extensive warning, constituted the exercise of a "legislative function" and thus fell within legislative-function exception to Virginia Tort Claims Act (VTCA) waiver of sovereign immunity.

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