
LEGAL UPDATE

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IOWA SUPREME COURT DECISION — GOVERNMENTAL LIABILITY

Legal Updates, prepared by the nonpartisan Legal Services Division of the Legislative Services Agency, provide summaries of recent meetings, court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic and are intended for use primarily by legislators, legislative staff, and other persons interested in legislative matters. The reader is cautioned against using information contained in a legal update to draw conclusions as to the legality of a particular behavior or set of circumstances and should not be interpreted as advocating a particular course of action.

Estate of Sharon Kahn, by administrator Suzanne L. Rowe, and Estate of Vicki Hodges, by coadministrators Suzanne L. Rowe and Sierra D. Reyes v. City of Clermont, Fayette County Conservation Board, Fayette County, and State of Iowa

Filed June 13, 2025

No. 223-1617

www.iowacourts.gov/courtcases/22784/embed/SupremeCourtOpinion

Factual and Procedural Background. In June 2020, Sharon Kahn and her daughter Vicki Hodges embarked on an innertube floating trip on the Turkey River Water Trail in Fayette County, Iowa. The Turkey River Water Trail was a collaborative project developed by the State of Iowa, Fayette County, the Fayette County Conservation Board, and the city of Clermont to create a point-to-point recreational water travel system.

Kahn and Hodges' planned route included passage over a low-head dam near Clermont. Five warning signs had been posted along the river to alert users of the upcoming dam. However, four of the five signs were overgrown with vegetation and not visible from the river. Additionally, an emergency portage designed to allow river users to bypass the dam on foot had become overgrown and inaccessible. No emergency safety devices such as buoys or safety cables were present on the river itself. Kahn and Hodges continued down the river until they went over the low-head dam. Both became trapped in the recirculating current at the dam's base and drowned.

Kahn and Hodges' estates subsequently filed negligence and premises liability claims against the State of Iowa, Fayette County and the Fayette County Conservation Board, and the city of Clermont. All defendants moved to dismiss the claims on various grounds, and the district court granted the motions, dismissing the case in its entirety. The estates appealed.

Issues. Whether the district court properly dismissed the plaintiffs' claims on sovereign, discretionary function, and qualified immunity grounds, and under the public-duty doctrine.

Holding. The Court reversed and remanded the case for further proceedings. The Court held that the district court erred in applying heightened pleading standards to common law tort claims, incorrectly applied the public-duty doctrine, and improperly granted the State's sovereign immunity claims and the municipalities immunity arguments.

Analysis. First, the Court analyzed the qualified immunity provisions in Iowa Code sections 669.14A and 670.4A, which include heightened pleading requirements. The Court found that these provisions apply

only to claims involving violations of statutory or constitutional rights, not to common law tort claims like negligence and premises liability. The Court relied on its recent decisions in *1000 Friends of Iowa v. Polk County Board of Supervisors* and *Doe v. Western Dubuque Community School District* to conclude that since substantive qualified immunity does not apply to common law claims, neither do the related heightened pleading standards.

Second, the Court examined the public-duty doctrine. The public-duty doctrine generally protects governmental entities from liability for breaches of duties owed to the public at large rather than to individual plaintiffs. *Fulps v. City of Urbandale*, 956 N.W.2d 469, 475 (Iowa 2021). The Court distinguished between nonfeasance, which is when a government actor has a duty to act and fails to do so, and misfeasance, which are affirmative negligent acts of a government actor, noting that the doctrine typically applies to nonfeasance cases but not misfeasance cases. The Court found that the defendants' alleged negligent installation and maintenance of warning signs constituted misfeasance, not mere regulatory oversight failures, and thus the public-duty doctrine does not bar at least some of the plaintiffs' claims. The Court compared this case to its previous decisions where governmental entities were held liable for affirmatively creating dangerous conditions.

Third, the Court analyzed the State's sovereign immunity arguments. The State had two arguments: (1) the State argued that Iowa Code section 461C.3(1) provides recreational immunity to private landholders and therefore the State should receive similar protection under the State Tort Claims Act and (2) the State has discretionary function immunity under Iowa Code section 669.14(1). The Court rejected the State's first argument, noting that Iowa Code section 461C.2(3) specifically excludes the State from the definition of "holder" entitled to recreational immunity. For the State's second argument, the Court applied the principle that specific statutory provisions take precedence over general ones. The Court found that the petition alleged the State's failures resulted from inattention rather than considered policy decisions, and that the State had not met its burden to establish immunity at the motion to dismiss stage.

Lastly, the Court addressed the recreational immunity defense under Iowa Code section 670.4(1)(o). The Court found that factual questions remained regarding whether drowning from an unforeseen low-head dam constitutes a "normal and expected risk" of recreational tubing and whether the victims knew or should have known of such substantial risks. The Court emphasized that immunity determinations often require factual development inappropriate at the motion to dismiss stage.

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