

# Public Duty Rule Abolished by IL Supreme Court and How It Impacts Your Local Police and Fire Depts

Article By:

Chrissie Peterson

John Redlingshafer

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In a decision published on Friday, January 22, the ***Illinois Supreme Court*** abolished the public duty rule in [Coleman v. East Joliet Fire Protection District](#), 2016 IL 117952. This decision will have a tremendous impact on local governments who provide services to their community – most notably – police and fire departments.

In June of 2008, Ms. Coleman, a 58-year old woman, dialed 911 and requested medical assistance. She identified her address and stated she could not breathe and needed an ambulance. There was initial confusion as to Coleman's address and when the first emergency crew arrived, the house was locked with no response. Neighbors called into 911 indicating that the emergency crews left the scene without forcing their way into the house. Coleman's husband arrived home approximately 40 minutes after his wife made the initial 911 call. When he entered the house he found his wife unresponsive. She was transported to a hospital, where she was pronounced dead of cardiac arrest.

Coleman's family filed a lawsuit in Will County against the East Joliet Fire Protection District and other public entities involved in the call, including the communications systems, first responders and ambulance services, alleging both negligence and willful conduct that caused Ms. Coleman's death and before then, had caused her pain and suffering.

The trial court hearing the lawsuit dismissed the negligence counts under the Illinois *Tort Immunity Act* but later in the litigation ruled in favor of the defendants on the willful counts, holding that no "public duty" was owed to Ms. Coleman. While the Tort Immunity Act does not typically protect public bodies from willful behavior, courts (including the trial court here) relied upon the "public duty" rule for the proposition that local governments generally did not owe ANY duty of care to individual members of the general public to provide adequate government services. The Colemans appealed, but the appellate court agreed with the trial court on the applicability of the public duty rule to the willful counts.

The Colemans appealed again, but this time, the Illinois Supreme Court determined (in a 4-3 decision) that the "public duty" rule should be abolished because (1) it is not compatible with our tort immunity laws; (2) the rule has been inconsistently applied; and (3) with tort immunity laws in place,

the public duty rule is obsolete.

With this ruling, the Colemans are allowed to have a new determination on whether the defendants could be liable for the alleged willful conduct.

While there is much to consider going forward, and still some further clarification that will play out in the courts, the immediate take-aways from this case include:

- (a) Will courts automatically assume a duty on behalf of every public body in all litigation no matter if negligence or willful actions are alleged?
- (b) Will this assumption lead to confusion on whether or not the Tort Immunity Act still protects public bodies from negligent acts in appropriate circumstances?
- (c) Are allegations arguing willful actions (versus negligence) automatically going to survive through the various phases of litigation and force public bodies to try or settle these cases?

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