

LEGAL CONSULT



INCISIVE ANALYSIS OF
EMS LEGAL TOPICS



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Illinois Supreme Court Upholds EMS Immunity

Broad immunity provision not limited to direct patient care

A recent decision from the Illinois Supreme Court demonstrates the willingness of the court to uphold immunity for EMS in a case involving an ambulance accident (*Wilkins v. Williams*, 2013 IL, 114310, 991 NE 2d 308, 372 Ill.Dec.1).

On Nov. 14, 2005, Rhonda Williams was driving an ambulance transporting a non-emergency patient. Her partner, Vernette Henderson, was in the back of the rig with the patient. No lights or sirens were in use. Williams was westbound in the far right lane of a three-lane road. It was rush hour and it was dark outside. A Chevrolet Avalanche pickup truck was in the middle lane and a semi-truck was in the left lane. The semi obstructed Williams' view of traffic and she did not see a car, driven by Karen Wilkins, making a turn across the westbound lanes—until she hit it.

Witnesses testified that they did not think the ambulance was speeding, and law enforcement concluded that speed was not a factor in the accident. Williams did not hit the brakes before the collision. Williams and her partner both passed drug tests after the accident. Wilkins sustained serious injuries and was hospitalized for almost two months.

The trial court dismissed the case on summary judgment based on a provision of the Illinois EMS Act that barred Wilkins' claim. The court found that the immunity provision extended not only to patients, but also to third parties who were not patients, but were injured by EMS.

Wilkins appealed. The Court of Appeals reversed the trial court, finding that the immunity provision in the EMS Act did not extend to third parties. The Court relied on a provision of the Act that stated: "Any person, agency or governmental body certified, licensed or authorized pursuant to this Act or rules thereunder, who in good faith provides emergency or non-emergency medical services ... in the normal course of conducting their duties, or in an emergency, shall not be civilly liable as a result of their acts or omissions in providing such services unless such acts or omissions, including the bypassing of nearby hospitals or medical facilities in accordance with protocols developed pursuant to this Act, constitute willful or wanton misconduct."

The court initially found that the immunity

provision applied to Williams' non-emergency transport of a patient to a nursing care facility. However, the court then addressed the issue of whether the immunity extended to negligent operation of the ambulance as it affected third parties. The court found that the duty owed to third parties differed from the duty owed to patients served by EMS, and that the EMS Act was silent as to this issue. The court looked to the statutes addressing the duty of an emergency vehicle driver toward motorists instead, and found that while immunity existed for the negligent operation of a motor vehicle in an emergency, the immunity did not extend to nonemergency situations.

The Supreme Court accepted the appeal and reversed the Court of Appeals in a 16-page opinion, finding that the EMS Act did not limit immunity for negligence to acts or omissions toward patients in an ambulance, but also covered negligence toward third parties. The court instead found no distinction, for purposes of immunity, between ambulances operating with lights and sirens and those "running cold."

The court further found that the provisions of the Vehicle Code did not abrogate the immunity provisions of the EMS Act. The Supreme Court interpreted the provision of the Act quoted above without limitation as to emergency or non-emergency driving, and patients or non-patients. Instead, the court stated that the immunity provision broadly applied to protect EMS from civil liability as a result of acts or omissions in providing EMS services.

This case demonstrates the willingness of the Illinois courts to uphold broad immunity provisions for EMS that are not limited to direct patient care. However, the court relied heavily upon the fact that the ambulance was being operated in accordance with all state motor vehicle laws. Had the ambulance been speeding, this opinion may have been very different, and immunity denied. The immunity provided in the Act does not extend to "willful and wanton" acts, which might have been found if traffic laws had been violated. The court further stated, "There was no rule of the road that Williams did not know or adhere to with regard to lights and sirens," and that she was not obligated to be running lights and sirens for a non-emergency transport. □