

# Court rejects limit on WMATA's damages

**\$200K immunity cap does not apply to transit agency**

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The Washington Metropolitan Area Transit Authority is not subject to a \$200,000 damages limit in torts cases, the Court of Appeals has held.

The decision reverses a previous Court of Special Appeals holding that limited WMATA's damages based on sovereign immunity provisions in the Maryland Tort Claims Act. The court held instead that the sovereign immunity provisions of the WMATA Compact, a statute specific to the transit agency, apply.

The Court of Appeals weighed in on the matter Friday at the request of a federal judge presiding over a \$7 million lawsuit filed by an Upper Marlboro man who alleged he was hit by a WMATA bus while riding his motorcycle in 2008.

Sylvester L. Proctor's case against the transit agency will resume in federal court now that Court of Appeals has answered the question, said Andrew H. Baida, who argued Proctor's appellate case.

Baida said the Court of Appeals' decision has "huge implications" for

the transit agency. If a subway accident occurred in Maryland such as the one in June in Washington, D.C., that killed nine people, any related lawsuits now would be subject only to the state's non-economic damages cap, but not to any cap related to the agency's sovereign immunity.

"The liability expense would be tremendous and is tremendous," said Baida, of Rosenberg | Martin | Greenberg LLP in Baltimore.

Though the court rejected WMATA's position that the \$200,000 damage limit is a cap, it held the state's cap on non-economic damages would be valid in a state court action against the transit agency.

Lisa Farbstein, a WMATA spokeswoman, said she could not comment Friday afternoon because she had not yet reviewed the decision.

Maryland's role in WMATA's formation and management means the transit agency is generally granted sovereign immunity, much like any other state agency, according to the court's opinion. But WMATA's charter specifically waives sovereign immunity in certain contexts, including for torts arising out of proprietary functions, according to the opinion.

The transit agency argued the state's \$200,000 damage limit in sovereign immunity cases is a cap WMATA is subject to based on its standing as a "unit" of the state. The Court of Special Appeals agreed with

WMATA's argument in a 2008 ruling.

But the Court of Appeals held the intermediate appellate court did not take into account the transit agency's own sovereign immunity waiver in the WMATA Compact. Judge Clayton Greene Jr., writing for a unanimous majority, said an agency-specific statute will always take precedence over the MTCA.

"In our view, the MTCA applies ... as a gap-filler when no other waiver of sovereign immunity is in place," Greene wrote.

In this case, no gaps needed to be filled, Greene explained.

Courts in Washington and Virginia, Maryland's partners in the transit agency, already had reached the same conclusion in cases before them.



FILE PHOTO  
Andrew Baida, who is representing Sylvester Proctor, said the court's decision has 'huge implications' for WMATA.

## WHAT THE COURT HELD

**Case:** *Sylvester L. Proctor, et ux v. Washington Metropolitan Area Transit Authority*, Misc. No. 1, Sept. Term 2009. Reported. Opinion by Greene, J. Filed March 12, 2009.

**Issue:** Does Maryland's sovereign immunity law apply to WMATA in light of its own sovereign immunity regulations?

**Holding:** No; the Maryland Tort Claims Act applies only when no other waiver of sovereign immunity is in place.

**Counsel:** Andrew H. Baida for Proctor; Gerard J. Stief for WMATA.

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