

AMENDED STATEMENT OF THE ISSUE

Whether City Ordinance 13.04.420 and City Policy FW 101001-12 violated the "open courts" provision of the South Dakota Constitution, Art. 6, Section 20, by purporting to extend immunity to the City of Rapid City, while acting in the proprietary capacity of operating a waterworks system so as to foreclose a cause of action for negligent acts committed in that capacity.

The trial court decided the issue in the negative.