

Bond Case Briefs

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Costanzo v. Town of Plainfield

Appellate Court of Connecticut - October 13, 2020 - A.3d - 200 Conn.App. 755 - 2020 WL 5988227

Estate of young child who drowned in swimming pool brought action to recover damages against town and town's employees, alleging, among other claims, municipal defendants failed to conduct proper inspection of pool.

Municipal defendants filed an apportionment complaint against owners of property where pool was located and their former tenants who had pool constructed. The Superior Court sustained estate's objections to apportionment complaint and dismissed municipal defendants' complaint. Municipal defendants appealed.

The Appellate Court held that complaint alleged negligence, and not recklessness, and thus municipal defendants could seek apportionment as to negligence of other defendants.

After young child drowned in swimming pool, child's estate alleged in complaint that town's employees, and thus town, had actual notice that pool was constructed in violation of applicable laws and/or that pool constituted hazard to health or safety and failed to conduct an inspection, accordingly, the complaint's allegations were made pursuant to statutory exception to municipal immunity which required proof of actual notice, but not recklessness, and thus, complaint alleged negligence, and not recklessness, on the part of the municipal actors, and town and town's employees could therefore seek apportionment as to negligence of owners of property where pool was located and their former tenants who had pool constructed.