

# **Bond Case Briefs**

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## **LIABILITY - MARYLAND**

### **Espina v. Prince George's County**

**Court of Special Appeals of Maryland - December 20, 2013 - A.3 - 2013 WL 6694383**

Wife of victim of fatal shooting by off-duty county police officer, as well as victim's son and victim's estate filed wrongful death suit against county and officer. The Circuit Court entered judgment on jury verdict in favor of plaintiff, after reducing verdict against county from \$11,505,000 to \$405,000, but leaving verdict against officer in place. All parties appealed.

The Court of Special Appeals held that:

- In a matter of first impression, damages cap set forth in Local Government Tort Claims Act (LGTC) applied to state constitutional tort claims;
- Wrongful death claims of wife and son of victim were derivative of survival action of victim's estate;
- Claim of victim's son under Due Process Clause of State Constitution was not derivative of survival claim of victim's estate;
- Award of \$5,000 in economic damages was not justified;
- Probative value of evidence of officer's involvement in violent encounters with two other individuals that occurred before officer's fatal shooting of victim outweighed danger of unfair prejudice to officer stemming from admission of the evidence;
- Sufficient evidence supported jury's finding that officer had acted with actual malice in beating and fatally shooting victim; and
- Verdict that officer did not assault or batter victim's son was reconcilable with its verdict that officer violated son's rights under Due Process Clause of State Constitution.