

# **Bond Case Briefs**

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## **PUBLIC EMPLOYMENT - CONNECTICUT**

### **Maio v. City of New Haven**

**Supreme Court of Connecticut - September 5, 2017 - A.3d - 326 Conn. 708 - 2017 WL 3751217**

Police officer brought action against city, seeking indemnification for economic loss sustained in defense of an unsuccessful prosecution of a crime allegedly committed by officer in the course of his duty.

Following a jury trial, the Superior Court entered judgment in favor of officer in the amount of \$187,256.46. City appealed and officer cross-appealed.

The Supreme Court of Connecticut held that:

- The Superior Court did not improperly rely on workers' compensation principles in instructing the jury on the meaning of the phrase "in the course of his duty," but
- The Superior Court's error in improperly excluding the testimony of the complainants by failing to find they were "unavailable" for purposes of the former testimony exception to the hearsay rule was not harmless.

Trial court did not improperly rely on workers' compensation principles in instructing the jury on the meaning of the phrase "in the course of his duty" under statutory provision governing the indemnification of police officer who sustained economic loss in the defense of an unsuccessful prosecution of a crime allegedly committed by the officer in the course of his duty. The principles underlying both workers' compensation and indemnity statutes were similar, in that both types of statutes served the remedial purpose of making an employee whole after suffering losses closely related to his or her employment and were in derogation of the common law and governmental immunity, and that the seminal cases construing the statute simultaneously borrowed definitions from workers' compensation and observed that the statute was to be strictly construed.

In action by police officer seeking indemnification from city for economic loss sustained in defense of an unsuccessful prosecution of a crime allegedly committed by officer in the course of his duty, the trial court's error in improperly excluding the testimony of the complainants by failing to find they were "unavailable" for purposes of the former testimony exception to the hearsay rule was not harmless; as the trial court repeatedly acknowledged and the officer effectively conceded at trial, the complainants' testimony was critical to the defendant's claim that the plaintiff was not acting in the course of his duty during the relevant time period, even assuming that his employer acquiesced in his presence inside bar where the purported crime occurred.