

Bond Case Briefs

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LIABILITY - NEW YORK

Lockwood v. City of Yonkers

Supreme Court, Westchester County, New York - September 12, 2017 - N.Y.S.3d - 2017 WL 4018749 - 2017 N.Y. Slip Op. 27290

Firefighter brought action against his city employer for personal injuries allegedly sustained while participating in training exercise. Firefighter moved to renew motion to file late notice of claim.

The Supreme Court, Westchester County, held that:

- Firefighter was entitled to renew motion to file late notice of claim based on change in law, and
- City had actual knowledge of essential facts constituting firefighter's personal injury claim on date of accident.

City firefighter, who was not receiving workers' compensation benefits, was entitled to renew motion to file late notice of personal injury claim against his city employer arising from same line-of-duty injury for which he was receiving disability benefits, where intervening Court of Appeals opinion changed the law to allow the recipient of disability benefits under the Municipal Law to commence a tort action against city employer when city elected not to provide workers' compensation coverage.

City's actual knowledge of essential facts constituting firefighter's personal injury claim on date of accident combined with firefighter's short delay in seeking permission to file late notice of claim upon his city employer warranted granting firefighter's motion to file late notice of claim. City prepared medical leave report on date of accident which provided date and time of injury and stated firefighter injured his back and right ankle while at bailout system training, firefighter's application for disability benefits which was made less than three weeks after accident also stated in detail how accident occurred, and motion to file late notice of claim was filed less than two months after 90-day period expired.