

# **Bond Case Briefs**

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## **IMMUNITY - WYOMING**

### **Cornella v. City of Lander**

**Supreme Court of Wyoming - January 18, 2022 - 502 P.3d 381 - 2022 WY 9**

Homeowners brought negligence action against city under Wyoming Governmental Claims Act (WGCA) arising from an officer's removal of bat from home but losing bat in transport before it could be tested for rabies.

The District Court granted summary judgment for city. Homeowners appealed.

The Supreme Court held that:

- Trial court could not grant summary judgment on an immunity issue not raised by parties without giving notice and time to respond;
- WGCA immunity provision for appointed special municipal officers did not apply; and
- Officer and police chief owed a common law duty to homeowners to act as reasonable peace officers.

Trial court could not grant summary judgment to city on grounds not raised by parties without giving notice and time to respond in homeowners' negligence action under Wyoming Governmental Claims Act (WGCA) arising from officer's removal of bat from home but losing bat before it could be tested for rabies; court sua sponte changed the dispositive summary judgment issue from existence of duty to whether governmental immunity was waived.

Officer who removed bat from home and city's police chief were certified peace officers, and therefore immunity provision of Wyoming Governmental Claims Act (WGCA) for appointed special municipal officers like animal control officers did not apply to give city immunity from homeowners' negligence claim under WGCA arising from officer's losing bat in transport before it could be tested for rabies, where officer's job description labeled him a certified police officer, officer's job qualifications required successful completion of law enforcement academy basic peace officer course and stated that he was required to be a certified reserve police officer, and chief's job qualifications required him to be a certified professional police officer.

Officer who worked as animal control officer for city police department, along with police chief, owed a common law duty to homeowners to act as reasonable peace officers under the circumstances, which involved officer's removal of bat from home after which bat escaped during transport before being tested for rabies, where officer and police chief were peace officers acting within the scope of their duties.