

DEFENSE AND INDEMNIFICATION OF STATE EMPLOYEES

Connecticut General Statutes § 5-141d governs whether or not the state will defend and indemnify a state employee against whom a claim has been made. The statute provides that if an employee has acted outside the scope of employment or has acted in manner that is wanton, reckless, or malicious the state will not indemnify that employee or provide counsel to defend that employee.

For conduct to be wanton, reckless, or malicious it must involve a conscious choice of a course of action taken either with knowledge of serious danger to others or with knowledge of facts which would disclose such a danger to a reasonable person, and, further, the employee must recognize that his conduct involves a risk substantially greater than that which is necessary to make his conduct negligent.

It is rare for the Attorney General to decline to defend a state employee. Accordingly, there are very few examples on record where the Attorney General has refused a state employee a defense; they include a judge who was sued in connection with a sexual relationship with a court reporter and a corrections officer who was sued by an inmate for the use of intentional and excessive force.

Should the state decline either to indemnify or to defend an employee, that employee may sue the state to enforce the provisions of § 5-141d.