



## **School Administrators Had Duty to Warn and to Report Abuse by Former Teacher**

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An Illinois appellate court ruled that school administrators had a duty to warn another school district and its students of the danger of a former teacher who had molested students. The school administrators also had a duty to report such abuse to the Illinois Department of Children and Family Services (DCFS).

In ***Jane Doe-3 v. White***, the plaintiffs were second grade students in defendant White's class at an elementary school in Urbana. White had been previously employed by McLean County School District (McLean) during 2002 through 2005 and, while employed by McLean, White had molested students. Plaintiffs alleged that the McLean administrators had actual knowledge of White's conduct and that no one at McLean had reported the abuse to DCFS. In addition, the plaintiffs alleged that the administrators had issued a positive letter of recommendation for White and failed to inform Urbana of White's misconduct.

The trial court dismissed plaintiffs' complaint against McLean, finding that the public duty rule applied and prevented claims against McLean and its administrators. The trial court further held that neither McLean nor its administrators owed a duty of care to plaintiffs.

The public duty rule protects a governmental entity from liability under the principle that a governmental entity owes a duty of care to the public at large, not to individuals.

The appellate court, however, overruled the trial court and found that the public duty rule did not apply. The rule only applies when a plaintiff alleges damages based on a governmental entity's failure to perform adequate governmental services. Here, plaintiffs alleged that the administrators engaged in "intentional egregious conduct" and that the conduct harmed plaintiffs.

Because the public duty rule did not apply, the appellate court then determined whether the administrators had a duty to the plaintiffs. Generally there is no duty requiring one person to protect another from criminal activity by a third party absent a special relationship. A person can still be liable for the criminal acts of a third party, however, if the victim of the criminal act can establish that the party (with the alleged duty) contributes to or initiates a separate voluntary act that enables the third party (the criminal) to commit a criminal act.

The appellate court concluded that the McLean administrators had a duty to the plaintiffs because there was a voluntary undertaking on the part of the administrators that was performed with an intentional disregard for plaintiffs' welfare. By providing White with a positive letter of recommendation (the voluntary act) and failing to report to DCFS and to warn Urbana of White's conduct, McLean administrators created the opportunity for White to engage in further abuse in Urbana. Further, such abuse was foreseeable given White's conduct in McLean.

The court also noted that the Tort Immunity Act did not apply because the plaintiffs alleged willful and wanton conduct.

While the conduct of the administrators in this case was extreme, this case highlights the care administrators must use when issuing letters of recommendations and their duty to promptly report instances of abuse to DCFS.

### **More Information**

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