School Districts Can Be Liable for Negligent Hiring/Retention of Employees Who Molest Students

The California Supreme Court issued a decision yesterday in C.A. v. William S. Hart Union High School Dist. (March 8, 2012, S188982) __Cal.4th__, ruling that school districts may be held liable if a supervisory or administrative employee is found to have negligently exposed a student to a foreseeable danger of molestation by a school employee.

A high school student, C.A., filed a complaint against his guidance counselor and the school district, alleging that the counselor sexually harassed and abused him while he was a 14 to 15 year old student. C.A. alleged that supervisory employees of the District knew that the counselor “had engaged in unlawful sexually-related conduct with minors in the past, and/or was continuing to engage in such conduct.” C.A. alleged that his injuries arose, not only from the molestation, but also from the failure of the District to properly hire, train and supervise the counselor and prevent the counselor from harming him.

Under the doctrine of vicarious liability, employers can be held strictly liable for the negligent acts or omissions of their employees for acts committed in the course of their employment. In this case, the issue before the Court was not whether the District may be strictly liable for the conduct of the counselor, because the counselor’s conduct was outside the scope of her employment, but rather, whether the District may be held liable for the negligence of supervisory or administrative personnel who allegedly knew, or should have known, of the counselor’s propensities and nevertheless hired, retained and inadequately supervised her.

The District filed a demurrer, arguing that there is no legal authority to find a school district liable for the negligent hiring or retention of its employees. The trial court sustained the demurrer and dismissed the case. The Court of Appeal affirmed the decision on the grounds that the misconduct at issue was not within the scope of the counselor’s employment. However, the Supreme Court of California reversed, finding that a school district can be held liable for the negligent hiring or retention by one of its employees of another employee who caused injury when the district has a special relationship to the injured party.

The duty in this case arose from the special relationship between the plaintiff student and the District. The duty of care owed by school personnel to students includes the “duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting negligently or intentionally.” The Court found that supervisory employees, including school principals, have a responsibility to take reasonable measures to ensure that students are protected from foreseeable abuse and harassment, including from teachers or counselors who they know or should have known are prone to such abuse.

Finally, the Court points out that any vicarious liability of a school district must be based on evidence of actual negligent hiring, supervision, or retention and the sexual misconduct of an employee alone does not raise a presumption of such negligence.
If you have any questions regarding your district’s liability with regard to employment matters, please call one of our six offices.

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