
SCHOOLS - NEW YORK

D.K. ex rel. Mrs. K. v. Mahopac Cent. School Dist.

Supreme Court, Putnam County, New York - March 28, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 23092

Court declines school board's request that mother be compelled to undergo forensic psychiatric examination in connection with her lawsuit against the district.

Mother brought action, in her individual capacity and on behalf of her autistic son, against school district for negligence, negligent hiring, training and retention, fraud and misrepresentation, intentional infliction of emotional harm, false imprisonment, assault and battery, and loss of services, society and companionship arising from the alleged physical, sexual, and emotional abuse of her son by teachers. School district moved for order compelling discovery and compelling both parents to appear for psychiatric examination.

The court held that:

- School district could not compel father to appear for psychiatric examination, and
- Mother would not be compelled to undergo forensic psychiatric examination.

Various factors for consideration in motions to compel testing include: 1) whether the information sought is speculative; 2) whether it would delay proceedings by turning the fact-finding process into a series of mini-trials about what may have contributed to the findings sought to be introduced at trial; 3) whether, upon consideration of the crucial search for truth, the relief sought would create undue delay occasioned by battling experts; and 4) the burden imposed and the personal nature of the information sought.

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