

Bond Case Briefs

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LIABILITY - LOUISIANA

Miller v. Thibeaux

Court of Appeal of Louisiana, Third Circuit - January 27, 2016 - So.3d - 2016 WL 385304 - 2013-541 (La.App. 3 Cir. 1/27/16)

Putative father brought wrongful death and survival action against parish school board, its insurer, bus driver, and his insurer, after driver closed bus doors on child's arm and drove away, dragging child. The District Court denied defendants' exception of no right of action, granted putative father's motion for judgment of paternity, awarded damages to putative father. Defendants appealed. The Court of Appeal reversed and rendered. Father sought review. The Supreme Court reversed and remanded.

On remand, the Court of Appeal held that:

- Putative father adequately established paternity;
- Bus driver was not covered under school board's automobile insurance policy for damages in excess of cap set forth in Louisiana Governmental Claims Act (LGCA), and thus statute allowing direct claim to be brought against school employee when there was insurance coverage for such negligence did not apply;
- Evidence supported trial court's finding that child had been conscious for only up to four seconds between time he became trapped in school bus door and when he was run over by bus; and
- Damages award of \$250,000 on wrongful-death claim was not abusively low.