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SCHOOLS - MISSISSIPPI

Acadia Ins. Co. v. Hinds County School Dist.

United States District Court, S.D. Mississippi, Jackson Division - June 13, 2013 - Slip Copy - 2013 WL 2897931

Parents brought suit against school district, alleging that a teacher had physically abused their daughter.

The court dismissed all of the parents' claims except their 42 U.S.C. § 1983 claim alleging a violation of their substantive due process right to bodily integrity.

The school district's insurer brought a summary judgment motion, asserting that it did not have a duty to defend under the terms of its insurance policy.

Insurer contended that its policy does not cover the abuse at issue, primarily because there is an exclusion for damages based upon bodily injury. The school district disagreed, pointing to language covering "Mental Distress arising out of a Wrongful Employment Practice," which includes a "violation of an individual's civil rights" relating to "negligent evaluation." It argued that because the student's claims that the superintendent and principal's negligent evaluation of her teacher allowed that teacher to abuse her, thereby violating her civil rights and causing mental distress, that the insurer had a duty to defend it in this litigation.

The court sided with the insurer, as the student had not brought a claim for negligent evaluation. Her complaint alleged claims for negligent supervision, assignment, hiring, and retention, but did not mention her teacher's evaluations.