

Bond Case Briefs

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LIABILITY - LOUISIANA

Stirgus v. St. John the Baptist Parish School Bd.

Court of Appeal of Louisiana, Fifth Circuit - July 30, 2013 - So.3d - 13-15 (La.App. 5 Cir. 7/30/13)

Following an incident in which a student broke his hip at football practice, suit was brought against the school and the coaches alleging that they had failed to provide proper supervision and had allowed an unreasonable risk of injury to develop during the indoor practice. The parties stipulated to medical expenses of \$21,626.57. After a bench trial, the trial judge awarded Mr. Stirgus \$50,000 in past pain and suffering, and also awarded medical expenses of \$71,871.71, which was \$50,245.14 more than the stipulated amount.

School appealed as to the monetary award and to the finding that it was liable for failure to supervise.

The appeals court amended the judgment to reduce the award for all past medical expenses to the stipulated amount of \$21,626.57.

To establish a claim against a school board for failure to adequately supervise the safety of its students, a plaintiff must prove: (1) negligence on the part of the school board, its agents, or teachers in providing supervision; (2) a causal connection between the lack of supervision and the accident; and (3) that the risk of unreasonable injury was foreseeable, constructively or actually known, and preventable if a requisite degree of supervision had been exercised. The appeals court concluded that it did not have sufficient grounds to reverse the trial court's judgment as to liability for failure to supervise.

The final issue concerned the \$50,000 award for general damages, which plaintiff contended is too low and which erroneously did not include an award for future pain and suffering.

Considering all of the evidence, the appeals court was unable to articulate any reasons why an award of \$50,000 for past pain and suffering, and no award for future pain and suffering, constituted an abuse of the trial judge's vast discretion in fixing damages. The award was confirmed.