

Bond Case Briefs

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LIABILITY - NEW YORK

Begley v. City of New York

Supreme Court, Appellate Division, Second Department, New York - September 18, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 05867

Parents of developmentally disabled student who died after suffering anaphylactic reaction to blueberries at private school, individually and as administrators of student's estate, brought action against city and its department of education, school, and registered nurse, alleging that defendants negligently permitted student to become exposed to blueberries, breached their duty to monitor, supervise, and control student, failed to exercise reasonable care in protecting student from injury, and failed to properly diagnose, manage, and treat student's allergic reaction.

The Supreme Court, Appellate Division, held that:

- Mandate to provide free and appropriate public education (FAPE) did not expand department's duty of care;
- Department was not vicariously liable for acts of student's private nurse;
- School provided adequate supervision of student;
- Deficiencies in school's supervision of student was not proximate cause of his death;
- School responded reasonably to student's anaphylactic reaction;
- Even if school's nurse owed duty of care to student, she did not depart from good and accepted practice; and
- Private nurse did not depart from good and accepted practice.