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Board of Trustees of Kentucky School Boards Insurance Trust v. Pope

Supreme Court of Kentucky - September 28, 2017 - S.W.3d - 2017 WL 4297333

Deputy Rehabilitator of the Kentucky School Boards Insurance Trust Workers' Compensation Self-Insurance Fund and the Deputy Rehabilitator of Kentucky School Boards Insurance Trust Property and Liability Self Insurance Fund brought action against board of trustees for negligence, negligence per se, and breach of fiduciary duties.

The Circuit Court denied board's motion for summary judgment based on governmental immunity. Board appealed, and rehabilitator's motion to transfer to the Supreme Court was granted.

The Supreme Court of Kentucky held that:

- Trust was created by non-profit corporation, rather than by public schools, and thus governmental immunity did not apply, and
- Trust did not serve function integral to state government, and thus governmental immunity did not apply.

Local public schools' self-insurance trust was created by non-profit corporation, rather than by public schools, and therefore governmental immunity did not apply to negligence action against board of trustees; even though corporation had public school districts as members and trust was created for local public school boards, trust agreement showed corporation undertook creation of trust, corporation was not alter ego or surrogate of public school members, and trust agreement failed to mention any public school board as a creator of trust.

Local public schools' self-insurance trust did not serve function integral to state government, and therefore governmental immunity did not apply to negligence action against board of trustees; managing self-insurance fund that enabled public schools to meet workers' compensation required was not governmental function, but was conducted almost exclusively by private sector, and trust's function was not matter of statewide concern.