

Bond Case Briefs

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Erickson v. Canyons School District

Court of Appeals of Utah - June 11, 2020 - P.3d - 2020 WL 3089279 - 2020 UT App 91

High school student injured during a school assembly when fellow student threw a flagpole and it struck her filed an action alleging negligence, gross negligence, and vicarious liability against school district, high school, and other defendants, for failing to secure the flagpole, failing to adequately supervise students, and failing to provide medical assistance upon injury.

The Third District Court denied defendants' motion to dismiss. School district petitioned for interlocutory appeal.

The Court of Appeal held that:

- Genuine issue of material fact concerning whether one student intended to harm another student precluded dismissal of claim under Governmental Immunity Act, and
- As matter of first impression, to establish "substantial certainty" for intent element of battery, actor must have believed contact was essentially unavoidable.

For purposes of proving the intentional tort of battery, "intent" denotes that the actor desires to cause the consequences of his act, or that he believes that the consequences are substantially certain to result from it; whether the actor intended the contact to be harmful or offend is immaterial, rather, the focus is on whether the actor intended to make a contact that is harmful or offensive at law.

A showing of "substantial certainty" for purposes of a civil battery claim requires more than a showing that the actor knew there was a high degree of risk, or strong probability that harmful or offensive contact would result from a contemplated action; instead, a party must show that the actor believed that the legally harmful or offensive contact was essentially unavoidable.