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Minnesota Supreme Court Holds School's Conduct Created A Foreseeable Risk Of Harm When A Student Driving To An Athletic Event Injured Members Of The Public

In a 4-2 decision, the Minnesota Supreme Court determined that a trial must determine whether a school's own conduct created a foreseeable risk of harm to a member of the motoring public when a vehicle driven by a student to an out of town athletic event crossed the center line and collided with another vehicle causing injury. Fenrich v. The Blake School, A17-0063, (Minn. 2018). In doing so, the Court may have expanded a school's liability to non-student third parties injured by students driving to and from athletic events, even events not mandated by the school.

A sixteen-year-old high school student was driving his teammates and a volunteer coach to an athletic competition in Sioux Falls, South Dakota when he caused a fatal crash with another vehicle. A passenger in the other vehicle., Mrs. Fenrich, brought a negligence action against The Blake School on behalf of her and her deceased husband, who was the driver.

The school moved for summary judgment and the district court granted the motion, finding that school did not owe a duty of care to members of the general public. Mrs. Fenrich appealed and the Court of Appeals affirmed the district court, but found that the school's conduct did not create a foreseeable risk of injury to a foreseeable plaintiff.

Mrs. Fenrich appealed again. The Minnesota Supreme Court held that summary judgment was not proper in this case, and thus reversed the court of appeals, and held a trial was necessary.

The Minnesota Supreme Court began the analysis by laying out the elements of negligence (the existence of a duty of care, a breach of that duty, an injury, and the breach of the duty being the proximate cause of the injury). The Court held this case turns on the first element: an existence of a duty of care.

The Court stated generally a person does not owe a duty of care to another if the harm is caused by a third party's conduct. The Court reviewed the two exceptions to this rule: first when there is a "special relationship" between a plaintiff and defendant and the harm to the plaintiff is foreseeable, or second, when the defendant's "own conduct" creates a foreseeable risk of injury to a foreseeable plaintiff. The Court found there was no special relationship.

The Court analyzed the second exception, the defendant's "own conduct" next. The Court found that the school went beyond passive inaction by assuming supervision and control over the athletic team's trip to Sioux Falls, when the head coach strongly encouraged the entire team to participate, the assistance coach paid the bulk of the registration fee, and the coaches were active in preparation for

the meet, including the assistance coach attending one of the practices and recruiting a volunteer coach to run them. The Court essentially extends the school's conduct to an optional extracurricular activity because of the actions of the coaches helping to coordinate the event.

The Court then analyzed

whether the accident was foreseeable. The Court held that the student's driving created an objectively reasonable expectation of danger call because he was a teenage driver who had been licensed for less than six months, was driving a lengthy distance with no adults in the car, and was under no instruction to minimize distractions. (It was later determined the driver was likely distracted by his cell phone when he caused the accident). The Court held for these reasons, the accident was potentially foreseeable, summary judgment was improper and a trial was necessary to resolve the fact issue.

The dissent by Justice Anderson, and joined by Chief Justice Gildea, is worth mentioning. They find that the majority is "significantly expanding the potential liability of schools by holding the respondent, The Blake School, potentially liable to the general public for the negligence of a student who drove his family's personal vehicle to a post-season weekend athletic event." The dissent determined that the Court has never before imposed a duty on a school to protect the general public from injury caused by a student's negligence off of school grounds. The dissent warned that allowing for potential liability on behalf of the school in cases like these creates the possibility that extracurricular and co-curricular activities will be disbanded or disaffiliated from the school. The dissent states the majority opinion provides no limiting principle if the school faces liability because the coaches helped coordinate some aspects of the trip, and encouraged team members to participate. The dissent found that the majority essentially holds that a school may be liable for the safety of members of the general public when students drive to or from a school-encouraged activity.

OUR VIEW. While the majority opinion asserts that it has announced "no new rule of law" with the Fenrich decision, the impact of the court's ruling may prove otherwise. It is true that traditional notions of negligence law were applied in the case, but it is how the law was applied that causes concern. The implication is that any school-sanctioned event involving transportation supplied by students will expose schools (both public and private) to liability should a member of the public become injured in an accident with a student driving to the event.

If you have any questions regarding the court's decision or any other school related issues, please contact a member of our Education Law Practice Group at (952) 806-0408. This case law update and other court opinion updates are available in .pdf form on the News and Resources page of our Firm's website: www.OLWKLaw.com .