



## Michigan Court of Appeals Reverses and Remands for Entry of Summary Disposition in Favor of Defendant School District Employee Based on Gross Negligence

### FOR IMMEDIATE RELEASE

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Foster Swift employment attorneys Scott Mandel and Pamela Dausman were successful in convincing the Michigan Court of Appeals to reverse and remand for entry of summary disposition in favor of a school district employee.

In the case of *Ja'Kwon Tiggs v. Flint Community Schools, Flint Board of Education, Flint School District and Ian Moten and Lisa Anderson*, the defendant school district employee argued on appeal that the trial court erred in denying summary disposition in her favor under the governmental tort liability act because she was not the proximate cause\* of the minor Plaintiff's alleged injuries and her conduct did not constitute gross negligence.

The case involved an incident where a former guest teacher for Flint Community Schools allegedly put duct tape over the mouths of several students. The Plaintiff claimed that defendant school district employee, then the Acting Executive Director for Human Resources, was grossly negligent because she did not review the guest teacher's personnel file that showed other complaints had been filed against the guest teacher. The Plaintiff argued that the defendant school district employee should have been aware of this past conduct and removed the guest teacher from the classroom.

The Court concluded that it was not foreseeable that the defendant school district employee's alleged failure to inquire into the guest teacher's background and discontinue his teaching services before the incident would result in harm to the minor Plaintiff. Even if the defendant school district employee had been aware of his history, it would have been inconceivable to predict that the guest teacher would go so far as to duct tape the students' mouths. This Decision demonstrates that governmental employees may still challenge whether their conduct was the proximate cause of the alleged injury after the Michigan Supreme Court's Opinion in *Ray v Swager*, 501 Mich

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52 (2017) in gross negligence claims.

\* Proximate Cause – an event sufficiently related to an injury that the courts deem the event to be the cause of that injury.

