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# The Hidden Truth

DRUGS & DEVICES



April 2019

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The mission of the American Association for Justice is to promote a fair and effective justice system—and to support the work of attorneys in their efforts to ensure that any person who is injured by the misconduct or negligence of others can obtain justice in America's courtrooms, even when taking on the most powerful interests.

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# Verdicts & SETTLEMENTS



## SCHOOLS

### Negligent supervision of student with intellectual disabilities

Doe, then 14, suffered from a low IQ and received special education services from the Mount Vernon City School

District. After school personnel failed to place her on her designated bus at the end of a school day, an older male student led Doe off campus and raped her. Three months later, another student assaulted Doe in the school's locker room, smashing her head into the locker room benches while the assailant's friends filmed the incident.

Doe had to leave school for the remainder of the year and was home-schooled by her aunt. Now 20, Doe suffers from a traumatic brain injury and post-traumatic stress disorder.

Doe's guardian sued the school district, alleging negligent supervision, general negligence, and negligent security. Suit claimed that the defendant failed to ensure Doe was placed on her bus at the end of every school day, which made her a target of bullying and led to her rape. The plaintiff also asserted that the defendant failed to instruct teachers and assistants to keep watch over Doe at all times.

The jury awarded \$28 million for Doe's pain and suffering.

**CITATION:** *Doe v. Mt. Vernon City Sch. Dist.*, No. 70026/2012 (N.Y.

Sup. Ct. Westchester Cnty. Nov. 30, 2018). **PLAINTIFF COUNSEL:**

AAJ members Andrew S. Buzin and Jordan Merson, both of New York

City. **PLAINTIFF EXPERT:** Jeannette Wasserstein, neuropsychology,

New York City. **DEFENSE EXPERTS:** Barbara Baer, neuropsychology,

Ardsley, N.Y.; Karen Weingarten, neuroradiology, New Rochelle, N.Y.;

and Russell Moore, school principals, Latham, N.Y.

### Negligent supervision of teacher, student

Doe, 14, was a student in a Los Angeles Unified School District middle school. Her math teacher, Elkis Hermida, began sending her messages. Soon, the two were engaging in sexual intercourse on and off school grounds.

A fellow teacher learned about the situation and reported it to authorities. Hermida was arrested, pleaded no contest to one count of lewd acts with a 14-year-old victim, and later served prison time. As a result of her experience, Doe has suffered emotional distress and mistrusts others.

Doe sued the school district, alleging

negligent supervision of Hermida and of her, as a student. At trial, the defense argued that Doe had consented to the sexual relationship. The defense was allowed to question Doe about her sexual history. The jury found for the defendant. On appeal, the intermediate appellate court granted a new trial.

The parties settled for \$5 million before jury selection.

**CITATION:** *Doe v. Los Angeles Unified Sch.*

*Dist.*, No. BC477194 (Cal. Super. Ct. Los

Angeles Cnty. Oct. 26, 2018). **PLAINTIFF**

**COUNSEL:** AAJ members John C. Taylor

and Natalie Weatherford, both of

Manhattan Beach, Calif.; and Frank Perez,

Los Angeles.

## ADMIRALTY

### Failure to maintain safe dining area

Joyce Higgs, 67, was taking a cruise with her family on the M/V Costa Luminosa. While carrying her breakfast plate away from a buffet line, she tripped over a cleaning bucket that a crew member had left in the dining area. Higgs suffered a broken left shoulder, a broken arm, and a torn rotator cuff.

She sued Costa Crociere S.p.A., which owned and operated the ship, alleging general negligence and liability under general maritime law. A jury awarded approximately \$1.3 million; however, the