

INDIANA SUPREME COURT

**Michael E. Lyons, Individually; Denita L. Lyons, Individually;
Michael E. Lyons and Denita L. Lyons, as Co-Personal
Representatives of the Estate of Megan Renee Lyons, Deceased v.
Richmond Community School Corporation d/b/a Richmond High
School; Joe Spicer; Jeffrey Thorne; and Maggie LaRue, in Their
Individual and Official Capacities; Indiana Insurance Company**

Lyons · No. 89S04-1312-PL-788 · Decided October 28, 2014

SUMMARY

The Indiana Supreme Court reviewed summary judgment in a negligence and wrongful-death action arising from the choking death of a Richmond High School student with Down Syndrome. The Court held that factual issues remained regarding the Indiana Tort Claims Act notice requirement, including the discovery rule and active fraudulent concealment, and that the state-law claims were not ripe for summary judgment. The Court affirmed the lower court’s rulings on the federal claims, third-party discovery, and proposed amendment to add the school’s insurer, and remanded for further proceedings.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Massa, Justice; Rush, Chief Justice; Dickson, Justice; Rucker, Justice; David, Justice
JURISDICTION	Indiana
DECIDED	October 28, 2014
DOCKET	89S04-1312-PL-788
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Indiana Supreme Court granted transfer from an interlocutory appeal involving summary judgment, a motion to quash third-party discovery, and denial of leave to amend the complaint.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is proper only when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law; evidence and reasonable inferences are construed in favor of the nonmoving party.

PRECEDENTIAL VALUE	Published Indiana Supreme Court opinion; precedential.
PARTIES	Michael E. Lyons, individually, Denita L. Lyons, individually, Michael E. Lyons and Denita L. Lyons, as co-personal representatives of the Estate of Megan Renee Lyons, deceased v. Richmond Community School Corporation d/b/a Richmond High School, Joe Spicer, Jeffrey Thorne, Maggie LaRue, in their individual and official capacities, Indiana Insurance Company

TOPICS

summary judgment

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wrongful death

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civil procedure

municipal law

appellate procedure

insurance

QUESTIONS PRESENTED

1. Whether material issues of fact precluded summary judgment on whether the Lyonses' late Indiana Tort Claims Act notice could be excused under the discovery rule.
2. Whether material issues of fact precluded summary judgment based on active fraudulent concealment of the Lyonses' claims.
3. Whether the Lyonses established passive fraudulent concealment based on an alleged duty to disclose information about the incident.
4. Whether the defendants were entitled to summary judgment on the negligence and wrongful-death claims based on the Lyonses' alleged contributory negligence.
5. Whether the trial court properly granted summary judgment on the federal claims, quashed third-party discovery directed to Indiana Insurance, and denied leave to amend to add Indiana Insurance as a defendant.
6. How the trial court should address the mixed questions of law and fact involved in the ITCA notice, discovery-rule, and fraudulent-concealment issues on remand.

HOLDINGS

1. Whether the Lyonses could, through ordinary diligence, have discovered the defendants' allegedly tortious conduct before the ITCA notice deadline presented unresolved factual issues and was not appropriate for summary judgment.
2. The evidence created a genuine issue of material fact as to whether the defendants actively fraudulently concealed the Lyonses' potential claims; therefore, summary judgment was improper.
3. The alleged sources identified by the Lyonses did not establish a recognized legal duty requiring the school to disclose the incident to the parents, and the court declined to create a new duty based on in loco parentis, FERPA, or general public policy.

4. Summary judgment was inappropriate on the state-law negligence and wrongful-death claims because the defendants did not establish that the Lyonses' alleged negligence was so clear and palpable that no verdict could find otherwise.
5. The Court of Appeals correctly affirmed the trial court's rulings granting summary judgment on the federal claims, quashing the Lyonses' third-party discovery requests to Indiana Insurance, and denying leave to amend to add Indiana Insurance as a defendant.
6. ITCA notice compliance is a question of law for the court, but its resolution may depend on disputed facts; application of the discovery rule and fraudulent-concealment doctrine may involve factual questions for the factfinder.

KEY QUOTATIONS

“A “genuine issue” is one upon which the parties proffer differing accounts of the truth, or as to which conflicting inferences may be drawn from the parties’ consistent accounts; a “material fact” is one that affects the outcome of the case.” (at 6)

“Fraudulent concealment is an equitable doctrine that operates to estop a defendant from asserting the statute of limitations as a bar to a claim whenever the defendant . . . ‘has, either by deception or by a violation of duty, concealed from the plaintiff material facts thereby preventing the plaintiff from discovering a potential cause of action.’” (at 7)

“The existence of a legal duty “is a question of law for the court.”” (at 9)

“summary judgment is generally inappropriate in negligence cases because issues of contributory negligence, causation, and reasonable care are more appropriately left for the trier of fact.” (at 9)

“The question of whether a plaintiff has complied with the requirements of the ITCA is one of law, but the answer may depend upon the resolution of disputed facts.” (at 10)

FACTUAL BACKGROUND

Megan Lyons, a seventeen-year-old Richmond High School student with Down Syndrome, had documented difficulty chewing and swallowing and required supervision, food preparation, and verbal prompts during meals. During lunch, an inadequately informed paraprofessional failed to follow Megan's dining and risk plans, and school personnel did not promptly perform appropriate emergency measures or call 911. Megan was hospitalized and died three days later. School officials allegedly minimized the duration of her oxygen deprivation, failed to preserve available surveillance video, and threatened a witness with termination if she discussed the incident.

PROCEDURAL HISTORY

The Lyonses sued the Richmond Community School Corporation and school administrators for negligence, wrongful death, and federal civil-rights violations arising from Megan Lyons's choking death at school. The trial court granted the defendants' motion for summary judgment, granted Indiana Insurance's motion to quash discovery, and denied the Lyonses' motion for summary judgment on ITCA notice compliance and motion to amend to add Indiana Insurance. The Court of Appeals affirmed the federal-claims ruling and the discovery and amendment rulings but reversed the summary judgment rulings on ITCA notice and state-law claims. On

transfer, the Indiana Supreme Court vacated the Court of Appeals opinions, summarily affirmed portions of the Court of Appeals decision, reversed the remaining summary judgment ruling, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Proceed consistently with the opinion. The trial court must address ITCA notice compliance as a legal issue while resolving any necessary disputed facts, including application of the discovery rule and fraudulent concealment. Any mixed questions may be submitted through carefully drafted jury instructions.

CASES CITED

- Lyons v. Richmond Cmty. Sch. Corp., 990 N.E.2d 470 (Ind. Ct. App. 2013)
- Lyons v. Richmond Cmty. Sch. Corp., 996 N.E.2d 1280 (Ind. Ct. App. 2013)
- Lyons v. Richmond Cmty. Sch. Corp., 999 N.E.2d 416 (Ind. 2013) (table)
- Miller v. Dobbs, 991 N.E.2d 562, 564 (Ind. 2013)
- Overton v. Grillo, 896 N.E.2d 499, 502 (Ind. 2008)
- Williams v. Tharp, 914 N.E.2d 756, 761 (Ind. 2009)
- Brown v. Alexander, 876 N.E.2d 376, 383 (Ind. Ct. App. 2007)
- Doe v. Shults-Lewis Child & Family Servs., Inc., 718 N.E.2d 738, 744-745 (Ind. 1999)
- Fager v. Hundt, 610 N.E.2d 246, 251, 253 n.5 (Ind. 1993)
- Alldredge v. Good Samaritan Home, Inc., 9 N.E.3d 1257, 1261 (Ind. 2014)
- Hughes v. Glaese, 659 N.E.2d 516, 519, 522 (Ind. 1995)
- Doe v. United Methodist Church, 673 N.E.2d 839, 845 (Ind. Ct. App. 1996)
- Guy v. Schuldt, 236 Ind. 101, 109, 138 N.E.2d 891, 895 (1956)
- Benton v. City of Oakland City, 721 N.E.2d 224, 232 (Ind. 1999)
- Estate of Mintz v. Conn. Gen. Life Ins. Co., 905 N.E.2d 994, 999 (Ind. 2009)
- Coffman v. PSI Energy, Inc., 815 N.E.2d 522, 527 (Ind. Ct. App. 2004)
- N. Ind. Pub. Serv. Co. v. E. Chi. Sanitary Dist., 590 N.E.2d 1067, 1075 (Ind. Ct. App. 1992)
- Schoettmer v. Wright, 992 N.E.2d 702, 707 (Ind. 2013)
- Gregor v. Szarmach, 706 N.E.2d 240, 241 (Ind. Ct. App. 1999)
- Wehling v. Citizens Nat'l Bank, 586 N.E.2d 840, 843 (Ind. 1992)
- Douglass v. Irvin, 549 N.E.2d 368, 370 (Ind. 1990)
- Wal-Mart Stores, Inc. v. Wright, 774 N.E.2d 891, 893 (Ind. 2002)
- Clyde E. Williams & Assoc., Inc. v. Boatman, 176 Ind. App. 430, 435, 375 N.E.2d 1138, 1141 (1978)

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