

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION FIVE

C.F., a Minor, etc., et al. v. Alternative Family Services, Inc.

C.F. · No. A170226, A171966 · Decided June 4, 2026

SUMMARY

The California Court of Appeal considers whether a foster family agency owed a duty to protect foster children from sexual abuse by a foster parent. Applying the Rowland factors, the court holds that an agency may be liable where it knew or should have known of a risk of abuse by a particular foster parent, but affirms the judgment because the instructional error did not establish a reasonable probability of a different verdict.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Five
WRITING FOR THE COURT	Per curiam; James J. Simons; Peter J. Jackson; Burns, J.
JURISDICTION	California Court of Appeal, First Appellate District, Division Five
DECIDED	June 4, 2026
DOCKET	A170226, A171966
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment entered after a jury found it negligent and awarded plaintiffs \$24.7 million, as well as from an amended judgment awarding more than \$4.6 million in costs. The appeals were consolidated.
STANDARD OF REVIEW	The existence and scope of a duty of care are questions of law reviewed independently. Instructional error warrants reversal only if, after examination of the entire cause, it is reasonably probable that the appealing party would have obtained a more favorable result absent the error. A jury's apportionment of fault is upheld if supported by any evidence under any reasonable view.
PRECEDENTIAL VALUE	Published in part; parts V and VI of the Discussion are not certified for publication.
PARTIES	Alternative Family Services, Inc. v. C.F., a Minor, etc., et al.

TOPICS

duty of care

negligence

standard of care

comparative fault

appellate procedure

PRACTICE AREAS

torts

negligence

child welfare

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comparative fault

professional negligence

QUESTIONS PRESENTED

1. Whether a foster family agency has a duty to protect foster children from sexual abuse by a foster parent when the agency knew or should have known that the foster parent presented a risk of abuse.
2. Whether the Rowland factors limit an FFA's duty to circumstances involving actual knowledge, constructive knowledge, or only general foreseeability of the risk.
3. Whether the trial court's jury instructions were erroneous because they permitted liability without a finding that the FFA knew or should have known of a specific risk of abuse.
4. Whether the instructional error required reversal of the judgment.
5. Whether the jury's apportionment of greater fault to the FFA than to the intentional perpetrator required reversal.

HOLDINGS

1. A foster family agency has a duty to protect foster children from sexual abuse by a foster parent when the agency knew or should have known that the foster parent presented a risk of committing sexual abuse.
2. The trial court's negligence instructions were erroneous because they permitted the jury to find the FFA liable without finding that it knew or should have known that the foster parent presented a risk of sexual abuse.
3. The instructional error did not require reversal because the agency failed to show a reasonable probability that a properly instructed jury would have reached a different verdict.
4. The jury was permitted to assign the FFA a greater share of fault than the foster father who intentionally committed the abuse, and the 60-percent allocation to the FFA did not require reversal.

KEY QUOTATIONS

"A proper balancing of the Rowland factors imposes liability on an FFA where it knew or should have known of a risk of abuse by a particular foster parent." (p. 1)

"FFAs have a duty to protect foster children from sexual abuse where an FFA knew or should have known a foster parent presented a risk of such harm." (p. 19)

"Accordingly, in order to hold an FFA liable under negligence for sexual abuse of a foster child by a foster parent, a plaintiff must show that the defendant FFA knew or should have known that the parent presented a risk of committing sexual abuse." (p. 50)

"Defendant 'asks [this court] to change the law on fault apportionment in this situation, to avoid the unfair result of apportioning a party that failed to prevent a crime more fault than the person who perpetrated the

crime.” We decline to do so.” (p. 55)

FACTUAL BACKGROUND

Alternative Family Services, Inc. approved and supervised the Martinez home as a foster placement. Plaintiffs, three young siblings placed in the home in April 2018, were sexually abused by foster father Mark Martinez and were removed in June 2018 after the abuse was suspected and disclosed. Evidence showed that the agency failed to follow up on unanswered screening questions, marital sexual conflict, mental-health concerns, and certain regulatory and agency-policy requirements. The jury found the agency negligent and apportioned 60 percent of the responsibility to it, 35 percent to Mark Martinez, and 5 percent to Marta Martinez.

PROCEDURAL HISTORY

Plaintiffs sued Alternative Family Services, Inc., a foster family agency, and the foster parents after plaintiffs were sexually abused in a foster home approved and supervised by the agency. The jury found the agency negligent, apportioned 60 percent of responsibility to it, and awarded \$24.7 million in damages. The trial court denied the agency's motions for nonsuit, directed verdict, new trial, and judgment notwithstanding the verdict, entered judgment in January 2024, and later entered an amended judgment including costs. The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Rowland v. Christian (1968) 69 Cal.2d 108
- Brown v. USA Taekwondo (2021) 11 Cal.5th 204
- Regents of University of California v. Superior Court (2018) 4 Cal.5th 607
- C.A. v. William S. Hart Union High School Dist. (2012) 53 Cal.4th 861
- Doe v. Los Angeles County Dept. of Children & Family Services (2019) 37 Cal.App.5th 675
- A.L. v. Harbor Developmental Disabilities Foundation (2024) 102 Cal.App.5th 477
- Doe v. Lawndale Elementary School Dist. (2021) 72 Cal.App.5th 113
- Doe v. Roman Catholic Archbishop of Los Angeles (2021) 70 Cal.App.5th 657
- Juarez v. Boy Scouts of America, Inc. (2000) 81 Cal.App.4th 377
- Youth Soccer, supra, 8 Cal.App.5th 1118
- Kuciamba v. Victory Woodworks, Inc. (2023) 14 Cal.5th 993
- Kesner v. Superior Court (2016) 1 Cal.5th 1132
- Rosh v. Cave Imaging Systems, Inc. (1994) 26 Cal.App.4th 1225
- A.H. v. Tamalpais Union High School Dist. (2024) 105 Cal.App.5th 340
- Soule v. General Motors Corp. (1994) 8 Cal.4th 548
- F.P. v. Monier (2017) 3 Cal.5th 1099

- People v. Brown (2012) 54 Cal.4th 314

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