

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION EIGHT

Tillinghast v. L.A. Unified Sch. Dist.

Tillinghast · No. B332299 · Decided May 5, 2025

SUMMARY

The California Court of Appeal affirmed a \$15 million judgment against the Los Angeles Unified School District arising from the death of a student who suffered cardiac arrest at school and was not provided a nearby automated external defibrillator. The court held that the school district forfeited its challenge to the mandatory-duty jury instruction by failing to object or request additional language at trial, and concluded that sufficient evidence supported the verdict.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Eight
WRITING FOR THE COURT	Wiley, J.; Stratton, P. J.; Segal, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Eight
DECIDED	May 5, 2025
DOCKET	B332299
DISPOSITION	affirmed
PROCEDURAL POSTURE	The school district appealed a judgment entered after a jury found it negligent and awarded Mark Tillinghast \$15 million in damages for the wrongful death of his son. The district argued that the trial court erred by giving CACI No. 423 and that the evidence was insufficient to support the verdict.
STANDARD OF REVIEW	A party forfeits an instructional error claim when it fails to object or request additional, qualifying, or different instructions in the trial court. The court also considered whether substantial evidence supported the verdict, but found the district's conceded mistakes and the evidence sufficient to support liability under at least one valid theory.
PRECEDENTIAL VALUE	Published and certified for publication; precedential under California law.
PARTIES	Los Angeles Unified School District v. Mark Tillinghast

TOPICS

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QUESTIONS PRESENTED

1. Whether the school district preserved its challenge to the trial court's giving of CACI No. 423, concerning public-entity liability for failure to perform a mandatory duty.
2. Whether the evidence was sufficient to support the jury's negligence verdict against the school district.

HOLDINGS

1. The school district forfeited its challenge to CACI No. 423 by acquiescing in the instruction and failing to object or request additional, qualifying, or different language in the trial court.
2. The evidence was sufficient to support the verdict because the district conceded that mistakes had been made, including failing to notify school staff that an AED was located in the school office, and a single valid theory of liability was sufficient to sustain the verdict.

KEY QUOTATIONS

“By acquiescing in the instructions the court gave without requesting any additional instructions, a party in a civil case forfeits the right to argue on appeal that the court misinstructed the jury.” (7)

“Trial courts have no duty to seek out theories a litigant might have advanced, or to articulate what it leaves unspoken.” (7)

“A single valid theory of liability here suffices to support this verdict.” (9)

FACTUAL BACKGROUND

Thirteen-year-old Maxwell Tillinghast suffered sudden cardiac arrest while jogging during physical education class at Palms Middle School. The school possessed an automated external defibrillator in its main office, but school personnel did not know it was there because district information was not communicated to the principal or teachers. Medical experts disputed whether timely use of the defibrillator would have saved Maxwell, and the jury found the school district negligent and awarded his father \$15 million.

PROCEDURAL HISTORY

Mark Tillinghast sued the Los Angeles Unified School District and school employees after his son died following a cardiac arrest at Palms Middle School. The claims against three teachers were dismissed, leaving the district and Principal Derek Moriuchi as defendants. The jury found the district negligent but found Moriuchi not negligent, and awarded \$15 million in damages. The Court of Appeal affirmed, holding that the district forfeited its challenge to CACI No. 423 and rejecting its sufficiency-of-the-evidence argument.

DISPOSITION

affirmed

CASES CITED

- Verdugo v. Target Corp., 59 Cal. 4th 312, 319-320 (2014)
- Metcalf v. County of San Joaquin, 42 Cal. 4th 1121, 1130-1131 (2008)

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