

FIRST DISTRICT COURT OF APPEAL OF FLORIDA

Jordan M. Anderson and Lindsay C. Hall, individually, and Ross C. Evans, as personal representative of the estate of Audi J. Anderson v. School Board of Escambia County

317 So. 3d 72 (Fla. 1st DCA 2025) · No. 1D2022-1588 · Decided July 23, 2025

SUMMARY

The Florida First District Court of Appeal affirmed summary judgment for the School Board of Escambia County in a wrongful-death and negligence action arising from the death of a special-needs student who choked at school. The court held that section 768.28(6), Florida Statutes, required pre-suit notice to the School Board as the appropriate agency, in addition to notice to the Department of Financial Services. Communications concerning records, video footage, and potential litigation did not satisfy the statutory notice requirement, and the formal notice sent after suit was filed was untimely.

CASE DETAILS

COURT	First District Court of Appeal of Florida
WRITING FOR THE COURT	Nordby, J.; Roberts, J.; Winokur, J.
JURISDICTION	Florida First District Court of Appeal
DECIDED	July 23, 2025
DOCKET	1D2022-1588
DISPOSITION	affirmed
PROCEDURAL POSTURE	The appellants appealed from a final judgment entered after the Circuit Court for Escambia County granted the School Board's motion for summary judgment on wrongful-death and negligence/survival claims.
STANDARD OF REVIEW	Summary judgment is reviewed under Florida Rule of Civil Procedure 1.510's standard aligned with Federal Rule of Civil Procedure 56: whether there is a genuine dispute as to any material fact and whether the movant is entitled to judgment as a matter of law. Statutory interpretation is reviewed de novo.
PRECEDENTIAL VALUE	published

PARTIES

Jordan M. Anderson, Lindsay C. Hall, Ross C. Evans, as personal representative of the estate of Audi J. Anderson v. School Board of Escambia County

TOPICS

statutory interpretation

summary judgment

standard of review

civil procedure

appellate procedure

PRACTICE AREAS

civil procedure

appellate procedure

statutory interpretation

torts

municipal law

QUESTIONS PRESENTED

1. Whether section 768.28(6), Florida Statutes, required the appellants to provide pre-suit written notice of their wrongful-death claim to the School Board as the appropriate agency.
2. Whether the pre-suit communications among the appellants' attorneys and the School Board satisfied section 768.28(6)'s written-notice condition precedent.
3. Whether the trial court properly granted summary judgment under Florida Rule of Civil Procedure 1.510.

HOLDINGS

1. Section 768.28(6), Florida Statutes, requires a claimant asserting a wrongful-death claim against a state agency or subdivision to present the claim in writing to the appropriate agency before filing suit, in addition to any notice required to the Department of Financial Services.
2. The appellants' pre-suit communications with the School Board did not satisfy section 768.28(6)'s written-notice condition precedent because they did not present a claim, demand compensation, or provide the School Board a formal opportunity to investigate and respond.
3. Summary judgment was properly entered for the School Board because the wrongful-death claim failed for lack of the required pre-suit notice, and the final judgment was affirmed.

KEY QUOTATIONS

“Based on the plain language of the statute, we hold that section 768.28, Florida Statutes, required the Appellants to provide the School Board—as the “appropriate agency”—with pre-suit notice before filing their wrongful death claim.” (8)

“On the record before us, the written communications provided to the School Board fail to satisfy the notice requirements of section 768.28(6).” (9)

FACTUAL BACKGROUND

Audi Anderson, a four-year-old special-needs student, choked on food while eating lunch at Sherwood Elementary School and died four days later. His parents and the personal representative of his estate sued the School Board for wrongful death and negligence under Florida's Survival Statute. Before suit, the appellants'

attorneys communicated with School Board personnel about video footage, records, insurance, and possible resolution, but did not provide a formal claim or demand for compensation to the School Board; formal notice was sent to the Department of Financial Services and, separately, to the School Board after suit was filed.

PROCEDURAL HISTORY

The appellants sued the School Board after Audi Anderson died following a choking incident at school. The trial court granted summary judgment for the School Board, ruling that the appellants had not provided the required pre-suit notice for the wrongful-death claim and that the Wrongful Death Act's abatement clause barred the negligence/survival claim. The First District Court of Appeal affirmed the final judgment, addressing the pre-suit-notice issues concerning the wrongful-death claim.

DISPOSITION

affirmed

CASES CITED

- In re Amends. to Fla. R. Civ. P. 1.510, 317 So. 3d 72, 75, 77 (Fla. 2021)
- Anderson v. Liberty Lobby, 477 U.S. 242, 248 (1986)
- Bedford v. Doe, 880 F.3d 993, 996-97 (8th Cir. 2018)
- Fagan v. Jackson County Hospital District, 379 So. 3d 1213, 1215 (Fla. 1st DCA 2024)
- City of Jacksonville v. Boman, 320 So. 3d 931, 934-35 (Fla. 1st DCA 2021)
- Barnett v. Department of Financial Services, 303 So. 3d 508, 510, 513 (Fla. 2020)
- Menendez v. N. Broward Hospital District, 537 So. 2d 89, 91 (Fla. 1988)
- Maynard v. State, Department of Corrections, 864 So. 2d 1232, 1234 (Fla. 1st DCA 2004)