

Saiber Earns Key Victory on Behalf of Higher Education Client

September 9, 2022

Sean Kelly and Catherine Soliman earned a significant victory on behalf of a major state university in connection with appellate proceedings in a lawsuit filed against the University and several of its childhood development centers.

The lawsuit was filed by two adult children of a former University graduate student who alleged they were sexually assaulted over 30 years ago as children by another former University graduate student in his on-campus housing and other off-campus locations, after their mother placed them in his care. Plaintiffs claimed violation of the New Jersey Child Sex Abuse Act; negligence, gross negligence, recklessness, malice, and willful and wanton acts and omission; sexual assault and battery; intentional/negligent infliction of emotional distress; violation of the New Jersey Law Against Discrimination; and violation of the New Jersey Civil Rights Act.

Before the trial court, Saiber's William Maderer, DanaLynn Colao and Catherine Solimon filed a motion to dismiss all of Plaintiffs' claims. The Court granted the University's motion to dismiss all claims on April 22, 2022 and dismissed the Complaint without prejudice, finding that the University had no "special relationship" with the minors that would have given rise to a duty to protect them from third parties, and that there was no reason the University should have known of the third-party's assault of the minors.

Because the case was dismissed against only the University and the claims against the alleged assailant remained unresolved, the plaintiffs were unable to immediately appeal the dismissal of the claims against the University. The plaintiffs therefore filed a motion with the state appellate court for leave to appeal, arguing that the extraordinary circumstances of the case created a circumstances where the plaintiffs would be irreparably harmed if they were not allowed to appeal immediately. On September 8th, the Appellate Division of the Superior Court of New Jersey denied the plaintiffs motion for leave to appeal, citing a lack of sufficient justification.