

Trial Report

Harrison v. Kolbourne School
Berkshire Superior Court
March 7-21, 1996

Summary: Defense verdict in wrongful death claim of minor in care of defendant school employees during school break, \$170,000 verdict against co-defendant school.

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Approximately 300 people die of chicken pox (varicella) every year. The plaintiff's 20 year old daughter was one of them in 1989. There was an outbreak of chicken pox at this residential school for emotionally troubled youth right before a holiday break. The plaintiff father was somewhat estranged from his daughter and his new wife refused to let her come to their home in Chicago over Christmas. The daughter had lengthy psychiatric admissions before attending the school, and there was no record of the father ever visiting her.

In 1989, there was no vaccine or immune globulin for varicella. If an at-risk adult contracted it, there was virtually nothing which could be done other than prescribe medication to reduce the patient's

fever. The defendants, husband and wife, were employees at the school who agreed to take several girls into their home during the school break. These defendants were blamed for not recognizing the early symptoms of illness and in failure to obtain medical intervention. She was brought to the school infirmary after several days where she became progressively more ill with higher fevers. She was then brought to a local hospital, and a day later to a regional hospital, where nothing significant could be done for her. She developed trouble breathing and was put on oxygen. A secondary infection then caused her demise.

The plaintiff offered an infectious disease expert who was particularly effective, although was cross-examined equally effectively. The school nurse and her handling of the decedent's illness were subject to sharp criticism.

The case was tried with an outstanding offer of \$150,000 against a demands of \$1M which was reduced to \$750,000 before the case went to the jury. The defendant school employees were exonerated, and the plaintiff was awarded \$170,000 against the school.