

IN THE SUPREME COURT OF OHIO

AMBER SALLEE (Minor), et al.	:	Case No. 14-0727
	:	
Appellee	:	
	:	
vs.	:	On Appeal from the Hamilton
	:	County Court of Appeals,
	:	First Appellate District of Ohio
STEPHANIE WATTS, et al.	:	
	:	
Appellant	:	
	:	

MERIT BRIEF OF APPELLEE AMBER SALLEE

Dennis C. Mahoney, Esq. (0046634)
Cory D. Britt (0090896)
O'Connor, Acciani & Levy LPA
2200 Kroger Building
1014 Vine Street
Cincinnati, OH 45202
Telephone: 513-241-7111
Facsimile: 513-241-7197
DCM@oal-law.com

Attorney for Appellee,
Amber Sallee

David J. Balzano, Esq. (0070805)
David P. Bolek, Esq. (0087088)
P.O. Box 145496
Cincinnati, OH 45250-5496
Telephone: 513-603-5346
Facsimile: 513-870-2900
David_balzano@staffdefense.com

Attorney for Appellant,
Three Rivers Local School District

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STATEMENT OF FACTS

Appellee Amber Sallee, a six-year old girl, was a first grade student at Miami Heights School in the Three Rivers Local School District on February 26, 2009. T.d . 58 at 14. On that day, Lisa Krimmer, a bus driver, dropped Appellee off at her designated stop at the corner of Laird and North Miami Streets in Cleves, Ohio. T.d. 58 at 40. When Lisa Krimmer dropped Amber off, there was only one adult present, and Krimmer stated that she knew this adult was not there for Appellee. T.d. 57 at 14. According to Krimmer, Amber got off the bus and started advancing up the sidewalk with a friend of hers, instead of crossing the street in front of the bus. T.d. 57 at 14-15. Lisa Krimmer testified that she tried to get the girls' attention by honking the horn. T.d. 57 at 13. Appellee's mother, Pamela Petti, who was close by in her house and within earshot, stated that she never heard a horn honking. T.d. 58 at 45.

Sometime before 4:00 p.m., Appellee attempted to cross the road and was struck by Stephanie Watts' vehicle. T.d. 58 at 39-40. Amber suffered extensive injuries, including a broken femur. T.d. 58 at 60.

The Transportation Supervisor at Three Rivers, Angie Drew, testified that the school has responsibility of the children until they are on their residence side of the road. T.d. 56 at 27. Lisa Krimmer also acknowledged that she understood that this was the policy. T.d. 57 at 14.

During the 2007-2008 school year, the policy at Three Rivers Local School District required that parents be at the bus stop to pick up children who were in kindergarten or first grade. T.d. 56 at 11-12. The policy changed, however, beginning in the 2008-2009 school year. T.d. 56 at 11-12. From that point on parents were not required to be present at the bus stop for children of any age. Angie Drew testified that, in her opinion, the policy changed because of the

“additional hours” bus drivers had to work in bringing students back to the school when no parent was present at the bus stop. T.d. 56 at 26.

ARGUMENT

Proposition of Law No. 1: Starting a bus before a child reaches the residence side of the road, in violation of R.C. 4511.75(E), constitutes the “negligent operation of a motor vehicle.”

The First District Court of Appeals correctly overturned the trial court’s error when it found that this case involves the negligent operation of a motor vehicle. The Ohio Supreme Court has laid out a three-tiered analysis to determine whether a political subdivision is immune from tort liability. *Hubbard v. Canton City School Bd. Edn.* 97 Ohio St. 3d 451, 780 N.E.2d 543. (2002) First, the general rule set forth under R.C. 2744.02(A)(1) is that political subdivisions qualify for immunity. Second, courts must determine whether any of the five exceptions to immunity under R.C. 2744.02(B) apply. *Id.* If one of the immunity exceptions applies, then under the third tier, the political subdivision has the burden of showing that one of the defenses under R.C. 2744.03 applies. *Cater v. Cleveland*, 83 Ohio St.3d 24, 697 N.E.2d 610 (1998).

One of the five exceptions provided in R.C. 2744.02(B)(1) states that “political subdivisions are liable for injury, death, or loss to person or property caused by the *negligent operation of any motor vehicle* by their employees when the employees are engaged within the scope of their employment and authority.” R.C. 27744.02 (B)(1). This exception is directly applicable to the case at hand. Appellant Three Rivers failed to follow a specific Ohio traffic law when its bus driver negligently drove the bus off before Appellee had safely reached the residence side of the road. This action served to abrogate the immunity conferred on Appellant by R.C. 2744.02(A)(1).

As the First District Court of Appeals correctly determined, Appellant Three Rivers violated R.C. 4511.75(E) when Lisa Krimmer started the bus before Appellee Amber Sallee had reached the residence side of the road. R.C. 4511.75(E) is a strict liability traffic statute and it clearly involves motor vehicles. First, chapter 4511 of the Ohio Revised Code is specifically titled “**Traffic Laws—Operation of Motor Vehicles.**” See Chapter 4511 of the Ohio Revised Code. It is difficult to argue that a statute under the title “Operation of Motor Vehicles” has nothing to do with the operation of a motor vehicle. While the title of chapter 4511 is not dispositive, it is sufficient proof that the statute sets forth rules governing the operation of motor vehicles.

Second, a straightforward application of R.C. 4511.75(E) demonstrates that it is intrinsically connected with “the operation of a motor vehicle,” as that phrase is used in R.C. 2744.02(B)(1). R.C. Chapter 2744 contains no definition of the term “negligent operation of a motor vehicle.” *Groves v. Dayton Public Schools*, 132 Ohio App.3d 566, 569, 725 N.E.2d 734 (1999). Even so, basic rules of statutory construction demand that clear and unambiguous words be given their plain meaning. *Layman v. Ohio Dept. of Human Services*, 78 Ohio St.3d 485, 678 N.E.2d 1217(1997) . The verb “operate” means “to work” and “to perform a function.” *Perales v. City of Toledo*, Lucas App. No. L-98-1397, 1999 WL 234566 (6th Dist. 1999), (citing Merriam Webster’s Collegiate Dictionary (10 Ed. 1996) 814-815). “Negligence” is defined as “the failure to use care as a reasonably careful person would use under similar circumstances.” *Perales*, 1999 WL 234566 at *3 (citing Black’s Law Dictionary (Abridged 6 Ed. 1991) 716). A “motor vehicle” is “every vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wire. . . .” R.C. 4511.01(B).

A violation of R.C. 4511.75(E) invariably constitutes “negligent operation of a motor vehicle.” A school bus is a motor vehicle, as defined by R.C. 4511.01(B). A bus driver will always be “operating” a motor vehicle when she violates the statute because the very act of *starting the bus* before a child reaches the residence side of the road is proscribed conduct. Moreover, the statute clearly and explicitly mandates the procedure for bus drivers when dropping a child off at the child’s destination, thus defining what is or is not negligent conduct while operating the bus. Specifically, the bus driver “shall not” start the bus until after the child has reached a place of safety on the residence side of the road. R.C. 4511.75(E). Therefore, if a child has not yet crossed the road to the residence side of the street, the moment the bus driver begins to drive off she has violated the statute. The motive behind this statute is straightforward: buses are equipped with devices that bring traffic that is approaching from the opposite direction to a halt. When the bus leaves without the child having crossed the street, the safety provided by those devices is no longer available. This exposes children to unnecessary danger from oncoming traffic, and it is this precise hazard that the statute was meant to cure. When a bus driver leaves before a young child has made it to the residence side of the street, the clear language of R.C. 4511.75(E) mandates that the bus driver has negligently operated a motor vehicle.

Third, and finally, this Court has recently held that the negligent operation of a school bus pertains “to negligence in driving *or otherwise causing the vehicle to be moved.*” *Doe v. Marlinton Local School Dist. Bd. of Edn.*, 122 Ohio St.3d 12, N.E.2d 706, (2009) (emphasis added). Relying on this holding, the First District Court of Appeals properly concluded that Lisa Krimmer was negligent per se in the operation of a motor vehicle when she drove away before Amber Sallee crossed to her residence side of the street. *Sallee v. Watts*, 2014-Ohio-717, C-

130122 (1st Dist. 2014) By moving the bus, Krimmer allowed traffic to proceed on the road, which ultimately led to Appellee being hit by an oncoming vehicle. Krimmer’s act of starting the bus unquestionably constitutes the “operation of a motor vehicle.”

Appellant Three Rivers attempts to argue that, because the bus was not “present” when Amber Sallee was injured, this case does not involve the operation of a motor vehicle. However, this ignores the fact that it was Krimmer’s act of driving the bus away—i.e., the “operation of a motor vehicle”—that led to Appellee being hit. Regardless of where the bus was located when Amber Sallee was struck, the negligent act of “moving the bus” had already been committed.

The First District Court of Appeals correctly determined that Appellant committed negligence per se when it violated R.C. 4511.75(E), a strict liability traffic offense. R.C. 4511.75(E) specifically deals in terms of “operating a motor vehicle”, as it says the bus driver shall not “start the bus” until the child has reached the residence side of the road. To run afoul of the statute, the operator must “drive” and “move” the bus, as Lisa Krimmer did when she started the bus before Appellee had reached the residence side of the road. The violation of this statute by Three Rivers’ bus driver was, in effect, the “negligent operation of a motor vehicle” under any plausible interpretation of that phrase. To argue otherwise would disregard the express language and meaning of both R.C. 4511.75(E) and R.C. 2744(B)(1). The First District Court of Appeals was correct in enforcing the statute as written by the General Assembly.

Proposition of Law No. 2: A school district violates R.C. 4511.75(E) and commits negligence per se when the bus driver starts a bus before a child reaches the residence side of the road.

The First District Court of Appeals correctly held that Three Rivers violated R.C. 4511.75(E). Basic principles of negligence demonstrate that Appellant’s violation of R.C. 4511.75(E) was negligence per se. To recover on a claim of negligence, a plaintiff must prove

(1) that the defendant owed the plaintiff a duty, (2) that the defendant breached that duty, and (3) that the breach of the duty proximately caused that plaintiff's injury. *Chambers v. St. Mary's School*, 82 Ohio St.3d 563, 565, 697 N.E.2d 198 (1998). Typically, a duty may be established by common law, by the particular facts and circumstances of the case, or by *legislative enactment*. *Eisenhuth v. Moneyhon*, 161 Ohio St. 367, 371, 119 N.E.2d 440(1954) (emphasis added). The common-law standard, applicable in most situations, requires the degree of care that a "reasonable person" would use. *Boyd v. Moore*, 184 Ohio App.3d 16, 21-22, 919 N.E.2d 283 (2009). Where this standard applies to prove negligence, a plaintiff must show that the defendant failed to act like a reasonable person would have acted. *Id* at 22. But "[i]t is settled law that 'where a legislative enactment imposes upon any person a specific duty for the protection of other,' the failure to perform that duty is *negligence per se*," or negligence as a matter of law. *Marich v. Bob Bennett Constr. Co.*, 116 Ohio St.3d 553, 880 N.E.2d 906 (2008) quoting *Eisenhuth* at 372. (emphasis added).

"The concept of negligence per se allows the plaintiff to prove the first two prongs of the negligence test, duty and breach of duty, by merely showing that the defendant committed or omitted a specific act prohibited or required by statute; no other facts are relevant." The plaintiff need only show that a statute defined the standard of care to which the defendant's conduct must have conformed, and that the defendant violated the statute. *Lang v. Holly Hill Motel, Inc.*, 122 Ohio St.3d 120, 909 N.E.2d 120 (2009)

To be sure, not every violation of a provision of law or ordinance constitutes negligence per se. *Eisenhuth* at 372-373. If a statute does not expressly provide for civil liability, "the question of whether a violation constitutes negligence per se depends on the type of enactment involved." *Hurst v. Enterprise Title Agency, Inc.*, 157 Ohio App.3d 133, 142, 809 N.E.2d 689

(11th Dist. 2004). Thus, “[w]here there exists a legislative enactment commanding or prohibiting for the safety of others the doing of a *specific act* and there is a violation of such enactment solely by one whose duty it is to obey it, such violation constitutes negligence per se; but where there exists a legislative enactment expressing for the safety of others, in general or abstract terms, a rule of conduct, negligence per se has no application and liability must be determined by the application of the test of due care as exercised by a reasonably prudent person under the circumstances of the case.” *Eisenhuth* at 74 (emphasis added).

It is clear that, in order for a statute to set the appropriate standard of care in a particular situation, it must impose a “specific duty.” *Ohio Edison Co. v. Wartko Constr.*, 103 Ohio App.3d 177, 180, 658 N.E.2d 1118 (11th Dist. 1995). A legislative enactment also sets the appropriate standard of care ***where the statute is designed to protect against the type of accident the actor’s conduct causes, and if the accident victim is within the class of persons the statute is designed to protect.*** *Boyd* at 23, citing Restatement of the Law 2d, Torts, Section 286 (1965). “Negligence per se is tantamount to strict liability for purposes of proving that a defendant breached a duty.” *Sabitov v. Graines* (2008), 177 Ohio App.3d 451, 461, 894 N.E.2d 1310 quoting *Swoboda v. Brown* (1935), 129 Ohio St. 512, 522, 196 N.E. 274. The plaintiff must still, however, prove proximate cause and damages. *Id.*

Violation of a statute concerning the operation of a motor vehicle is generally negligence per se, as long as the provision imposes a specific requirement to do or not to do a particular act. *Roszman v. Sammett* (1971), 26 Ohio St.2d 94, 269 N.E.2d 420.

In the present case, there is a *legislative enactment* that specifically imposes a duty upon school bus drivers. R.C. 4511.75(E) states that “[n]o school bus driver shall start the driver’s bus until after any child . . . who may have alighted therefrom has reached a place of safety on the

child’s or person’s residence side of the road.” The statute imposes a *specific duty* for bus drivers to follow—namely, to wait until the child reaches the residence side of the road before proceeding. The legislative history surrounding the statute shows the specificity of its mandate. G.C. 6307–73 was the precursor to R.C. 4511.75(E), and it stated: “[n]o school bus driver shall start his bus until after any child who may have alighted therefrom *shall have reached a place of safety.*” *Culwell v. Brust* (1949), 91 Ohio App. 309, 108 N.E.2d 173 (emphasis added). When the statute was re-codified, the legislature added a new clause, requiring the child to have “reached a place of safety *on the child’s or person’s residence side of the road.*” With the present version, any ambiguity about whether or not the child must reach the residence side of the road has been extinguished. The statute leaves no room for discretion—bus drivers are unequivocally prohibited from starting the bus until the child reaches the residence side of the road—so the statute cannot be said to speak in “general or abstract terms.”

Even more importantly, however, is the fact that R.C. 4511.75(E) was enacted to protect persons such as Appellee Amber Sallee, and it was also designed to protect against the exact type of harm that caused her injuries, i.e., being hit by a vehicle coming from the opposite direction. R.C. 4511.75(E) was enacted to “***protect children who are boarding and leaving school buses, particularly those who are at risk when crossing in front of school buses and other vehicles on the road.***” *Middletown v. Campbell* (1990), 69 Ohio App.3d 411, 416, 590 N.E.2d 1301. Because of the “great public interest in protecting children and preventing accidents,” R.C. 4511.75(E) places a duty upon the school to make certain that children reach a place of safety on the residence side of the road. *Id.*

Clearly, Amber Sallee falls squarely within R.C. 4511.75(E)’s protective ambit. Amber was a six-year-old child (a child of tender years) at the time of her injuries, and she was hit by

another car when crossing the road to reach her residence. She was struck by an oncoming car because the bus driver hired by Three Rivers drove off before Amber had crossed the road. R.C. 4511.75(E) was designed to protect against this type of situation. Three Rivers had a statutorily prescribed duty to make certain that Amber made it to the residence side of the road. The violation of this duty is not only negligent conduct—it is criminal.¹ As such, Appellant Three Rivers committed negligence per se when it failed to ensure that Amber reached the residence side of the road before starting the bus.

Three Rivers' violation of R.C. 4511.75(E) satisfies the “duty” and “breach of duty” elements of the negligence claim, which leaves proximate cause and damages to be proved. The Fourth District Court of Appeals has expressly held that the negligence of a bus driver is the *proximate cause* of an injury and death where a child, while crossing the highway from behind a moving bus to get to his home, is injured and dies as a result of being struck by an automobile approaching from the direction opposite from which the bus is proceeding. *Culwell* at 313 (emphasis added).

The plaintiff in *Culwell*, a six-year-old child, exited a school bus and walked to the back side of the bus instead of going around the front with the other pupils who were being let off. *Id.* at 310. After the students who walked in front of the bus had made it safely across the street, the bus driver accelerated the bus in a forward direction. *Id.* The plaintiff began to cross the road, and was struck and killed by an automobile approaching from the opposite direction. *Id.* at 310-311. The driver of the automobile testified that the bus had moved about 40 feet from where it had been standing, while the bus driver claimed that the distance traveled was somewhat farther.

¹ The Tenth District Court of Appeals has held that violation of R.C. 4511.75(E) is a strict liability criminal offense that applies directly to bus drivers discharging school children. *See Middletown*, 69 Ohio App.3d at 416, 414 (emphasis added).

Id. at 312. In finding the negligence of the bus driver to be the proximate cause of the injury, the court had the following to say:

“Here...was a child in his first term of school and slightly more than six years old running around behind the bus to cross the highway when he should have been crossing in front of the bus. The defendant admits he knew of this situation; nevertheless, he started the bus. Starting the bus was a signal for other traffic to proceed. . . . *It is difficult to conceive of anything that could have been more dangerous than for the defendant to place the bus in motion when traffic was approaching, before this child had ‘reached a place of safety.’*” *Id.* at 313.

Elaborating further on the bus driver’s negligence the court went on to say:

“Such negligence directly contributed to the proximate cause of the injury and death of [plaintiff]. So long as the bus remained standing, all traffic was stopped by reason of the statute, but the moment the bus started this statutory safeguard, enacted for the purpose of protecting school children, was of no avail.” *Id.* at 313 (emphasis added)

The holding in *Culwell* applies directly to the case at bar. Krimmer claims that Appellee started advancing up the sidewalk with a friend when she was let off the bus, instead of crossing the street. The same was true of the child in *Culwell*, who went behind the bus instead of crossing the street in front of the bus. Given the fact that both the plaintiff in *Culwell* and Amber Sallee were six-year-olds when their injuries occurred, this kind of behavior is to be expected. The “childish impulses and instincts” of young children make them incapable of “appreciating the danger of crossing the highway.” *Id.* at 314. As such, they do not realize the importance of crossing the street in front of the bus. This does not, however, excuse a bus driver from failing to make certain that the child does in fact reach the residence side of the road. And, in accordance with *Culwell*, the negligence of the bus driver in starting the bus without the child having reached the residence side of the road is the proximate cause of injuries resulting from the child being struck by a car coming from the opposite direction.

Appellant argues that strict adherence to the requirements of R.C. 4511.75(E) would lead to unreasonable consequences. Appellant alludes to scenarios where bus drivers would be required to wait for great lengths of time for students to cross to the residence side of the road. However, Appellant does not cite to any cases where such unlikely results have occurred. In the present case, Lisa Krimmer had only moved a few stops up the road when Appellee crossed the street, and her bus was still in sight when Appellee was struck. T.d. 58 at 40. This shows that Krimmer could have waited to ensure that Appellee crossed the road, and that she would not have been substantially delayed in doing so.

R.C. 4511.75(E) places reasonable restrictions on bus drivers in order to ensure that children are not injured when crossing the road. The General Assembly designed this statute to protect young children like Amber Sallee from being hit by oncoming cars. Ultimately, Three Rivers failed to ensure that Appellee reached the residence side of the road before starting the bus, in violation of R.C. 4511.75(E). The First District Court of Appeals was correct in holding that Three Rivers' violation amounted to negligence per se.

Proposition of Law No. 3: A violation of R.C. 4511.75(E) does not involve negligent supervision.

As previously discussed, R.C. 4511.75(E) unquestionably involves the “negligent operation of a motor vehicle” because the bus must be moved in order for a violation to occur. The First District Court of Appeals made this point clear: “[t]he statute sets forth a specific requirement that a school bus driver shall not start his or her bus until the child ‘has reached a place of safety on the child’s * * * residence side of the street.’ It leaves no room for considering what a reasonable person would do under a given set of circumstances. The analysis is simple and binary—either the child had crossed to her residence side of the street before the driver started the bus or she had not.”

It should be noted that, even if there is an element of supervision involved along with the requirements of R.C. 4511.75(E), there is authority holding that this too would constitute the “operation of a motor vehicle.” See *Groves v. Dayton Public Schools* (1999), 132 Ohio App.3d 566, 725 N.E.2d 734. The Second District Court of Appeals has held that the term “operation of a motor vehicle” encompasses “more than the mere act of driving the vehicle involved.” *Id.* In *Groves*, the plaintiff was a disabled minor who was confined to a wheelchair. *Id.* at 568. One morning, the bus driver, an employee of the Dayton Public Schools, assisted the plaintiff in disembarking from the school bus via a ramp. *Id.* The bus driver, however, failed to secure the plaintiff properly in her wheelchair. *Id.* As a result, the plaintiff’s hand was wedged in the wheel of her chair and she suffered injuries. *Id.* The court found the school liable, recognizing that other courts addressing the meaning of “operation of a motor vehicle” have found that the “taking on and letting off of students falls within the meaning of the term.” *Id.* at 569. In making its determination, the *Groves* court expressly relied on a case from another jurisdiction, which had held, “[t]he stopping of a school bus for the purposes of discharging passengers, and the bus drivers’ duties attendant to the stopping of the bus, unquestionably constitute operation of a motor vehicle.” *Nolan v. Bronson* (1990), 185 Mich. App. 163, 177, 460 N.W.2d 284 (1990).

In the case at bar, the broader definition of “operation of a motor vehicle”—endorsed in *Groves*—does not even need to be invoked. The conduct of Lisa Krimmer *did* involve the “mere act of driving a vehicle.” R.C. 4511.75(E) specifically deals in terms of driving the vehicle, as it says the bus driver shall not “start the bus” until the child has reached the residence side of the road. The broad definition used in *Groves* goes above and beyond, and would encompass the

supervisory duty of a bus driver to ensure that a child crosses safely to the residence side of the street.

Proposition of Law No. 4: In Ohio, a valid public policy argument exists that a school district's policy of not requiring parents or a suitable designated adult to be present at the bus stop for children of tender years was reckless conduct and against public policy.

In years past, Appellant Three Rivers Local School District had required that parents be present at the bus stop to pick up children who were in kindergarten or first grade. T.d. 56 at 11-12. The school district changed the policy, however, beginning in the 2008-2009 school year. *Id.* From that point on, no parents were required to be present at the bus stop for children of any age. The Transportation Supervisor, Angie Drew, testified that, in her opinion, the policy changed because of the “additional hours” bus drivers had to work in bringing students back to the school when no parent was present at the bust stop. *Id.* at 26.

The course of action adopted by Three Rivers violates public policy. Children under the age of seven, as a matter of law, are incapable of committing negligence. *Holbrock v. Hamilton Distributing, Inc.*, 11 Ohio St. 2d 185, 228 N.E.2d 628 (1967) The school board knowingly and intentionally changed its policy, allowing children who are incapable of negligence to be dropped off without being delivered to an adult or parent. When a school accepts custody of a child, it stands “in loco parentis” to the child, accepting all the rights and responsibilities that go with that status. *Turner v. Central Local School Dist.*, 97-LW-3569. at *3 (3 Dist. 1997). This means that the school shall not “create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support.” R C. 2919.22(A). Three Rivers’ Transportation Supervisor, Angie Drew, admitted in her testimony that the school board stood “in loco parentis” to Amber Sallee. T.d. 56 at 10.

Allowing a six-year-old child to be dropped off without a parent or suitable designated adult present unnecessarily puts the child at substantial risk. A child of tender years cannot appreciate certain dangers, such as the dangers associated with crossing a busy street. By not requiring that a parent be located at the bus stop, the school district allows children to be “thrown to the wolves.” Unfortunately, Appellee Amber Sallee experienced firsthand when she was hit by an oncoming vehicle.

The policy adopted by Three Rivers or any school district with respect to children of tender years, should not stand. When a six-year-old child gets off the bus with no parent present, there is an interim where no adult has physical custody of the child. There simply should be no circumstance where a young child’s custodial arrangement is in flux.

In the technical sense, the very act of a bus driver allowing a child of tender years to exit the bus without a parent in the vicinity is reckless. Again, children under the age of seven cannot commit negligence and cannot appreciate certain dangers. Three Rivers has legal responsibility for the students on its buses until they reach the residence side of the road—a fact that Lisa Krimmer, the bus driver, was well aware of. T.d. 57 at 14. Here, Appellant’s act of letting Amber Sallee exit the bus without a parent present constituted the negligent (and reckless) “operation of a motor vehicle.” As such, Three Rivers is not entitled to immunity under R.C. 2744.

CONCLUSION

Appellant Three Rivers Local School District’s bus driver violated R.C. 4511.75(E) when she started the bus before Appellee Amber Sallee had reached the residence side of the road. This act constituted negligence per se, as Appellee was in the class of persons the statute was

meant to protect (young children), and Appellee was injured by the very harm that statute sought to prevent (being hit by oncoming traffic). The violation of this statutorily prescribed duty is well within the meaning of “negligent operation of a motor vehicle.” As such, the First District Court of Appeals was correct when it held Appellant Three Rivers’ immunity should be abrogated under R.C. 2744.02(B)(1). Further, valid public policy arguments for children of tender years are also warranted for the safety of our children.

Respectfully Submitted,
O’CONNOR, ACCIANI & LEVY LPA

/s/ Dennis C. Mahoney

Dennis C. Mahoney - 0046634
Attorney for Plaintiff
2200 Kroger Building
1014 Vine Street
Cincinnati, Ohio 45202
Telephone: 513-241-7111
Facsimile: 513-241-7197
Email: DCM@oal-law.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed by ordinary U.S. Mail this 5TH day of January, 2015 to the following:

David J. Balzano, Esq.
David P. Bolek, Esq.
Cincinnati Insurance Company
P.O. Box 145496
Cincinnati, OH 45250-5496

Frank H. Scialdone (0075179)
Mazanec, Raskin & Ryder Co., L.P.A.
100 Franklin’s Row
34305 Solon Road
Cleveland, OH 44139

Dennis C. Mahoney/s
Dennis C. Mahoney - 0046634
Attorney for Plaintiff