

BRINSMEAD ET AL. v. ELK GROVE UNIFIED SCHOOL DISTRICT ET AL.  
Case No. C096394

Plaintiffs' daughter attended Pleasant Grove High School, part of the Elk Grove Unified School District (the District). As she lived eleven miles from school, she generally used bus transportation provided by the District. One morning, in January 2020, she waited at her usual bus stop to be collected, but the bus did not come at the appointed time. Not knowing when the bus would arrive and concerned she would be late to school, she called a friend to drive her to school. During that drive, the car she was riding in collided head on with another car, and she died as a result of the injuries she sustained.

Plaintiffs sued the District, some of its employees, and others involved in the collision, alleging causes of action for wrongful death and survival sounding in negligence. Specifically, plaintiffs alleged the District had breached its duty to timely retrieve their daughter from the designated bus stop, to provide notice of and instructions regarding delayed buses, and to provide a reasonably safe and reliable bus system.

The District demurred to the complaint, asserting it was immune from liability pursuant to Education Code section 44808, which provides immunity for conduct and safety of students when they are not on school property, unless the school district has "undertaken to provide transportation for such pupil to and from the school premises," "otherwise specifically assumed such responsibility," or "failed to exercise reasonable care under the circumstances." Section 44808 limits immunity where the school district has undertaken transportation to "while such pupil is or should be under the immediate and direct supervision" of a district employee. The District argued it owed no duty to the young woman because she had not boarded the bus. The trial court sustained the demurrer and entered a judgment of dismissal.

On appeal, plaintiffs argue:

- (1) The District owed a duty of care to protect its students, namely their daughter; and
- (2) The immunity provided by section 44808 of the Education Code did not extend to the District because it had agreed to provide plaintiffs' daughter with safe and reliable transportation, and she should have been under the District's supervision at the time of the collision.