



LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

LEGAL UPDATE

CALIFORNIA COURT OF APPEAL HOLDS THAT A CHARTER SCHOOL MAY NOT BE SUED FOR EDUCATIONAL MALFEASANCE

On March 3, 2004 the California Court of Appeal concluded, in the case of *Wells v. One2One Learning Foundation et. al.* (WL389003) that **charter school students and their parents may not sue public charter schools for educational malfeasance based upon an alleged failure to deliver a proper public education.**

The plaintiffs in *Wells* had enrolled in three separate California charter schools offering nonclassroom-based instruction. At the core of the lawsuit, the plaintiffs alleged that the defendants "engaged in a practice of defrauding parents, school districts, and the state by collecting more than \$20 million annually in educational funds to run charter schools without providing instruction and educational materials." According to the plaintiffs, the students never received the promised computers, textbooks, software, and instruction to properly engage in nonclassroom based instruction.

The trial court dismissed all causes of action finding that each cause of action was essentially a challenge to the quality of the education the plaintiff children received from the charter schools. Relying primarily upon a 1976 California Court of Appeal decision, the trial court dismissed the claims for breach of contract, and negligent and intentional misrepresentation claiming California law bars causes of action claiming "educational malfeasance." As such, no matter what the cause of action, if a plaintiff is suing a public school for damages based upon the quality of education or lack of education, that action is barred.

In the present instance, the Court of Appeal concluded that all of the charter schools involved, even those that were operating as nonprofit public benefit corporations, are public entities and as such, they are exempt from the unfair competition laws stated in Business and Professions Code section 17200 et seq. The unfair competition laws are designed to preserve fair competition among business competitors and protect the public from nefarious and unscrupulous business practices. The court held that the government is not in business and thus is not a "person" covered under the statutes. The Court of Appeal concluded the charter schools were all public entities in spite of the fact that these charter schools were not listed on the "roster of public agencies" maintained by the Secretary of State's office.

The *Wells* Court did conclude that a charter school (as well as the granting agency of the charter school) could be found to have violated the False Claims Act and therefore remanded this matter to the trial court for further proceedings. The Court concluded that a charter school that seeks money from the State for doing nothing more than collecting attendance sheets has submitted a false claim to the State when it asserts it has provided those children with education.

The law offices of Spector, Middleton, Young & Minney, LLP will continue to monitor this matter and provide future updates on the False Claims Act proceedings.

If you should have any questions regarding this update, please contact Paul Minney at (pminney@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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