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C A S E A L E R T

M&W Partner Eric Harrison Obtains Federal Judgment for \$71,000 Against Plaintiff's Counsel for Frivolous Civil Rights Litigation

Last week in [F.V. and M.V. o/b/o B.V. v. Cherry Hill Board of Education](#), Civ. Action No. 21-18096, the Honorable Karen Williams, U.S.D.J., granted the motion of M&W's civil rights team, led by partner [Eric Harrison](#), to award sanctions of more than \$71,000 against attorney Jamie Epstein for prosecuting frivolous litigation under the Individuals with Disabilities in Education Act (IDEA) and the New Jersey Law Against Discrimination (NJLAD). [Click here](#) to view the order.

The case began with a special education due process petition in which parents requested a mainstream setting for their disabled kindergartener. While the teaching staff recommended a special education classroom with a smaller number of students, shortly after the parents filed the petition, the District agreed to begin the school year with the student in a general education setting. Ultimately, a combination of COVID-related one-on-one remote instruction and staff going the extra mile resulted in a successful school year for the kindergartener.

Nevertheless, with the support of their attorney the plaintiffs would not drop the case unless the Board paid them more than \$50,000 towards unspecified

damages and unsubstantiated attorney fees. The hearing dragged into 2021, resolved in the District's favor and continued on to U.S. District Court with an appeal that included a claim for damages under the New Jersey Law Against Discrimination.

Eric's team moved for dismissal of the NJLAD claim for failure to state a claim, followed by a motion for summary judgment on the appeal under the Individuals with Disabilities in Education Act. Judge Williams granted both motions. Thereafter M&W applied for sanctions against attorney Jamie Epstein for the prosecution of litigation that became moot before it began.

This case was about "the weaponization of a special needs student for attorney gain," Eric told the New Jersey Law Journal when asked to comment on the case. The ruling "sends a message that when your clients have achieved what they're looking for in litigation, and the only issue remaining is an attempt to recover from the other side, it's probably most prudent to lay down your arms and file a separate application for fees, if you feel you're entitled to it, rather than to prolong the litigation simply in order to

create greater pressure for the other side to give you money."

Viewing the outcome in the broader context of civil litigation generally, Eric notes that "regardless of the type of claim, establishing a record of good faith in its early stages can reap benefits when an adversary engages in unethical behavior down the road. While courts will rarely award sanctions of this magnitude, the availability of a mechanism to obtain them

and documentation of our efforts to resolve disputes early in litigation can serve our clients as a deterrent to misconduct. It's also a strong reminder to the judiciary of our firm's commitment to candor and ethical conduct towards the court and our colleagues in the bar."

Friends and clients with any questions about the case or its relationship to your claims are welcome to contact [Eric](#) directly.

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