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SHARON DURRANT *v.* BOARD OF EDUCATION OF THE CITY OF HARTFORD ET AL.
(AC 26437)

Schaller, Bishop and Dupont, Js.

Argued February 23—officially released July 11, 2006

(Appeal from Superior Court, judicial district of Hartford, Booth, J.)

Paul N. Shapera, for the appellant (plaintiff).

Jeffrey G. Schwartz, with whom was *Christopher Goings*, certified legal intern, for the appellees (defendants).

Opinion

DUPONT, J. The plaintiff, Sharon Durrant, appeals from the judgment of the trial court rendered following the granting of the defendants'[1] motion for summary judgment, which was based on governmental immunity under General Statutes § 52-557n (a) (2) (B) and Connecticut common law.[2] The plaintiff claims that the defendants' failure to remove a puddle of water on an outside staircase of a public school attended by her son was an act that subjected her, as an identifiable member of a foreseeable class of persons, to imminent harm, thereby abrogating the defendants' claim of governmental immunity. We reverse the judgment of the trial court and remand the case for further proceedings.

The issue of this appeal is whether the doctrine of governmental immunity should shield the defendants from responsibility for the alleged harm to a parent of a six year old student at a public school, incurred on the school premises, when the parent picked up the student from an after school program conducted under the auspices of the defendant board of education pursuant to General Statutes § 17b-737. The subsidiary question is whether such a parent can be considered a foreseeable victim of imminent harm due to the alleged improper maintenance of the school premises within the precepts of *Burns* v. *Board of Education*, 228 Conn. 640, 638 A.2d 1 (1994), or whether such a parent is not within the class of foreseeable victims as defined in *Prescott* v. *Meriden*, 273 Conn. 759, 873 A.2d 175 (2005). The answers to the questions posed, in view of the pleadings of the parties, and the affidavits submitted with the motion for summary judgment and the documentary opposition thereto, are determinative of whether the defendants were entitled to summary judgment. We conclude that the plaintiff is within a cognizable and narrowly defined class of foreseeable victims who, as a matter of policy, come within the protection of the "evolving expectations of a mature society"; *Burns* v. *Board of Education*, supra, 647;[3] and therefore, overcome the barrier of governmental immunity of a municipality for discretionary acts.

The following factual and procedural history is pertinent to our discussion of the issues on appeal. In her complaint and subsequent affidavit in response to the motion for summary judgment, the plaintiff alleged that on September 14, 2001, at approximately 4 p.m., she arrived at West Middle School[4] to pick up her six year old son from an after school day care and homework study program conducted by the Boys and Girls Club and the school. As she exited the school, the plaintiff slipped and fell due to a puddle of water that had accumulated on the backdoor stairs, sustaining several injuries. The plaintiff claims that the defendants failed to inspect the stairs reasonably, failed to promulgate policies and procedures that required inspection and removal of standing water and failed to warn the plain-

tiff and others adequately of the dangerous condition on the stairs.

The defendants denied the allegations of the complaint and raised the special defenses of contributory negligence and the doctrine of governmental immunity, pursuant to § 52-557n and the common law. The plaintiff denied the allegations in the defendants' answer and the assertion that § 52-557n and the common law barred her claims. The defendants filed a motion for summary judgment, pursuant to Practice Book § 17-49 et seq. on the ground that governmental immunity barred the plaintiff's recovery on her complaint. The plaintiff argued that (1) the doctrine of governmental immunity is inapplicable because whether removal of water from a staircase is a ministerial or discretionary act is a question of fact that should be left for the jury's determination and (2) even if removal of water from the staircase is a discretionary act, the plaintiff's cause of action falls within the ''identifiable person-imminent harm'' exception to governmental immunity.

The court granted the defendants' motion for summary judgment, concluding in its memorandum of decision that it was apparent from the complaint that the omissions alleged in the plaintiff's complaint were discretionary acts, thereby permitting the court to consider the motion for summary judgment pursuant to *Segreto* v. *Bristol*, 71 Conn. App. 844, 855, 804 A.2d 928, cert. denied, 261 Conn. 941, 808 A.2d 1132 (2002).[5] The court concluded that the plaintiff's claim that the ''identifiable person-imminent harm'' exception to the governmental immunity doctrine should govern did not apply.[6]

Addressing the plaintiff's claim that her presence at the school was a necessity and, therefore, that she was an identifiable person or a member of a foreseeable class of victims subject to imminent harm, the court found that the plaintiff failed to plead any facts indicating that this was the case. Citing Practice Book § 10-1, the court concluded that the plaintiff was not entitled to litigate the factual issue of whether her presence was a necessity because she failed to plead any such allegation properly. The court, assuming arguendo that the plaintiff was entitled to litigate the factual issue regarding her presence, concluded, in the alternative, that she did not fall within the exception, as a matter of law. The court found that both the plaintiff and her son were voluntarily present at the school. On the basis of the fact that the plaintiff's attendance was not statutorily compelled, the court concluded that the plaintiff could not fall within the identifiable person-imminent harm exception to governmental immunity as defined in existing Connecticut appellate decisions.

The plaintiff claims that the court improperly granted the defendants' motion for summary judgment because the ''[d]efendants' failure to remove a puddle of water from an elementary school staircase was an act that

would likely subject an identifiable person or class of persons to imminent harm . . . .'' In support of her claim, the plaintiff asserts that, as a parent of children who are denied public transportation to and from school because of the close proximity between the family home and the school, she is a member of a narrow class of parents who may reasonably be expected to be on school grounds to transport their elementary age children home safely.[7]

The plaintiff claims that she is statutorily compelled to relinquish protective custody of her children to the school board and its employees. She asserts that, in light of the transportation policy, the only safe and effective manner in which she can reestablish protective custody is to accompany her young child personally from the school building. The plaintiff contends that she, as a parent of a child for whom bus transportation was unavailable, was required to be at the school for the limited purpose of reestablishing her custody and transporting her child out of the building safely. She claims, therefore, that this foreseeability places her in an identifiable class of persons to whom the defendants owed a duty of care.

Addressing the imminent harm element of the exception, the plaintiff asserts that a puddle of water falls within the circumstances of imminent harm as discussed in the existing case law, namely, a dangerous condition limited in duration and geography. In support of this claim, the plaintiff points out that the threat posed by the condition, slipping, is inherent to the defect and that the threat is temporary in nature, as it will diminish and cease as the water evaporates. In terms of the harm element, the plaintiff sees little difference between the icy conditions on school grounds in *Burns* and the condition of school grounds in the present case. As such, she contends that the imminent harm element of the exception is satisfied.

The defendants claim that the plaintiff is not entitled to litigate the issues of whether her presence was required by law or whether the puddle created a threat of imminent harm because she failed to plead or offer evidence properly as to either allegation. In the alternative, the defendants claim that the circumstances of this case do not fall within the identifiable person-imminent harm exception to governmental immunity. The defendants first claim that the plaintiff failed to allege or to demonstrate that she was required to be on school property. Specifically, the defendants assert that the plaintiff and her son were on school grounds voluntarily. The defendants also contend that the plaintiff failed to show any public policy reason for expanding the parameters of identifiable persons beyond those established by case law.

The court, in its memorandum of decision granting the defendants' motion for summary judgment, rejected

the plaintiff's argument that she fell within the identifiable person-imminent harm exception on the basis of its conclusion that the plaintiff did not plead any facts indicating that her presence at the school was mandated by law. On appeal, the defendants request that we invoke this reasoning to affirm the judgment of the trial court.

"Guiding our inquiry as to all of the claims is our well established standard of review of a trial court's decision granting a motion for summary judgment. In deciding a motion for summary judgment, the trial court must view the evidence in the light most favorable to the nonmoving party." (Internal quotation marks omitted.) *Aselton* v. *East Hartford*, 277 Conn. 120, 130, 890 A.2d 1250 (2006). "The party seeking summary judgment has the burden of showing the absence of any genuine issue [of] material facts which, under applicable principles of substantive law, entitle him to a judgment as a matter of law . . . and the party opposing such a motion must provide an evidentiary foundation to demonstrate the existence of a genuine issue of material fact." (Citation omitted; internal quotation marks omitted.) *Altfeter* v. *Naugatuck*, 53 Conn. App. 791, 800–801, 732 A.2d 207 (1999). A summary judgment should be rendered if there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Practice Book § 17-49.

"On appeal, we must determine whether the legal conclusions reached by the trial court are legally and logically correct and whether they find support in the facts set out in the memorandum of decision of the trial court." (Internal quotation marks omitted.) *Aselton* v. *East Hartford*, supra, 277 Conn. 130. The scope of our review of the trial court's decision to grant the defendants' motion for summary judgment is plenary. See id.

The construction of the effect of pleadings is a question of law over which this court exercises plenary review. See *Miller* v. *Egan*, 265 Conn. 301, 308, 828 A.2d 549 (2003). The plaintiff denied that the doctrine of governmental immunity applied. Although the plaintiff argued that she was injured due to the defendants' negligent performance of discretionary acts, she did not specifically allege in her complaint that she was a member of an identifiable class of foreseeable victims subject to an imminent harm. She did, however, allege that she was on the school premises to pick up her child, who was enrolled as a student there.

Practice Book § 17-45 provides in relevant part that a motion for summary judgment "shall be supported by such documents as may be appropriate, including but not limited to affidavits, certified transcripts of testimony under oath, disclosures, written admissions and the like. . . . Any adverse party shall at least five days before the date the motion is to be considered on the

short calendar file opposing affidavits and other available documentary evidence. Affidavits, and other documentary proof not already a part of the file, shall be filed and served as are pleadings.'' The plaintiff, in accordance with the provision allowing her to file an affidavit, did so. In it, she alleged that bus transportation from the school her son attended to her home was not available, that she could not meet her son immediately after school, that her son participated in an after school day care and homework study program at West Middle School that was presented by the West Middle School and the Boys and Girls Club, that the program provided homework assistance and activities for participating students, that she picked her son up every afternoon, at the after school program and walked him home, that she used the rear staircase along with other parents and children who attended the after school program when she picked him up and that the rear staircase was the closest to the area where the after school program was conducted. The plaintiff also filed a transcript of her deposition, which described with more specificity than her complaint exactly where on the stairs she fell, her footwear and her injuries.

We construe the allegations of the complaint and the affidavit in the plaintiff's favor to determine whether, as a question of law, on the basis of policy considerations and duty, she fits within the identifiable person-imminent harm exception to governmental immunity.[8] The court, in granting the motion for summary judgment, concluded that the plaintiff was not a member of such a class. On appeal, we must decide whether the legal conclusion reached by the court is legally and logically correct, and whether it finds support in the facts.

A municipal employee has a qualified immunity in the performance of a governmental duty, but he may be liable for tortious conduct if he subjects an identifiable person to imminent harm. *Burns* v. *Board of Education*, supra, 228 Conn. 645. The issue in this case is whether the identifiable person-imminent harm exception to municipal employees' immunity applies. That exception applies ''not only to identifiable individuals but also to narrowly defined classes of foreseeable victims.'' (Internal quotation marks omitted.) *Colon* v. *Board of Education*, 60 Conn. App. 178, 184, 758 A.2d 900, cert. denied, 255 Conn. 908, 763 A.2d 1034 (2000). ''In delineating the scope of a foreseeable class of victims exception to governmental immunity, our courts have considered numerous criteria, including the imminenc[e] of any potential harm, the likelihood that harm will result from a failure to act with reasonable care, and the identifiability of the particular victim.'' *Burns* v. *Board of Education*, supra, 647.

''[T]he question of whether a particular plaintiff comes within a cognizable class of foreseeable victims

for purposes of this exception to qualified immunity is ultimately a question of policy for the courts, in that it is in effect a question of duty. . . . This involves a mixture of policy considerations and evolving expectations of a maturing society . . . . Thus, it involves a question of law, over which our scope of review is plenary.'' (Citation omitted; internal quotation marks omitted.) *Prescott* v. *Meriden*, supra, 273 Conn. 763–64. ''A duty to act with reasonable care to prevent harm to a plaintiff which, if violated, may give rise to tort liability is based on a 'special relationship' between the plaintiff and the defendant. . . . A duty to use care may arise from a contract, from a statute, or from circumstances under which a reasonable person, knowing what he knew or should have known, would anticipate that harm of the general nature of that suffered was likely to result from his act or failure to act.'' (Citations omitted; internal quotation marks omitted.) *Burns* v. *Board of Education*, supra, 228 Conn. 646.

''Thus far, the only identifiable class of foreseeable victims that [our Supreme Court has] recognized for these purposes is that of schoolchildren attending public schools during school hours. . . . In determining that such schoolchildren were within such a class, we focused on the following facts: they were intended to be the beneficiaries of particular duties of care imposed by law on school officials; they were legally required to attend school rather than being there voluntarily; their parents were thus statutorily required to relinquish their custody to those officials during those hours; and, as a matter of policy, they traditionally require special consideration in the face of dangerous conditions.'' (Citations omitted.) *Prescott* v. *Meriden*, supra, 273 Conn. 764; see also *Purzycki* v. *Fairfield*, 244 Conn. 101, 708 A.2d 937 (1998); *Burns* v. *Board of Education*, supra, 228 Conn. 640; *Bonamico* v. *Middletown*, 49 Conn. App. 605, 713 A.2d 1291 (1998).

Our Supreme Court specifically declined to extend the exception to a parent who fell in the stands while attending his son's high school football game. *Prescott* v. *Meriden*, supra, 273 Conn. 765. In determining that the plaintiff was neither an identifiable individual nor a member of an identifiable class of foreseeable victims, the Supreme Court focused on the fact that the plaintiff's presence at the game was purely voluntary. Id., 764. The court noted that the plaintiff was not entitled to any special consideration of care from the school officials because of his status as a parent and that the plaintiff's status as a parent of a participant in no way narrowly defined his alleged class because, for all intents and purposes, he was no different from any other member of the public attending the game. Id., 764–65. The court rejected the plaintiff's assertion that preventing an injured parent from pursuing a cause of action against municipal employees would have a chilling effect on the public policy of encouraging paren-

tal involvement in their children's extracurricular activities. Id., 765–66.

Turning to the present appeal, we first address whether the puddle in the stairwell satisfies the imminent harm element of the identifiable person-imminent harm exception. "Imminent" is defined as something about to materialize of a dangerous nature. Ballentine's Law Dictionary (3d Ed. 1969). The threat of slipping, posed by the condition, is inherent to the defect, a wet floor. The nature of water dictates that the condition is temporary in nature, as it will diminish and cease as the water evaporates. The defect was limited in location to one particular stairwell, and the accident could occur only during a limited time. It was only after the program had concluded that parents of children were on the premises to provide their children with safe departure from the building. The allegedly dangerous condition was limited in duration and geography. See *Doe* v. *Board of Education*, 76 Conn. App. 296, 303, 819 A.2d 289 (2003). Finally, the potential for harm from a fall in a stairwell was significant and foreseeable. We therefore conclude that the plaintiff could meet the requirement of imminent harm.

The plaintiff also must be a member of an identifiable class of foreseeable victims to withstand the defendants' motion for summary judgment. We begin by analyzing the factors enumerated in *Burns*, *Prescott* and *Purzycki*. As a guide to the application of those factors, we first determine whether, if the child instead of the parent fell while leaving the after school program, the defendants would have been able to invoke the doctrine of governmental immunity. If the argument of the defendants were to prevail, the student would also be excluded as a foreseeable victim because his attendance at the program was voluntary, not legally required. It is not a large judicial leap to reason that the six year old student should be allowed to maintain an action against a municipality because, although not legally required to be on the premises after the school day had concluded, the child was legally present on the premises for the after school program by invitation of the defendants.[9] See the following discussion of General Statutes § 17b-737. We reason that the six year old student would be in an identifiable class of foreseeable victims had he been the one who was allegedly injured.

We next examine the reasoning in *Burns* and *Prescott* to determine whether the parent of that student would fall within or outside the ambit of an identifiable class of foreseeable victims. Unlike the parent in *Prescott*, the presence of the plaintiff at the school was not purely voluntary. She was there to escort her six year old child out of the school building safely because parents have a common-law duty to protect their children. See *State* v. *Miranda*, 274 Conn. 727, 779, 878 A.2d 1118 (2005). The plaintiff's presence at the school to ensure the safe

departure of her child was reasonably to be anticipated. She was not part of a large class of persons with no reason to be on school premises or part of a large class of persons with varying reasons to be on school premises. She was not on the premises along with other parents and members of the public to watch a sporting event, but to escort her child out of the building safely, rather than to have him leave the school building alone. As pointed out in *Prescott*, the policy of the law must be informed by the particular facts.[10] *Prescott* v. *Meriden*, supra, 273 Conn. 765–66. Here, there is a direct connection between the reason for the plaintiff's presence and the statutes of Connecticut that provide for the public purpose and establishment of after school programs.

General Statutes § 17b-737 is entitled ''Grants program to encourage the use of school facilities for child daycare services. Regulations.'' The statute clearly allows grants to ''municipalities'' and ''boards of education'' to ''encourage the use of school facilities for the provision of child day care services before and after school. In order to qualify for a grant, a municipality, board of education or child care provider . . . shall agree to provide liability insurance coverage for the program. . . .'' General Statutes § 17b-737. ''The commissioner [of social services] may utilize available child care subsidies to implement the provisions of this section and encourage association and cooperation with the Head Start program established pursuant to section 10-16n.'' General Statutes § 17b-737. General Statutes § 10-16n allows the establishment of grant programs to assist local boards of education establishing extended day Head Start programs. General Statutes § 10-16n is part of chapter 164, ''Educational Opportunities.''

The statutes of Connecticut, therefore, condone and encourage the use of public school facilities for the very purpose that the plaintiff's child was in attendance at West Middle School on the day of the plaintiff's fall. The public policy involved in this case has been established by the legislature through its enactment of § 17b-737. See *Autotote Enterprises, Inc.* v. *State*, 278 Conn. 150, 160, A.2d (2006) (stating that legislature speaks on matters of public policy through legislative enactments). The legislature, aware of governmental immunity as provided in § 52-557n, conditioned the receipt of grants under § 17b-737 on municipalities or boards of education obtaining liability insurance coverage. Liability insurance protects an insured from the payment of funds due in the event of an insured's negligence. A ''legislature is always presumed to have created a harmonious and consistent body of law . . . .'' (Internal quotation marks omitted.) *Pantanella* v. *Enfield Ford, Inc.*, 65 Conn. App. 46, 55, 782 A.2d 141, cert. denied, 258 Conn. 930, 783 A.2d 1029 (2001). If the legislature believed that § 52-557n exempted those in the category of the defendants from liability arising out of programs established pursuant to § 17b-737, there

would be no reason for the legislature to have provided for liability insurance in the latter statute.

"In delineating the scope of a foreseeable class of victims exception to governmental immunity, our courts have considered numerous criteria, including . . . the likelihood that harm will result from a failure to act with reasonable care, and the identifiability of the particular victim." *Burns* v. *Board of Education*, supra, 228 Conn. 647. The particular victim in this case was identifiable, in view of § 17b-737, coupled with her duty to keep her child safe, as well as the factors enunciated in *Burns*, *Prescott* and *Purzycki*. She was one of the beneficiaries of the particular duty of the defendants to keep students safe, she was legally on school premises and her child was in the custody of school officials until she arrived to take him out of the building safely.

The scope of the "foreseeable class of victims" test is the "product of the policy considerations that aid the law in determining whether the interests of a particular type are entitled to protection," and these policy considerations are influenced by the "evolving expectations of a maturing society" that may "change the harm that may reasonably be considered foreseeable." Id. These words of Chief Justice Peters are particularly apt. The harm that may come to a six year old child in an urban setting if permitted to leave a school building, unattended, after a school program endorsed by the defendants has concluded, is reasonably foreseeable. The interest of society in the protection of children and that of parents who have a duty to protect their children from harm, as well as the purpose of § 17b-737, lead us to conclude that, as a matter of policy, the plaintiff is within the foreseeable class of victims who should be allowed to bring a cause of action against the defendants. We hold that the plaintiff, on the facts of this case, is within the limited group of foreseeable victims who, as a matter of policy, as set by the legislature, should be excepted from the doctrine of governmental immunity.

The judgment is reversed and the case is remanded for further proceedings in accordance with law.

In this opinion BISHOP, J., concurred.

[1] The defendants are Anthony Amato, the superintendent of Hartford public schools; the board of education of the city of Hartford; Fran DiSiores, the principal of West Middle School, a Hartford public school; and Rick Deschenes, the director of maintenance of West Middle School.

[2] General Statutes § 52-557n (a) (2) (B) provides in relevant part: "Except as otherwise provided by law, a political subdivision of the state shall not be liable for damages to person or property caused by . . . (B) negligent acts or omissions which require the exercise of judgment or discretion as an official function of the authority expressly or impliedly granted by law." General Statutes § 52-557n was enacted to codify the common law and to limit governmental immunity. *Conway* v. *Wilton*, 238 Conn. 653, 672, 680 A.2d 242 (1996).

[3] This phrase was first used by Chief Justice Ellen Peters in *Burns* and later adopted in *Prescott*. See *Burns* v. *Board of Education*, supra, 228 Conn. 647; see also *Prescott* v. *Meriden*, supra, 273 Conn. 764.

[4] West Middle School is an elementary school and is the school in which

the plaintiff's son was enrolled.

[5] In *Segreto*, we stated that "although the general rule is that a determination as to whether the actions or omissions of a municipality are discretionary or ministerial is a question of fact for the jury, there are cases where it is apparent from the complaint." (Internal quotation marks omitted.) *Segreto* v. *Bristol*, supra, 71 Conn. App. 855. Specifically, we held that the complaint alleged a discretionary activity because "the plaintiff's allegations all relate[d] to whether the [defendant's] design and maintenance of the stairway were reasonable and proper," and that the plaintiff failed to allege "that the [defendant] had some policy or directive in place regarding those duties with which it or its employees had failed to comply." Id., 857. In the present case, the plaintiff alleges that the defendants failed reasonably to inspect the stairs, failed to promulgate policies and procedures that required inspection and removal of standing water and failed to warn the plaintiff and others adequately of the stairs' dangerous condition. As in *Segreto*, the plaintiff's allegations relate to whether the defendants' maintenance of the stairway was reasonable and proper.

Although the plaintiff, in the trial court, claimed that removal of water from a staircase is a ministerial act and, in the alternative, that the question of whether removal of water from a staircase is a ministerial or discretionary act is one of fact that should be left for the jury's determination, the plaintiff does not challenge on appeal the court's conclusion that it was apparent from the complaint that the omissions alleged were discretionary acts, thereby permitting the court to consider the motion for summary judgment pursuant to *Segreto*. As a result, we treat any claim that the defendants owed a ministerial duty as waived by the plaintiff for purposes of the motion for summary judgment. To succeed in her claim of liability, therefore, the plaintiff must fall within one of the exceptions to a municipal employee's qualified immunity for discretionary acts.

[6] For the purposes of this appeal, the plaintiff has stipulated that the only exception to the qualified immunity of a municipal employee for discretionary acts that is relevant to the present case is the exception permitting a tort action in circumstances of perceptible imminent harm to identifiable individuals or a class of foreseeable victims. She claims that, on the facts of this case, she is a member of an identifiable class of foreseeable victims subject to imminent harm for purposes of satisfying the exception to qualified immunity of a municipal employee for discretionary acts.

[7] Whether bus transportation should have been provided for the after school program is not an issue in this case. The lack of such transportation is relevant only to whether the presence of a parent was foreseeable for the purposes of escorting the student from the school building safely.

[8] Governmental immunity is an affirmative defense and, therefore, the plaintiff was not required to plead facts to allege the absence of that immunity. She needed only to deny, which she did, each and every allegation in the defendants' answer. In response, however, to the defendants' motion for summary judgment, the plaintiff filed an affidavit, pursuant to Practice Book § 17-45, to allege facts from which it can be inferred that she claimed to fall within an exception to governmental immunity.

[9] We note that *Burns* does not limit its holding to apply only to children attending public school during the regular school day. Although *Burns* decided that such children were a class of foreseeable victims to whom the defendant owed a duty, it did not state that such children were the only class of victims to which the defendant could owe a duty.

[10] In discussing the policy choices of the law, *Prescott* refuses, on its facts, to extend the parameters of *Burns* to allow the parent's lawsuit. *Prescott* recognizes that parents do not choose to attend extracurricular activities of their children on the basis of whether they may recover against school officials, if injured. *Prescott* weighs a parent's desire to be involved in a child's activities against the expansion of *Burns* and finds it wanting as a policy consideration. In terms of policy, we consider it probable that more six year olds leaving the building, having attended an after school program, would be injured if no parent escorted them than if parents accompanied them out of the building. Thus, if the six year old was part of an identifiable class but his parent was not, more litigation rather than less would ensue.

Significantly, *Prescott* does not exclude parents of students from class status in all circumstances. *Prescott* observed that, *thus far*, in the context of negligence actions against schools, the only recognized class of foreseeable victims is that of schoolchildren attending public schools during school hours. It did not state that schoolchildren attending public schools during school hours were the only class of persons who could avail themselves of

the identifiable person-imminent harm exception.