



Long Island Federal Judge Says Parents May Sue School, Classmates Over Alleged 'Disturbing Racial Attack'

The Moores were disappointed in the school's response, which failed to separate their son from three classmates who allegedly engaged in harassment.

By [Jane Wester](https://www.law.com/newyorklawjournal/author/profile/jane-wester/) | September 17, 2019 at 01:46 PM

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A lawsuit alleging racial harassment and threats aimed at an African American teenager on Long Island has seen several key claims surviving a defense motion to dismiss.

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Plaintiffs Willie and Ursula Moore said their son was in eighth grade at East Islip's St. Mary School when he began receiving alarming images from three of his classmates through the chat site Discord, Long Island-based attorney Cory Morris wrote in a May 2018 complaint. The pictures targeted the student's race and referenced the KKK, Nazis and suicide, according to copies included with the complaint.

One picture allegedly contained a picture of a noose, which terrified the eighth-grader, according to Morris.

"There's only one thing a noose means to an African American," Morris said.

When the student finally brought the issues to his parents, Morris said, Ursula Moore acted fast. She reported the photos to St. Mary School staff members, local police and the Office of Civil Rights, Morris said.

But outside authorities considered it a school issue, Morris said, and the Moores were disappointed in the school's response, which they say failed to separate their son from the three classmates.

U.S. District Court Judge Denis Hurley of the Eastern District of New York agreed with the Moores' reaction in his order, which was entered in the week before Labor Day.

"While Courts should not second-guess school administrators' disciplinary decisions, this does not give the School Defendants carte blanche to fail to take any meaningful action in response to a disturbing racial attack that supposedly threatened violence," he wrote.

Joseph Nador of Patrick F. Adams PC, who is representing St. Mary School, its former principal and the Roman Catholic Diocese of Rockville Center, wrote in the motion to dismiss that the school did, in fact, impose some separation on the boys, including having one student eat lunch away from the main lunchroom and preventing the other two students from attending some after-school activities.

Nador wrote that the Moores did not claim the Discord harassment occurred at school, so the school lacked substantial control over the situation and therefore could not be held liable.

In its answer the school said that in its information and belief it could not say whether the alleged racial harassment occurred. Attorneys representing the three boys denied that they participated in cyberattacks against the Moores' son.

Hurley granted parts of the defendants' motion to dismiss, but he ruled the Moores could continue to pursue their case on the grounds that the school was negligent, breached its contract and showed deliberate indifference to student-on-student racial harassment while accepting federal funding.

He also found that the eighth-grader's claim for intentional infliction of emotional distress by his three classmates can survive, along with a claim for negligent infliction of emotional distress by the school.

All the defendants quickly responded to Hurley's order, calling for the remaining claims to be dismissed.

Vesselin Mitev of Ray, Mitev & Associates, who is representing one of the three boys, said he's confident the remaining claims will be dismissed once more information comes out through discovery and depositions.

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Nador and Stephen Ruland, a lawyer for Tierney & Tierney representing another of the boys, each said they had little to add to the response they filed in court. A lawyer representing the third boy did not respond to requests for comment.

The Moores' sons are attending different schools this year, Morris said.

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