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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA 25-980

Filed 19 August 2026

Wake County, No. 23CV029207-910

THE ESTATE OF SILAS TULACHAN,
by and through its Co-Administrators
SABIN TULACHAN and MARY
RAYNOR, Plaintiff,

v.

CORPORATION FOR EDUCATIONAL
PARTNERSHIPS d/b/a SOUTHERN WAKE
ACADEMY, Defendant.

Appeal by Plaintiff from order entered 20 December 2024 by Judge Rebecca W. Holt and from judgment entered 19 May 2025 by Judge Gale M. Adams in Wake County Superior Court. Heard in the Court of Appeals 23 April 2026.

Dowling PLLC, by Troy D. Shelton, and Vann Attorneys, PLLC, by Ian S. Richardson, for Plaintiff–Appellant.

Hartzog Law Group LLP, by Katie Weaver Hartzog and Daniel N. Mullins, for Defendant–Appellee.

MURRY, Judge.

The Estate (Plaintiff) of Silas Tulachan (Decedent), through its co-administrators Sabin Tulachan and Mary Raynor, appeals from an order granting a partial motion to dismiss filed by Corporation for Educational Partnerships d/b/a

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Southern Wake Academy (Defendant). The order dismisses Plaintiff's complaint for failure to state a claim of common-law negligence under North Carolina Rule of Civil Procedure 12(b)(6) (Rule). Plaintiff also appeals from the judgment entering a jury verdict that Defendant did not injure Decedent through gross negligence under N.C.G.S. § 115C-376.5 (Act). *See* N.C.G.S. § 115C-376.5(h) (2025). For the reasons below, this Court affirms both the trial court's order and judgment.

I. Background

This matter arises out of the 2022 suicide of thirteen-year-old Silas Tulachan, the Decedent. At the time of his death, he was enrolled in the eighth grade at Southern Wake Academy, a charter school operated by Defendant. On 16 October 2023, Plaintiff filed a complaint against Defendant in Wake County Superior Court alleging common-law negligence, gross negligence, and wrongful death based on Defendant's failure to warn Decedent's parents about the "threat of self-harm" in the weeks leading up to his death by suicide as part of "basic, reasonable, and well-known[] safety protocols." The facts of the complaint allege in relevant part as follows.¹

On 5 October 2022, Decedent sent a message in a group chat with other students, stating, "It won't be funny when I'm gone." Two other students in the group

¹ We view the factual allegations of Plaintiff's complaint as true for the purposes of this appeal and include them in our recitation of the facts here. *See Howell v. Cooper*, 388 N.C. 71, 78 (2025).

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chat responded with concern that Decedent was “suicidal” and would “commit” to what they perceived as a threat of self-harm. Shortly thereafter, a parent of one student in the group chat emailed a sixth-grade teacher at the school of these concerns. That teacher forwarded the email to one of Decedent’s own teachers, who pulled him out of class on 7 October 2022 to ask about the self-harm threats. Three days later, the sixth-grade teacher pulled Decedent out of class for similar reasons. Decedent “expressed to both teachers that he was okay” in response to their concerns. At this time, Decedent’s parents considered him “happy and well-adjusted” and “had no knowledge of [his] having any mental[-]health issues.” That same week, Decedent lost a student-body presidential election “in a very tight race” and stayed home from school the following day. He attended school on 12 October 2022 before his death by suicide death the following day.

In August 2023, Decedent’s parents “discovered that the school had . . . notice of a credible threat of self-harm approximately one week before . . . [Decedent] took his own life.” Two students from Decedent’s former group chat messaged the still-active group chat, frustrated that they had “reported what he said and the school did[]” nothing, and “at least three other” of Defendant’s employees, including a social worker, received copies of the concerned parent’s email. Despite this, no one from the school informed Decedent’s parents of any suicide risk prior to his death.

The complaint alleged that this failure to notify Decedent’s parents violated various mental-health procedures and trainings promulgated by the “Say Something”

program endorsed by the Sandy Hook Promise non-profit organization, Defendant's own employee handbook, and the North Carolina Department of Public Safety's "School Suicide Prevention Toolkit." *See generally* Act of June, 2020, S.L. 2020-7, § 1(a), 2020 N.C. Sess. Laws 95 [hereinafter Mental Health Plan Act] (codified as amended at N.C.G.S. § 115C-376.5)). The complaint further alleged that a "reasonable and prudent person . . . acting under the same or similar circumstances[] would have promptly notified . . . [Decedent's] parents upon receiving the . . . email" and that proper notification would have prevented Decedent's suicide. Based on the "recognized special relationship" of "teacher–pupil," between Defendant and Decedent "[a]t all relevant times" up to his death, the complaint alleged that Defendant owed a "duty to promptly warn" Decedent's parents of any suicide risk, "to implement reasonable safeguards" to prevent suicide efforts, and to "take reasonable steps to protect its students from suicide." Under the theory that Defendant's breach of these duties amounted to ordinary negligence and gross negligence that "proximate[ly] result[ed]" in Decedent's death by suicide, Plaintiff sought a jury trial to recover wrongful-death and punitive damages in a total amount exceeding \$50,000, along with attorneys' fees.

On 18 December 2023, Defendant responded by filing an answer and partial motion to dismiss Plaintiff's ordinary-negligence claim for failure to state a claim under Rule 12(b)(6), claiming that N.C.G.S. § 115C-376.5(h) "limits any civil liability against Defendant for the conduct at issue in this case to gross negligence, wanton

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conduct, or intentional wrongdoing.” Following a 24 April 2024 hearing, the trial court granted Defendant’s motion in part and dismissed Plaintiff’s ordinary-negligence claim with prejudice. The matter proceeded to a full jury trial on the remaining claims on 28 April 2025, after which the jury returned a verdict finding that Decedent did not suffer “damage[] by . . . [Defendant’s] gross negligence.” The trial court issued a judgment on 19 May 2025 entering this verdict and dismissing the matter with prejudice. Plaintiff timely appealed.

II. Jurisdiction

This Court has jurisdiction to hear Plaintiff’s appeal of both the trial court’s (1) judgment because it is the “final judgment of a superior court,” N.C.G.S. § 7A-27(b)(1) (2025), and (2) order dismissing Plaintiff’s claim of ordinary negligence because it is an “intermediate order involving the merits” that “necessarily affect[s] the judgment.” *Id.* § 1-278.

III. Analysis

On appeal, Plaintiff claims that the trial court erred (1) by dismissing its negligence claim on the grounds that the underlying complaint alleged only breaches of common-law duties and (2) by incorrectly construing the relevant statute to preclude any further common-law negligence claims. *See* N.C.G.S. § 115C-376.5(h) (limiting school-based, mental-health-plan-related liability to “gross negligence, wanton conduct, or intentional wrongdoing”). We review *de novo* both Rule 12(b)(6) dismissals and questions of statutory construction. *See Bossian v. Chica*, 297 N.C.

App. 1, 6 (2024) (Rule 12(b)(6) dismissal); *McKoy v. McKoy*, 202 N.C. App. 509, 511 (2010) (statutory construction). For the following reasons, we hold that the trial court did not err and thus affirm both the order dismissing Plaintiff's ordinary-negligence claim and the subsequent judgment.

A. Common-Law Duty

First, Plaintiff argues that the trial court erred by dismissing its common-law negligence claim against Defendant because the limitation-of-liability clause in N.C.G.S. § 115C-376.5 does not apply to Plaintiff's claim. N.C.G.S. § 115C-376.5 addresses specific requirements for "school-based mental health plan[s]" by outlining the limitation of liability for relevant claims as follows:

No governing body of a K-12 school unit . . . shall be liable in civil damages to any party for any loss or damage caused by any act or omission relating to the provision of, participation in, or implementation of any component of a school-based mental health plan, mental health training program, or suicide risk referral protocol required by this section, unless that act or omission amounts to gross negligence, wanton conduct, or intentional wrongdoing.

N.C.G.S. § 115C-376.5(h). Plaintiff contends that its ordinary-negligence claim is not based on Defendant's failure to comply with the statute but simply on a preexisting common-law duty of care. Plaintiff argues the trial court erroneously viewed N.C.G.S. § 115C-376.5(h) as prohibiting all ordinary-negligence claims related to school "suicide referral protocols" and claims that Defendant's position "is that the General Assembly immunized all public and charter schools in this state from negligence claims related to student suicide." But Defendant argues only that Plaintiff failed to

state a claim of ordinary negligence here independent of N.C.G.S. § 115C-376.5(h)'s requirements and does not extend its argument to claim that the statute forecloses all ordinary-negligence claims arising from a student's risk of suicide.

When reviewing a Rule 12(b)(6) dismissal, we “consider[] whether the allegations of the complaint, if treated as true, . . . sufficient[ly] . . . state a claim upon which relief can be granted under some legal theory.” *Bossian*, 297 N.C. App. at 6–7 (quotation omitted). The trial court must dismiss the complaint when either “(1) it appears certain that plaintiff[] could prove no set of facts which would entitle [it] to relief under some legal theory; (2) no law exists to support the claim made; or (3) the complaint on its face discloses facts that necessarily defeat the claim.” *Howell v. Cooper*, 388 N.C. 71, 78 (2025) (emphases omitted). Plaintiff fails to show a special relationship between Defendant and Decedent that implicates a duty of care as a matter of law. Thus, we affirm the trial court's order that dismisses Plaintiff's common-law negligence claim.

To bring a claim of common-law negligence, a plaintiff “must allege: (1) a legal duty; (2) a breach thereof; and (3) injury proximately caused by the breach.” *Stein v. Asheville City Bd. of Educ.*, 360 N.C. 321, 328 (2006). Our common law ordinarily does not impute a duty to either “control the actions of a third party, [] or to protect another from a third party.” *Scadden v. Holt*, 222 N.C. App. 799, 802 (2012). But an “exception to the general rule exists where . . . a special relationship between the defendant and the third person” either “imposes a duty upon the defendant to control

the third person's conduct" or "gives the injured party a right to protection." *Hedrick v. Rains*, 121 N.C. App. 466, 469, *aff'd per curiam*, 344 N.C. 729 (1996).

We have recognized certain categories of special relationships, including "(1) parent-child, (2) master-servant, (3) landowner-licensee, (4) custodian-prisoner, and (5) institution-involuntarily committed mental patient." *King v. Durham Cnty. Mental Health Dev'l Disabilities & Substance Abuse Auth.*, 113 N.C. App. 341, 346 (1994) (citations omitted). But "[t]hese are not the only special relationships which [may] . . . create a duty of protection or control." *Scadden*, 222 N.C. App. at 802. "Rather, where the underlying justification for imposing a duty to protect or control applies, a court may find that a special relationship exists." *Id.* at 802-03; *see, e.g., Smith v. Camel City Cab Co.*, 227 N.C. 572, 574 (1947) (common carrier-passenger); *Braswell v. Braswell*, 330 N.C. 363 (1991) (informant-law-enforcement). To impose the duty in this context, though, the plaintiff must show that the defendant (1) "knew or should have known" of that third party's "propensity" towards self-harm and (2) had the "ability *and* opportunity to control" the third party as of the harmful act.² *Stein*, 360 N.C. at 331 (emphasis added; brackets omitted).

Here, Plaintiff asks us to recognize a special relationship between a school and its students that would impose a duty upon the school to protect its students from

² Death by suicide is similar to certain criminal acts in this context only because they both involve the injury of a person. At no point does this reasoning endorse the outdated notion of death by suicide as a criminal act. *See* N.C.G.S. § 14-17.1 (2025) ("The common-law crime of suicide is hereby abolished as an offense.").

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acts or omissions constituting ordinary negligence. But because North Carolina courts have long refused to recognize such an all-encompassing special relationship that extends to injuries outside of the school's control, we decline to do so here. *E.g.*, *Stein*, 360 N.C. at 332 (no legal duty for school to “forestall” students’ crimes committed at public intersection); *Mynhardt v. Elon Univ.*, 220 N.C. App. 368, 375–76 (2012) (no duty of care owed by school to protect student from drinking-related injuries at off-campus party). *See generally Doe v. United States*, 381 F. Supp. 3d 573, 603 (M.D.N.C. 2019) (“North Carolina courts have had ample time and opportunity to add the school–student relationship to the enumerated special-relationship categories and they have declined to do so.”).

Our appellate courts’ decisions in *Davidson v. UNC at Chapel Hill*, 142 N.C. App. 544 (2001), and *Stein v. Asheville City Bd. of Educ.*, 360 N.C. 321 (2006), illustrate the point at which a school–student relationship implicates the “duty to control the actions of a third party,” *Scadden*, 222 N.C. App. at 802. In *Davidson*, the plaintiff cheerleader “suffered permanent brain damage and serious bodily injury” while practicing a routine as part of the defendant university’s JV cheerleading squad. *Davidson*, 142 N.C. App. at 546. Despite providing the “squad[] with school uniforms, transportation to away games and other events, and access to university facilities and equipment,” the defendant offered the squad’s members “no safety training or instruction” otherwise. *Id.* at 547–48. In holding that “a special relationship existed between the parties” in this educational context, we

“emphasize[d]” that the defendant’s duty of care stemmed from the injury’s occurrence during a “school-sponsored, intercollegiate team” practice. *Id.* at 555–56. We reasoned that the defendant “exerted a considerable degree of control over its cheerleaders” at that time and expressly disclaimed an extension of this rationale to any “relationship . . . between a[n] . . . educational institution[] and every student attending” it. *Id.* at 556. Importantly for this case, the *Davidson* Court held the student–educator “relationship, standing alone,” is not “a special relationship giving rise to a duty of care.” *Id.*

In *Stein*, the plaintiffs sued the defendant board of education after two of its school’s students robbed them at gunpoint. *Stein*, 360 N.C. at 324. The school specialized in managing “behaviorally and emotionally handicapped children”; it also informally declined to “report[] violent or criminal student activities unless those activities were likely to expose offending students to substantial incarceration.” *Id.* at 323. A volunteer monitor overheard the offending students plan their robbery while on the school bus but did not “inform[] school officials or law enforcement.” *Id.* at 324. The plaintiffs sued when the students shot and robbed them only after disembarking from the bus. *Id.* Recognizing a “special relationship between a defendant and a third person in certain circumstances,” *id.* at 330, our Supreme Court nonetheless held that the defendant did not owe the plaintiffs a duty of care to prevent the robbery, *id.* at 332. The *Stein* Court reasoned that the students left the “defendant’s custody and control . . . once the[y] . . . exited the bus.” *Id.*

Here, Plaintiff's complaint alleges "a recognized special relationship" between Defendant and Decedent—*i.e.*, that of "teacher–pupil." Plaintiff does not allege that Decedent committed suicide while within Defendant's control or authority. As both parties concede, Decedent died in his own bedroom away from Defendant's property. Defendant's employees inquired of Decedent's suicidal ideation, which indicates at least constructive knowledge of his "propensit[y]" towards self-harm prior to his death. *Stein*, 360 N.C. at 331. But Plaintiff does not show the "ability *and* opportunity to control" Decedent regarding the suicide itself. *Id.* (emphasis added). Because Plaintiff does not allege the necessary legal duty for its common-law negligence claim against Defendant, we must affirm the trial court's order dismissing that portion of Plaintiff's complaint.

B. Statutory Liability

Second, Plaintiff argues that interpreting N.C.G.S. § 115C-376.5(h) to limit a school's civil liability to claims of gross negligence "expand[s] the limitation of liability beyond the statute's plain terms" and "inverts basic tort principles . . . by immunizing schools for careless conduct toward the children most deserving of their care." Plaintiff suggests that the General Assembly limited this gross-negligence standard only to actions specifically "required by" that statute. (Quoting Mental Health Plan Act at 96.) Defendant responds with varied statutory claims of strict construction "in derogation of the common law."

Both parties make compelling arguments, but we need not define the potential

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limitations of liability under N.C.G.S. § 115C-376.5(h) here. The trial court properly dismissed Plaintiff's complaint for failure to state a claim for ordinary negligence under Rule 12(b)(6), and the jury considered Plaintiff's claim for gross negligence and decided against Plaintiff. We do not address whether N.C.G.S. § 115C-376.5 statutorily forecloses the possibility of all claims of common-law negligence because that is not the issue in this case. *See Mauck v. Cherry Oil Co.*, 388 N.C. 325, 333 (2025) (affirming trial court's Rule 12(b)(6) "judgment when[ever] its result is correct"). Defendant owed no heightened duty of care from a special relationship with Decedent, so the statute derogated no common-law duty in this specific student–educator context. *See* Antonin Scalia & Bryan A. Garner, *Reading Law* 318 (2012) (cautioning against interpretation of "statutes . . . as changing the common law unless they effect the change with clarity"). Because "this issue is resolv[able] on more narrow grounds," we decline to consider whether N.C.G.S. § 115C-376.5 may derogate our common law in other contexts. *Piedmont Inst. of Pain Mgmt. v. Staton Found.*, 157 N.C. App. 577, 591–92 (2003); *accord* Bryan A. Garner et al., *The Law of Judicial Precedent* 52 (2016) ("expressly stating that a given conclusion is the holding of a case" "to prevent mischaracterization thereof" (brackets omitted)).

IV. Conclusion

For the reasons discussed above, this Court affirms the trial court's order dismissing Plaintiff's claim of common-law negligence and its judgment entering the jury's verdict that Defendant did not injure Decedent through gross negligence.

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AFFIRMED.

Chief Judge DILLON and Judge STROUD concur.

Report per Rule 30(e).