



# Jury Awards \$41.5 Million Verdict for Study Abroad Student in Failure to Warn Case

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The Connecticut Supreme Court recently upheld a \$41.5 million verdict in favor of a high school student who became ill during her school's study abroad program. The Court's decision is intended to promote stricter safety standards for study abroad programs. Although this case involved a high school, many higher education groups fear that the outcome of this case may also deter colleges and universities from offering study abroad programs.

In 2007, fifteen-year-old high school student, Cara Munn, attended Hotchkiss School's study abroad program in China. Munn became ill from tick-borne encephalitis after hiking China's Mount Panshan with her school group. Munn and several other students decided to hike down the mountain, while the rest of their group took a cable car. Munn testified that she and the other students got lost during this hike, forcing them to navigate through many presumably tick infested bushes. Munn claims that no one instructed her to use bug spray during this trip.

After the trip to Mount Panshan, Munn sustained numerous insect bites and a welt to her left arm. Ten days later, Munn awoke with a fever and was taken to the hospital where her condition rapidly worsened. Munn became severely ill, partially paralyzed and needed to be airlifted back to New York. As a result of this illness, Munn permanently lost her ability to speak. At trial, she testified with the aid of an electronic device that enabled her to type her answers for the Court.

Munn filed a lawsuit against the Hotchkiss School, a private boarding school, alleging that the School had been negligent by failing to warn students of the risk of viral encephalitis and by failing to ensure they took safeguards against insect bites and insect-borne diseases. The jury found in favor of Munn, and awarded her \$41.5 million in damages. The Hotchkiss School appealed the decision and requested a ruling from the Connecticut Supreme Court on the following two issues of state law: (1) Does Connecticut public policy support imposing a duty on a school to warn about or protect against the risk of a serious insect-borne disease when it organizes a trip abroad? (2) If so, does an award of approximately \$41.5 million in favor of the plaintiff, \$31.5 million of which are noneconomic damages, warrant remitter?

The Connecticut Supreme Court answered yes to the first question and no to the second. The Court reasoned that "it is widely recognized that schools generally are obligated to exercise reasonable care to protect students in their charge from foreseeable dangers, and there is no compelling reason to create an exception for foreseeable serious insect-borne diseases, we conclude that the imposition of such a duty is not contrary to Connecticut public policy." As for the verdict, the Connecticut Supreme Court deferred to the jury's judgment, finding that "there was no allegation that the jury was prejudiced, incompetent or otherwise compromised ... furthermore, the

district court, which was in a position to evaluate the testimony firsthand, did not improperly assess of the plaintiff's injuries as uniquely cruel, as she had completely lost the ability to have meaningful communication and interaction with people, and, given her long life expectancy and the fact that the physical effects of her injuries will worsen as she ages, her psychological condition will deteriorate over time."

Higher education groups fear that this case could have a chilling effect on institutions offering study abroad programs, contending that the risk of the serious insect-borne disease was not reasonably foreseeable. The court responded to this fear asserting that their decision was not intended to have a chilling effect on educational travel, but "the salutary effect of promoting safety by ensuring the appropriate warnings are given, and appropriate protective measures are taken."

Hotchkiss School is still offering a study abroad program to China. Colleges and universities should take all appropriate measures to ensure the safety of all students during study abroad programs. Institutions are encouraged to review and if necessary, revise their policies and procedures around study abroad and student programs in order to ensure compliance with the developing law.

*If you have any questions or concerns regarding employment or education-related issues, please contact James G. Ryan at [jryan@cullenanddykman.com](mailto:jryan@cullenanddykman.com) or at 516-357-3750.*

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