

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D14214
C/mv

_____AD3d_____

Argued - February 15, 2007

WILLIAM F. MASTRO, J.P.
GABRIEL M. KRAUSMAN
ANITA R. FLORIO
RUTH C. BALKIN, JJ.

2006-00732

DECISION & ORDER

Lisa Farrell, appellant, et al., plaintiffs, v Matthew Maiello, etc., defendant, Thomas Haggerty, etc., et al., respondents.

(Index No. 8934/04)

Michael G. Dowd, New York, N.Y., for appellant.

Mulholland, Minion & Roe, Williston Park, N.Y. (Brian R. Davey of counsel), for respondents.

In an action, inter alia, to recover damages for sexual abuse, the plaintiff Lisa Farrell appeals from an order of the Supreme Court, Nassau County (Cozzens, J.), dated December 22, 2005, which granted the motion of the defendants Thomas Haggerty, William Francis Murphy, St. Raphael's Roman Catholic Parish Church, Roman Catholic Diocese of Rockville Centre, John Doe, Jane Doe, Richard Roe, and Jane Roe for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the order is affirmed, with costs.

The defendants Thomas Haggerty, William Francis Murphy, St. Raphael's Roman Catholic Parish Church, Roman Catholic Diocese of Rockville Centre, John Doe, Jane Doe, Richard Roe, and Jane Roe (hereinafter the church defendants) established that they were entitled to summary judgment dismissing the complaint insofar as asserted against them. The complaint alleged that they, inter alia, negligently hired, negligently retained, and negligently supervised their former youth group

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director, the defendant Matthew Maiello (*see Universal Underwriters Acceptance Corp. v Peerless Ins. Co.*, 31 AD3d 749; *see also Zuckerman v City of New York*, 49 NY2d 557, 562). Because Maiello was no longer employed as the youth director at the time he abused the plaintiff Lisa Farrell (hereinafter the plaintiff), and because the abuse occurred in Maiello's apartment, there was no nexus between Maiello's employment and the abuse of the plaintiff, as it was severed by time, place, and the intervening independent acts of Maiello (*see K.I. v New York City Bd. of Educ.*, 256 AD2d 189; *see also Anonymous v Dobbs Ferry Union Free School Dist.*, 290 AD2d 464). The plaintiff failed to raise a triable issue of fact as to the church defendants' continued control or supervision of Maiello (*see generally Alvarez v Prospect Hosp.*, 68 NY2d 320, 324).

The plaintiff's remaining contentions are without merit.

MASTRO, J.P., KRAUSMAN, FLORIO and BALKIN, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court