

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

D17292  
X/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - October 12, 2007

STEPHEN G. CRANE, J.P.  
ANITA R. FLORIO  
DANIEL D. ANGIOLILLO  
EDWARD D. CARNI, JJ.

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2007-00185

DECISION & ORDER

Jonathan LaMacchia, etc., et al., respondents, v  
City of New Rochelle, defendant, New Rochelle  
City School District, appellant.

(Index No. 02736/05)

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O'Connor, McGuinness, Conte, Doyle & Oleson (Congdon, Flaherty, O'Callaghan, Reid, Donlon, Travis & Fishlinger, Uniondale, N.Y. [Christine Gasser] of counsel), for appellant.

James J. Killerlane, New York, N.Y. (David Samel of counsel), for respondents.

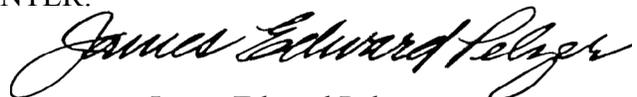
In an action to recover damages for personal injuries, etc., the defendant New Rochelle City School District appeals from an order of the Supreme Court, Westchester County (Smith, J.), dated December 5, 2006, which denied its motion for summary judgment dismissing the complaint insofar as asserted against it.

ORDERED that the order is affirmed, with costs.

As the Supreme Court correctly found, in opposition to the appellant's prima facie showing the plaintiffs raised triable issues of fact sufficient to warrant the denial of the appellant's summary judgment motion (*see Mirand v City of New York*, 84 NY2d 44, 49-51; *Smith v Poughkeepsie City School Dist.*, 41 AD3d 579, 580).

CRANE, J.P., FLORIO, ANGIOLILLO and CARNI, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

December 18, 2007

LaMACCHIA v CITY OF NEW ROCHELLE