

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

D17952  
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Submitted - January 2, 2008

WILLIAM F. MASTRO, J.P.  
STEVEN W. FISHER  
ANITA R. FLORIO  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON, JJ.

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2007-07246

DECISION & ORDER

Marilyn Rodriguez, etc., appellant, v  
City of New York, et al., respondents.

(Index No. 15229/06)

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Madeline Lee Bryer, P.C., New York, N.Y. (Jonathan I. Edelstein of counsel), for  
appellant.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited by her brief, from so much of an order of the Supreme Court, Kings County (Battaglia, J.), dated June 15, 2007, as granted that branch of her motion pursuant to CPLR 3124 which was to direct the defendants to produce items 16, 17, and 18 of her demand for discovery and inspection only to the extent of directing the defendants to produce certain reports and statistics for a one-year period of time prior to the incident.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

The Supreme Court providently exercised its discretion in limiting the disclosure sought in items 16, 17, and 18 of the plaintiff's demand for discovery and inspection only to reports and statistics concerning violent behavior by students at the school for the one-year period of time prior to the subject incident. The other disclosure sought in these items concerned information that was not material and necessary to the issue of whether the school officials had actual or constructive

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notice of the dangerous conduct that caused the injury (*see Culbert v City of New York*, 254 AD2d 385, 388; *see generally Mirand v City of New York*, 84 NY2d 44, 49; *McLeod v City of New York*, 32 AD3d 907, 908; *Whitfield v Board of Educ. of City of Mount Vernon*, 14 AD3d 552).

MASTRO, J.P., FISHER, FLORIO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court