

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

D18778  
X/kmg

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

Argued - February 28, 2008

REINALDO E. RIVERA, J.P.  
ROBERT A. LIFSON  
ANITA R. FLORIO  
CHERYL E. CHAMBERS, JJ.

2007-03390  
2008-02803

DECISION & ORDER

Daniel George Strnad, etc., et al., appellants,  
v Floral Park-Bellerose Union Free School  
District, et al., defendants, Floral Park Memorial  
High School, et al., respondents.

(Index No. 6104/05)

Law Office of Andrew C. Laufer, PLLC, New York, N.Y., for appellants.

Law Office of Jeffrey S. Shein and Associates, P.C., Syosset, N.Y. (Charles R.  
Strugatz of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from an order of the Supreme Court, Nassau County (Brandveen, J.), entered March 29, 2007, which granted the motion of the defendants Floral Park Memorial High School and Sewanhaka Central High School District for summary judgment dismissing the complaint insofar as asserted against them. The appeal brings up for review so much of an order of the same court dated May 21, 2007, as, upon reargument, adhered to the original determination (*see* CPLR 5517[b]).

ORDERED that the appeal from the order entered March 29, 2007, is dismissed, as that order was superseded by the order dated May 21, 2007, made upon reargument; and it is further,

ORDERED that the order dated May 21, 2007, is affirmed insofar as reviewed; and it is further,

ORDERED that one bill of costs is awarded to the respondents.

April 8, 2008

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STRNAD v FLORAL PARK-BELLEROSE UNION FREE SCHOOL DISTRICT

The defendants Floral Park Memorial High School and Sewanhaka Central High School District (hereinafter the defendants) made a prima facie showing of entitlement to summary judgment dismissing the complaint insofar as asserted against them. They established that they had no actual or constructive knowledge of any prior similar conduct by the defendant Daniel McGovern and that his spontaneous act against the plaintiff could not have been reasonably anticipated. Contrary to the plaintiffs' contention, McGovern's disciplinary record, which showed latenesses, cutting classes, and a highly disrespectful attitude towards the teachers and administration, but no violence against any students, was insufficient to put the defendants on notice of the possibility of this type of conduct (*see Moody v New York City Bd. of Educ.*, 8 AD3d 639; *see generally Mirand v City of New York*, 84 NY2d 44, 49-50; *cf. Wilson v Vestal Cent. School Dist.*, 34 AD3d 999, 1000). In opposition, the plaintiffs failed to raise a triable issue of fact.

RIVERA, J.P., LIFSON, FLORIO and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court