

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

D19950
W/kmg

_____AD3d_____

Argued - May 20, 2008

REINALDO E. RIVERA, J.P.
DAVID S. RITTER
HOWARD MILLER
MARK C. DILLON, JJ.

2007-07905

DECISION & ORDER

Diana Hallock, etc., respondent, v Riverhead
Central School District, appellant.

(Index No. 15009/05)

Mulholland, Minion & Roe (Congdon, Flaherty, O’Callaghan, Reid, Donlon, Travis
& Fishlinger, Uniondale, N.Y. [Christine Gasser], of counsel), for appellant.

Bauman, Kunkis & Ocasio-Douglas, (Arnold E. DiJoseph, P.C., New York, N.Y.
[Arnold E. DiJoseph III], of counsel), for respondent.

In an action, inter alia, to recover damages for personal injuries, etc., the defendant
appeals from an order of the Supreme Court, Suffolk County (R. Doyle, J.), dated July 24, 2007,
which denied its motion for summary judgment dismissing the complaint.

ORDERED that the order is reversed, on the law, without costs or disbursements, and
the defendant’s motion for summary judgment dismissing the complaint is granted.

“In determining whether the duty to provide adequate supervision has been breached
in the context of injuries caused by the acts of fellow students, it must be established that school
authorities had sufficiently specific knowledge or notice of the dangerous conduct which caused
injury . . . that is, that the third-party acts could reasonably have been anticipated” (*Mirand v City of
New York*, 84 NY2d 44, 49; *see Whitfield v Board of Educ. of City of Mount Vernon*, 14 AD3d 552).
Here, the defendant established its prima facie entitlement to judgment as a matter of law by
submitting evidence that it had no actual or constructive notice or knowledge of alleged misconduct
on the school bus and at the school (*see Corona v Suffolk Transp. Serv., Inc.*, 29 AD3d 726, 727).

July 8, 2008

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In opposition, the plaintiffs failed to raise a triable issue of fact (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324; *Zuckerman v City of New York*, 49 NY2d 557, 562). Accordingly, the defendant's motion for summary judgment dismissing the complaint should have been granted.

The defendant's remaining contention has been rendered academic.

RIVERA, J.P., RITTER, MILLER and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court