

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

D23529
Y/cb

_____AD2d_____

Argued - April 21, 2009

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
THOMAS A. DICKERSON
PLUMMER E. LOTT, JJ.

2008-06542

DECISION & ORDER

Louis Teodoro, etc., et al., respondents, v Longwood
Central School District, appellant.

(Index No. 21236/06)

Congdon, Flaherty, O’Callaghan, Reid, Donlon, Travis & Fishlinger, Uniondale, N.Y.
(Gregory A. Cascino of counsel), for appellant.

Reynolds Caronia & Gianelli, Hagney & LaPinta, LLP, Hauppauge, N.Y. (Michael
E. Fehringer of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the defendant appeals from an order of the Supreme Court, Suffolk County (Rebolini, J.), dated June 18, 2008, which denied its motion for summary judgment dismissing the complaint.

ORDERED that the order is reversed, on the law, with costs, and the defendant’s motion for summary judgment dismissing the complaint is granted.

The infant plaintiff was injured while learning to play golf in gym class. Early in the class, the students were instructed not to step forward to take their turn until the student who was taking a swing was finished and had put his club down. The injury occurred when the infant plaintiff stepped forward after the student in front of him had taken a swing, but before that student had put the club down. At that moment, the other student suddenly swung the club backward a second time and the plaintiff was struck in the face with it.

“Schools are under a duty to adequately supervise the students in their charge and they will be held liable for foreseeable injuries proximately related to the absence of adequate supervision”

June 16, 2009

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(*Mirand v City of New York*, 84 NY2d 44, 49 [citations omitted]). The defendant established its prima facie entitlement to judgment as a matter of law by presenting evidence that there was adequate supervision in the school's gymnasium, and the plaintiffs failed to raise a triable issue of fact in response (see *Navarra v Lynbrook Pub. Schools, Lynbrook Union Free School Dist.*, 289 AD2d 211; *Janukajtis v Fallon*, 284 AD2d 428).

Accordingly, the defendant's motion for summary judgment dismissing the complaint should have been granted.

MASTRO, J.P., SKELOS, DICKERSON and LOTT, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court