

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

D24181
Y/prt

_____AD3d_____

Argued - May 22, 2009

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
RUTH C. BALKIN
JOHN M. LEVENTHAL, JJ.

2008-09836

DECISION & ORDER

Anthony Riello, an infant by his father and natural guardian, Joseph Riello, et al., respondents, v North Rockland Central School District, appellant, et al., defendant.

(Index No. 1516/03)

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

Sichol & Hicks, P.C., Suffern, N.Y. (William R. Sichol, Jr., of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the defendant North Rockland Central School District appeals from so much of an order of the Supreme Court, Rockland County (Nelson, J.), dated September 24, 2008, as denied those branches of its motion which were for summary judgment dismissing the causes of action based upon negligent supervision and failure to transport.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The Supreme Court properly denied those branches of the motion of the defendant North Rockland Central School District which were for summary judgment dismissing the causes of

September 8, 2009

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action based on negligent supervision and failure to transport. In opposition to the defendant's prima facie showing of entitlement to judgment as a matter of law, the plaintiffs demonstrated the existence of triable issues of fact as to the existence of a special relationship (*see Zuckerman v City of New York*, 49 NY2d 557,562).

SKELOS, J.P., SANTUCCI, BALKIN and LEVENTHAL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large initial "J".

James Edward Pelzer
Clerk of the Court