

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

D26051
H/kmg

_____AD3d_____

Argued - January 5, 2010

MARK C. DILLON, J.P.
JOSEPH COVELLO
HOWARD MILLER
CHERYL E. CHAMBERS, JJ.

2009-07630

DECISION & ORDER

Christopher Cohn, etc., et al., respondents, v Board
of Education of Three Village Central School District,
et al., appellants.

(Index No. 35928/07)

Devitt Spellman Barrett, LLP, Smithtown, N.Y. (Diane K. Farrell of counsel), for
appellants.

Kevin M. Fox, PLLC, Hauppauge, N.Y., for respondents.

In an action to recover damages for personal injuries, etc., the defendants appeal from
an order of the Supreme Court, Suffolk County (Mayer, J.), dated July 17, 2009, which denied their
motion for summary judgment dismissing the complaint.

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

A school is not an insurer of the safety of its students, since it cannot reasonably be
expected to continuously supervise and control all of their movements and activities (*see Mirand v
City of New York*, 84 NY2d 44, 49). In this case, the defendants made a prima facie showing of
entitlement to summary judgment by demonstrating that they provided adequate supervision and, in
any event, that any alleged inadequacy in the level of supervision provided was not a proximate cause
of the accident (*see Paragas v Comsewogue Union Free School Dist.*, 65 AD3d 1111). In
opposition, the plaintiffs failed to raise a triable issue of fact (*id.*). Accordingly, the Supreme Court

should have granted the defendants' motion for summary judgment dismissing the complaint.

The plaintiffs' remaining contentions are without merit.

DILLON, J.P., COVELLO, MILLER and CHAMBERS, 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