

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

D35181  
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Argued - March 27, 2012

DANIEL D. ANGIOLILLO, J.P.  
THOMAS A. DICKERSON  
JOHN M. LEVENTHAL  
ROBERT J. MILLER, JJ.

2011-01754  
2011-11555

DECISION & ORDER

Brooks O. S. (Anonymous), etc., appellant, v  
Huntington Union Free School District, respondent.

(Index No. 5727/08)

Le Verrier Law Firm, East Hampton, N.Y. (Conrad Jordan of counsel), for appellant.

Donohue, McGahan, Catalano & Belitsis (Congdon, Flaherty, O'Callaghan, Reid, Donlon, Travis & Fishlinger, Uniondale, N.Y. [Kathleen D. Foley], of counsel), for respondent.

In an action to recover damages for personal injuries, etc., the plaintiff appeals from (1) an order of the Supreme Court, Suffolk County (Mayer, J.), dated December 27, 2010, which granted the defendant's motion for summary judgment dismissing the complaint, and (2) a judgment of the same court (Pascale, J.), entered January 19, 2011, which, upon the order, is in favor of the defendant and against him, dismissing the complaint and awarding costs to the defendant.

ORDERED that the appeal from the order is dismissed; and it is further,

ORDERED that the judgment is affirmed; and it is further,

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

The appeal from the intermediate order must be dismissed because the right of direct appeal therefrom terminated with the entry of judgment in the action (*see Matter of Aho*, 39 NY2d 241). The issues raised on the appeal from the order are brought up for review and have been considered on the appeal from the judgment (*see CPLR 5501[a][1]*).

June 6, 2012

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In support of its motion for summary judgment dismissing the complaint, the defendant made a prima facie showing of its entitlement to judgment as a matter of law. The evidence submitted by the plaintiff in opposition to the defendant's motion failed to raise a triable issue of fact. Accordingly, the Supreme Court properly granted the defendant's motion for summary judgment dismissing the complaint.

The plaintiff's remaining contentions are without merit.

ANGIOLILLO, J.P., DICKERSON, LEVENTHAL and MILLER, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court