

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

D36160
C/hu

_____AD3d_____

Submitted - September 4, 2012

PETER B. SKELOS, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
JEFFREY A. COHEN, JJ.

2011-01202

DECISION & ORDER

David B. Jacobs, appellant, v Evelyn Holman, et al.,
defendants, Darlene Dartch, et al., respondents.

(Index No. 14131/10)

David B. Jacobs, Dix Hills, N.Y., appellant pro se.

Richard E. Casagrande, New York, N.Y. (Keith J. Gross of counsel), for respondents.

In an action, inter alia, to recover damages for breach of a duty of fair representation, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Jones, Jr., J.), dated November 18, 2010, which granted the motion of the defendants Bay Shore Classroom Teachers Association, Inc., Darlene Dartch, Nancy Kavanaugh, New York State United Teachers, and Tammy Mays pursuant to CPLR 3211(a)(7) to dismiss the complaint insofar as asserted against them.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly granted the motion of the defendants Bay Shore Classroom Teachers Association, Inc., Darlene Dartch, Nancy Kavanaugh, New York State United Teachers, and Tammy Mays (hereinafter collectively the moving defendants) pursuant to CPLR 3211(a)(7) to dismiss the complaint insofar as asserted against them since “[t]he complaint fails to allege sufficient facts to state a cause of action to recover damages for breach of a duty of fair representation” (*Portlette v Toussaint*, 31 AD3d 730, 730-731).

In light of our determination, we need not address the moving defendants’ remaining contentions.

October 24, 2012

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

ENTER:


Aprilanne Agostino
Clerk of the Court