

**SUPREME COURT OF THE STATE OF NEW YORK**  
*Appellate Division, Fourth Judicial Department*

633

**CA 08-02568**

PRESENT: SCUDDER, P.J., CENTRA, CARNI, SCONIERS, AND PINE, JJ.

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BARBARA A. MISLIN, INDIVIDUALLY AND AS  
ADMINISTRATOR AND DISTRIBUTE OF THE ESTATE OF  
THEODORE W. MISLIN, SR., DECEASED, AND AS  
ADMINISTRATOR AND DISTRIBUTE OF THE ESTATE  
OF THEODORE W. MISLIN, JR., DECEASED,  
PLAINTIFF-APPELLANT,

V

ORDER

CITY OF TONAWANDA SCHOOL DISTRICT, ANDREW  
FREEDMAN, INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS SCHOOL ATTORNEY FOR CITY OF  
TONAWANDA SCHOOL DISTRICT, DIANA D. GREENE,  
INDIVIDUALLY AND IN HER OFFICIAL CAPACITY AS  
SUPERINTENDENT OF CITY OF TONAWANDA SCHOOL  
DISTRICT, AND BOARD OF EDUCATION OF CITY OF  
TONAWANDA SCHOOL DISTRICT,  
DEFENDANTS-RESPONDENTS.

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CHACCHIA & FLEMING, LLP, HAMBURG (CHRISTEN ARCHER PIERROT OF  
COUNSEL), FOR PLAINTIFF-APPELLANT.

WEBSTER SZANYI LLP, BUFFALO (MICHAEL P. MCCLAREN OF COUNSEL), FOR  
DEFENDANTS-RESPONDENTS CITY OF TONAWANDA SCHOOL DISTRICT, DIANA D.  
GREENE, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY AS SUPERINTENDENT OF  
CITY OF TONAWANDA SCHOOL DISTRICT, AND BOARD OF EDUCATION OF CITY OF  
TONAWANDA SCHOOL DISTRICT.

DAMON MOREY LLP, BUFFALO (STEVEN ZWEIG OF COUNSEL), FOR  
DEFENDANT-RESPONDENT ANDREW FREEDMAN, INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS SCHOOL ATTORNEY FOR CITY OF TONAWANDA SCHOOL DISTRICT.

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Appeal from an order of the Supreme Court, Erie County (Gerald J. Whalen, J.), entered September 18, 2008 in an action for negligence and wrongful death. The order granted the motions of defendants to dismiss the complaint.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs for reasons stated in the decision at Supreme Court.

Entered: April 30, 2010

Patricia L. Morgan  
Clerk of the Court