

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

1387

CA 12-00937

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, VALENTINO, AND WHALEN, JJ.

CHARTER SCHOOL FOR APPLIED TECHNOLOGIES,
DOMINIQUE WILSON, AS PARENT AND NATURAL
GUARDIAN OF MICHAEL EPPERSON, AN INFANT,
AND TONYA ROBINSON, AS PARENT AND NATURAL
GUARDIAN OF NOELLE CLARK, NAILAH ROBINSON,
AND LAYLA ROBINSON, INFANTS,
PLAINTIFFS-RESPONDENTS,

V

MEMORANDUM AND ORDER

BOARD OF EDUCATION FOR CITY SCHOOL DISTRICT
OF CITY OF BUFFALO, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

HISCOCK & BARCLAY, LLP, BUFFALO (JAMES P. MILBRAND OF COUNSEL), FOR
DEFENDANT-APPELLANT.

RUPP, BAASE, PFALZGRAF, CUNNINGHAM & COPPOLA LLC, BUFFALO (LISA A.
COPPOLA OF COUNSEL), FOR PLAINTIFFS-RESPONDENTS.

Appeal from a judgment of the Supreme Court, Erie County (John A. Michalek, J.), entered March 30, 2012. The judgment awarded plaintiffs the sum of \$6,873,646.91 against defendant.

It is hereby ORDERED that the judgment so appealed from is unanimously vacated without costs, the amended order entered March 5, 2012 is modified on the law by denying those parts of plaintiffs' motion with respect to the first and second causes of action in their entirety and by granting defendant summary judgment dismissing the first cause of action, and as modified the amended order is affirmed and the matter is remitted to Supreme Court, Erie County, for a trial on the issue of liability.

Same Memorandum as in *Charter School for Applied Tech. v Board of Educ. for City School Dist. of City of Buffalo* ([appeal No. 1] ___ AD3d ___ [Apr. 26, 2013]).

Entered: April 26, 2013

Frances E. Cafarell
Clerk of the Court