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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 227 SSM 36
Summer H., &c., et al.,
Appellants,
v.
The New York City Department of
Education,
Respondent.

Submitted by Alan C. Kestenbaum, for appellants.
Submitted by Norman Corenthal, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs.

Viewing the evidence in a light most favorable to
plaintiff (see e.g. Branham v Loews Orpheum Cinemas, Inc., 8 NY3d
931, 931 [2007]), defendant demonstrated its entitlement to

summary judgment dismissing the complaint. The infant-
plaintiff's classmate's action in stepping backwards constituted
a "thoughtless or careless act" not preventable by reasonable
supervision (Mirand v City of New York, 84 NY2d 44, 49 [1994]).

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On review of submissions pursuant to section 500.11 of the Rules,
order affirmed, with costs, in a memorandum. Chief Judge Lippman
and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones
concur.

Decided October 18, 2012