

Colon v Longwood Cent. School Dist.

2007 NY Slip Op 30127(U)

March 5, 2007

Supreme Court, Suffolk County

Docket Number: 0007400

Judge: Robert W. Doyle

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SUPREME COURT - STATE OF NEW YORK
POST-NOTE MOTION PART - SUFFOLK COUNTY

PRESENT:

Hon. ROBERT W. DOYLE
Justice of the Supreme Court

MOTION DATE 10/27/06
Mot. Seq. # 002 - MG

-----X
 BRANDEN COLON, an infant under the age of :
 14 years, by his mother and natural guardian, :
 CHARISSE COLON, and CHARISSE COLON, :
 individually, :
 :
 Plaintiffs, :
 :
 - against - :
 :
 LONGWOOD CENTRAL SCHOOL DISTRICT :
 and MICHAEL PEREZ, an infant, by his father and :
 natural guardian, JULIO PEREZ, :
 :
 Defendants. :
 -----X

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Upon the following papers numbered 1 to 35 read on this motion for summary judgment; Notice of Motion/ Order to Show Cause and supporting papers 1 - 22; Notice of Cross Motion and supporting papers _____; Answering Affidavits and supporting papers 23-25; 26-29; Replying Affidavits and supporting papers 30 - 35; Other plaintiff's and defendant's memorandum of law; (and after hearing counsel in support and opposed to the motion) it is,

ORDERED that defendant Longwood Central School District's motion for summary judgment dismissing plaintiff's complaint is granted.

This action arose out of a negligent supervision claim against the Longwood Central School District ("School District") by plaintiff Charisse Colon on behalf of her minor son, Branden Colon ("Branden"), who sustained personal injuries as a result of an altercation with a fellow student, Michael Perez, on May 12, 2003. Plaintiffs have also joined Michael Perez and his father, Julio Perez, as co-defendants to the action. The altercation occurred minutes after Branden threw another student's lunch across the school yard, when Michael Perez intervened and attempted to hold Branden still in order to allow the student to hit Branden with a dodge ball. When Branden resisted, Michael punched him and other students in the vicinity grabbed Branden in an attempt to break up the ensuing fight. Plaintiffs allege that the school was negligent in failing to provide adequate supervision during recess and in failing to properly investigate and correct the minor's prior complaints of violence.

The School District is now moving for summary judgment dismissing plaintiffs' complaint on the grounds that it neither had notice of the alleged dangerous conduct, nor was its alleged negligence the proximate cause of those injuries.

