

**Hanlon v Connetquot Senior High School**

2007 NY Slip Op 30150(U)

March 5, 2007

Supreme Court, Suffolk County

Docket Number: 0025926

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 9/20/06  
Mot. Seq. # 001 - MG

-----X

MYLES HANLON, an infant under the age of :  
fourteen (14) years, by his mother and natural :  
guardian, LISA HANLON, :  
Plaintiff, :

MICHAEL G. LoRUSSO, ESQ.  
Attorney for Plaintiff  
316 Jackson Avenue  
Syosset, New York 11791

- against - :

CONNETQUOT SENIOR HIGH SCHOOL and :  
CONNETQUOT CENTRAL SCHOOL DISTRICT :  
OF ISLIP, :  
Defendants. :

MULHOLLAND, MINION & ROE  
Attorneys for Defendants/3<sup>rd</sup> Party Plaintiff  
374 Hillside Avenue  
Williston Park, New York 11596

-----X

CONNETQUOT CENTRAL SCHOOL DISTRICT :  
OF ISLIP, :  
Third-Party Plaintiff, :

NICOLINI, PARADISE,  
FERRETTI & SABELLA  
Attorneys for 3<sup>rd</sup> Party Defendant  
114 Old Country Road, P.O. Box 9006  
Mineola, New York 11501

- against - :

LATRICIA ABBRUZZESE, :  
Third-Party Defendant. :  
-----X

Upon the following papers numbered 1 to 28 read on this motion for summary judgment; Notice of Motion/  
Order to Show Cause and supporting papers 1 - 20; Notice of Cross Motion and supporting papers \_\_\_\_\_;  
Answering Affidavits and supporting papers 21 - 24; Replying Affidavits and supporting papers 25 - 28;  
Other \_\_\_\_\_; (and after hearing counsel in support and opposed to the motion) it is,

**ORDERED** that defendant Connetquot Central School District’s motion for summary judgment  
dismissing plaintiff’s complaint is granted.

Plaintiff Lisa Hanlon commenced this action on behalf of her minor son, Myles Hanlon  
 (“Myles”), to recover damages for injuries the minor sustained on January 16, 2004 during a “spot light”

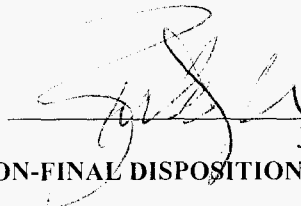
wrestling match, when he slipped and fell while running in the bleachers seating area maintained by the Connetquot Central School District ("the School District"). Plaintiff commenced action on October 26, 2004 alleging that the school was negligent in failing to provide adequate lighting and railing for the bleachers during the event and in failing to provide adequate supervision and control of the premises. The School District subsequently instituted a third-party complaint impleading the minor's aunt, Latricia Abbruzzese, who it contends had sole supervision of the child on the day of the accident. On June 22, 2005 third-party defendant, Latricia Abbruzzese, issued her answer containing cross claims for indemnification and contribution against the School District.

The School District is now moving for summary judgment dismissing plaintiff's complaint and all cross claims against it on the grounds that it neither had notice of any alleged dangerous condition on its premises, nor was its alleged negligence the proximate cause of plaintiff's injuries. The School District also contends that it did not have a custodial duty to supervise the minor since the child was neither a student nor participant in the school-sponsored activity and was in the physical custody of his aunt on the day of the accident.

In opposition plaintiff argues that the School District's motion should be denied because it failed to establish its prima facie entitlement to summary judgment and there are numerous issues of fact concerning whether the bleachers were maintained in a reasonably safe manner and whether there was sufficient lighting and security on the day of the accident.

The School District has demonstrated its prima facie entitlement to summary judgment by demonstrating that it neither owed the minor plaintiff a custodial duty of supervision (*Pratt v Robinson*, 39 NY2d 554, 384 NYS2d 749 [1976]; *Rowe v Bd. Of Educ.*, 12 AD3d 494, 783 NYS2d 860 [2004]; *Ramo v Serrano*, 301 AD2d 640, 754 NYS2d 336 [2003]) nor had notice of any inherently defective or unsafe condition on its property (*Segretti v Shorestein Co., East, L.P.* 256 AD2d 234, 682 NYS2d 176 [1998]; *O'Connor-Miele v Barhite & Holzinger Inc.*, 234 AD2d 106, 650 NYS2d 717 [1991]). The adduced evidence indicates that the five-year-old minor was in the physical custody of his aunt and was neither a student of the school nor a participant in any school-sponsored activity on the day of the accident. Furthermore, there is no record of any complaints or accidents occurring on the bleachers prior to the plaintiff's accident (*Segretti v Shorestein Co., East, L.P., supra*; *O'Connor-Miele v Barhite & Holzinger Inc., supra*). Plaintiff also failed to demonstrate the existence of any issues of fact warranting denial of summary judgment (*see, Roth v Barreto*, 289 AD2d 557, 735 NYS2d 197 [2001]; *O'Neill v Fishkill*, 134 AD2d 487, 521 NYS2d 272 [1987]). Not only is plaintiff's expert's opinion based on speculation since he had no personal knowledge of the lighting in the gym on the day of the accident, but his assertion that the school provided inadequate supervision is misplaced since the minor was in his aunt's physical custody. Moreover, there is no evidence that the school violated any rules or regulations regarding the level of lighting during a "spot light" wrestling match or that it was the alleged lack of lighting and not the lack of supervision which caused the minor's accident. Accordingly, defendant Connetquot Central School District's motion for summary judgment dismissing plaintiff's cause of action and all cross claims against it is granted. The action is also severed and shall continue as against the remaining defendant.

Dated: MAR 05 2007

  
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J.S.C.

\_\_\_\_ FINAL DISPOSITION     NON-FINAL DISPOSITION