

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

C.Q. v. Farmingdale Union Free School District

C.Q. v. Farmingdale Union Free Sch. Dist., 2020 NY Slip Op 2944 (App. Div. 2020) · No. 2019-04558 ·
Decided May 20, 2020

SUMMARY

The Appellate Division, Second Department, affirmed an order denying the Farmingdale Union Free School District's motion for summary judgment in a negligent supervision action. The court held that the School District did not establish prima facie that the infant plaintiff was adequately supervised or that the accident occurred too quickly to have been prevented.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Cheryl E. Chambers, J.P.; Leonard B. Austin, J.; Robert J. Miller, J.; Colleen D. Duffy, J.
JURISDICTION	New York
DECIDED	May 20, 2020
DOCKET	2019-04558
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Farmingdale Union Free School District appealed from an order denying its motion for summary judgment dismissing the negligent-supervision claims against it.
STANDARD OF REVIEW	On a motion for summary judgment, the movant must make a prima facie showing of entitlement to judgment as a matter of law. If that showing is not made, the sufficiency of the opposing papers is immaterial.
PRECEDENTIAL VALUE	Published New York Appellate Division decision; precedential within the applicable New York judicial system.
PARTIES	Farmingdale Union Free School District v. C.Q., individually and by his mother

TOPICS

negligent supervision

summary judgment

personal injury

standard of review

appellate procedure

PRACTICE AREAS

negligence

personal injury

school negligent supervision

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the School District established prima facie that the infant plaintiff was adequately supervised at the time of the accident.
2. Whether the School District established that the accident occurred in such a brief span of time that it could not have been prevented.
3. Whether the School District was entitled to summary judgment dismissing the negligent-supervision claims.

HOLDINGS

1. The School District was not entitled to summary judgment because it failed to establish prima facie that the infant plaintiff was adequately supervised or that the accident occurred in such a short span of time that it could not have been prevented.

KEY QUOTATIONS

“The School District failed to establish, prima facie, that the infant plaintiff was adequately supervised at the time of the accident, or that the incident occurred in such a short span of time that it could not have been prevented” (at *1)

FACTUAL BACKGROUND

The infant plaintiff was allegedly injured when he jumped or fell from the top step of a mock rock-climbing wall on a school playground. He and his mother asserted a negligent-supervision claim against the Farmingdale Union Free School District.

PROCEDURAL HISTORY

The infant plaintiff and his mother commenced an action for personal injuries against the School District and another defendant. The Supreme Court, Nassau County, denied the School District's motion for summary judgment, and the School District appealed. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- M.P. v. Mineola Union Free Sch. Dist., 166 A.D.3d 953 (2d Dep't 2018)
- Luciano v. Our Lady of Sorrows School, 79 A.D.3d 705 (2d Dep't 2010)

- *Peuplie v. Longwood Cent. Sch. Dist.*, 49 A.D.3d 837, 839 (2d Dep't 2008)
- *Pochat v. Monroe Woodbury Cent. Sch. Dist.*, 135 A.D.3d 727, 728 (2d Dep't 2016)
- *Duffy v. Long Beach City Sch. Dist.*, 134 A.D.3d 761, 764 (2d Dep't 2015)

OPINION

PER CURIAM.

C.Q. v Farmingdale Union Free Sch. Dist. (2020 NY Slip Op 02944) C.Q. v Farmingdale Union Free Sch. Dist. 2020 NY Slip Op 02944 Decided on May 20, 2020 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on May 20, 2020 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department CHERYL E. CHAMBERS, J.P. LEONARD B. AUSTIN ROBERT J. MILLER COLLEEN D. DUFFY, JJ. 2019-04558 (Index No. 605419/16) [*1]C.Q., etc., et al., respondents, vFarmingdale Union Free School District, appellant, et al., defendant. Ahmuty, Demers & McManus, Albertson, NY (Nicholas M. Cardascia and Glenn A. Kaminska of counsel), for appellant.

Marc J. Bern & Partners LLP, New York, NY (Philip R. Berwish of counsel), for respondents. DECISION & ORDER In an action to recover damages for personal injuries, etc., the defendant Farmingdale Union Free School District appeals from an order of the Supreme Court, Nassau County (Antonio I. Brandveen, J.), entered April 11, 2019.

The order denied that defendant's motion for summary judgment dismissing the complaint insofar as asserted against it. ORDERED that the order is affirmed, with costs. The infant plaintiff allegedly was injured when he jumped or fell off the top step of a mock rock climbing wall on the school playground.

The infant plaintiff, by his mother, and his mother individually, commenced this action against the Farmingdale Union Free School District (hereinafter the School District), and another defendant, asserting a cause of action to recover damages for negligent supervision.

The School District moved for summary judgment dismissing the complaint insofar as asserted against it. The Supreme Court denied the motion, and the School District appeals. The School District failed to establish, prima facie, that the infant plaintiff was adequately supervised at the time of the accident, or that the incident occurred in such a short span of time that it could not have been prevented (see *M.P. v Mineola Union Free Sch.*

Dist., 166 AD3d 953; *Luciano v Our Lady of Sorrows School*, 79 AD3d 705; *Peuplie v Longwood Cent. School Dist.*, 49 AD3d 837, 839). Accordingly, we agree with the Supreme Court's determination to deny the School District's motion for summary judgment dismissing the

complaint insofar as asserted against it, regardless of the sufficiency of the plaintiff's opposition papers (see *Pochat v Monroe Woodbury Cent.*

Sch. Dist., 135 AD3d 727, 728; *Duffy v Long Beach City Sch. Dist.*, 134 AD3d 761, 764). CHAMBERS, J.P., AUSTIN, MILLER and DUFFY, JJ., concur. ENTER: Aprilanne Agostino Clerk of the Court

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