

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

Cory v. Penfield Cent. Sch. Dist.

2021 NY Slip Op 06298 (Appellate Division of the Supreme Court of the State of New York Fourth Judicial Department 2021) · No. 1023 CA 21-00320 · Decided November 12, 2021

SUMMARY

The Appellate Division, Fourth Department dismissed the appeal from an order denying Penfield Central School District's cross motion for summary judgment. The dismissal was entered without costs pursuant to the parties' stipulation of discontinuance.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Fourth Judicial Department
WRITING FOR THE COURT	Smith, J.P.; Carni, J.; Nemoyer, J.; Curran, J.; Bannister, J.
JURISDICTION	New York
DECIDED	November 12, 2021
DOCKET	1023 CA 21-00320
DISPOSITION	dismissed
PROCEDURAL POSTURE	Penfield Central School District appealed from an order of the Supreme Court, Monroe County, that denied its cross motion for summary judgment dismissing the complaint against it. While the appeal was pending, the parties stipulated to discontinuance.
PRECEDENTIAL VALUE	Published disposition dismissing appeal without reaching the merits
PARTIES	Penfield Central School District v. Susan R. Cory, as executrix with letters testamentary with limitations of the Estate of Richard J. Menga, deceased, Jennifer M. Fichera

TOPICS

- summary judgment
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- education law
- estate litigation

FACTUAL BACKGROUND

Susan R. Cory, acting as executrix of the estate of Richard J. Menga, brought an action involving Penfield Central School District and Jennifer M. Fichera. Penfield Central School District sought summary judgment dismissing the complaint against it. The Supreme Court denied that cross motion, and the School District appealed.

PROCEDURAL HISTORY

The Supreme Court, Monroe County, entered an order on November 9, 2020, denying Penfield Central School District's cross motion for summary judgment dismissing the complaint against it. The School District appealed, but the parties subsequently signed a stipulation of discontinuance, and the Appellate Division dismissed the appeal without costs.

DISPOSITION

dismissed

OPINION

PER CURIAM.

Cory v Penfield Cent. Sch. Dist. (2021 NY Slip Op 06298) Cory v Penfield Cent. Sch. Dist. 2021 NY Slip Op 06298 Decided on November 12, 2021 Appellate Division, Fourth 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 November 12, 2021 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Fourth Judicial Department PRESENT: SMITH, J.P., CARNI, NEMOYER, CURRAN, AND BANNISTER, JJ. 1023 CA 21-00320 [*1]SUSAN R. CORY, AS EXECUTRIX WITH LETTERS TESTAMENTARY WITH LIMITATIONS OF THE ESTATE OF RICHARD J. MENGA, DECEASED, PLAINTIFF-RESPONDENT, vPENFIELD CENTRAL SCHOOL DISTRICT, DEFENDANT-APPELLANT, AND JENNIFER M. FICHERA, DEFENDANT-RESPONDENT.

KENNEY SHELTON LIPTAK NOWAK LLP, BUFFALO (RICHARD T. SARAF OF COUNSEL), FOR DEFENDANT-APPELLANT. MORRIS & MORRIS, ATTORNEYS, ROCHESTER (DEBORAH M. FIELD OF COUNSEL), FOR PLAINTIFF-RESPONDENT. ROE & ASSOCIATES, WILLIAMSVILLE (MATTHEW J. ROE OF COUNSEL), FOR DEFENDANT-RESPONDENT. Appeal from an order of the Supreme Court, Monroe County (Christopher S. Ciaccio, A.J.), entered November 9, 2020.

The order, insofar as appealed from, denied the cross motion of defendant Penfield Central School District for summary judgment dismissing the complaint against it. Now, upon reading and filing

the stipulation of discontinuance signed by the attorneys for the parties on October 25 and 26, 2021, It is hereby ORDERED that said appeal is unanimously dismissed without costs upon stipulation.

Entered: November 12, 2021 Ann Dillon Flynn Clerk of the Court

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-appellate-division-of-the-supreme-court-of-the-state-of-new-york-fourth-judicial-department/2021/cory-v-penfield-cent-sch-dist-th9una00>