

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ORLEANS

AB 511 DOE,

Plaintiff,

v.

Index No. 20-46602

LYNDONVILLE CENTRAL SCHOOL
DISTRICT; LYNDONVILLE ELEMENTARY
SCHOOL,

Defendants.

**RESPONSE TO DEFENDANTS' STATEMENT OF
MATERIAL FACTS**

Plaintiff submits the following in response to defendants Statement of Material Facts in support of its motion for summary judgment.

A. Background

5. Lyndonville Central School District is a public school district.

RESPONSE: Disputed only to the extent that plaintiff has no information regarding the establishment of the Lyndonville Central School District and defendants cite nothing in the record as required by Uniform Rule §202.8-G.

6. Lyndonville Central School District owns, controls, oversees, operates and manages Lyndonville Elementary School.

RESPONSE: Disputed only to the extent that plaintiff has no information regarding the relationship between defendants and defendants cite nothing in the record as required by Uniform Rule §202.8-G.

7. Plaintiff was in fifth grade during the 1986-1987 school year.

RESPONSE: Undisputed.

8. Plaintiff alleges that between 1986 and 1987, he was sexually abused by his fifth-grade teacher, Terry Houseman.

RESPONSE: Undisputed.

9. The abuse occurred at Houseman's residence, as well as at Lyndonville Elementary School.

RESPONSE: Undisputed. Plaintiff testified to a single incident at Houseman's residence (Ex. A, p. 56-58) and to dozens of incidents on defendants' property (Ex. A, p. 68, 80).

10. Plaintiff testified that the first incident of abuse occurred at Houseman's residence during a sleepover.

RESPONSE: Undisputed.

11. Houseman approached Plaintiff's mother and invited Plaintiff to spend the night at Houseman's residence before attending an alleged conference the next day.

RESPONSE: Undisputed.

12. Plaintiff's mother permitted Plaintiff to spend the night at Houseman's residence.

RESPONSE: Undisputed.

13. Plaintiff's mother dropped Plaintiff off at Houseman's residence.

RESPONSE: Undisputed.

14. Plaintiff testified that his parents knew he was spending time with Houseman but were not alarmed.

RESPONSE: Disputed. Plaintiff testified that he did not know if his father was informed, only his mother, nor was he questioned regarding his mother's attitude beyond that she

gave permission (Ex. A, p. 58).

15. Plaintiff testified that he had a very close relationship with both of his parents at the time of the alleged abuse, and until each of their deaths.

RESPONSE: Undisputed.

16. Plaintiff testified that his parents were loving and caring, and that they provided discipline.

RESPONSE: Undisputed.

17. Plaintiff does not recall his parents ever being concerned that Houseman was Plaintiff's teacher.

RESPONSE: Disputed. Plaintiff's testimony was that he does not recall what his parents thought at all about Houseman (Ex. A, p. 51).

18. Plaintiff did not tell anyone at the District about the abuse perpetrated against him by Houseman.

RESPONSE: Undisputed.

19. Plaintiff did not tell his parents or sister about the abuse perpetrated against him by Houseman.

RESPONSE: Undisputed.

20. Plaintiff did not tell anyone about the abuse until sometime after he was married in 2009.

RESPONSE: Undisputed.

21. Plaintiff testified that at the time, he had no reason to believe that anyone at the District knew of the abuse being perpetrated against him by Houseman.

RESPONSE: Disputed. Plaintiff's response was to a question regarding whether at the

time of the abuse, he had any reason to believe that defendants knew of any student being sexually abused prior to plaintiff being abused. He testified that at the time he did not, but subsequently concluded that “the district knew stuff was going on” (Ex. A, pp. 91-92). He further testified to a teacher seeing the abuse and to behavior by Houseman in public areas of the school and in the presence of others at the school that should have led to investigation of Houseman (Ex. A, pp. 68-74; 75-79; 107-108; 112-113; Ex. M, p. 1).

Terry Houseman

22. In April 1970 Terry Houseman was appointed by the Lyndonville Central School District to a three-year probationary position as a fifth-grade teacher.

RESPONSE: Undisputed.

23. Terry Houseman began his three-year probationary term on September 1, 1970.

RESPONSE: Undisputed.

24. In 1971, Houseman received a positive evaluation and was rated as “Very Effective.”

RESPONSE: Disputed. Although Houseman generally received a checked box rating of very effective in most categories, the comments section includes: “There is an aloofness which hinders his rapport with them at times. He gives the impression of being a bit too critical at times.” (Marek Aff., Ex. A, p. 114; Ex. J). It also included comments that Houseman was very concerned about individual problems of children, that he has a concern for children’s weaknesses, and that he was spending “much time before school” with individual students. (Ex. J)

25. Terry Houseman was granted tenure by the District as an elementary teacher on March 12, 1973, effective September 1, 1973.

RESPONSE: Undisputed.

26. In 1972, 1974, 1976, 1978, 1980, 1983, 1985, 1986, 1987, 1988, and 1989, Houseman again received positive evaluations, and in each year was rated as “Outstanding.”

RESPONSE: Disputed to the extent that the checkboxes on the forms do not all indicate a rating of outstanding, but instead vary between effective, very effective and outstanding with some notations to “usually” having good judgment and some boxes containing question marks.

27. Houseman received positive evaluations both before and after the abuse alleged by Plaintiff.

RESPONSE: Undisputed.

28. For almost two decades, Houseman received nothing but positive evaluations from his supervisors.

RESPONSE: Disputed to the extent that a reading of the full evaluations and not just the check boxes indicate that he could be aloof and too critical. Bizarrely, he was also praised for teaching fifth graders a lesson on psychotherapy during which he encouraged students to approach him with confidential information. His evaluator throughout the 1980s, former elementary school principal Russell Martino, described Houseman as his friend (Ex. B, p. 27, Ex. N, p. [254]), and during the criminal trial, Houseman acknowledged they had been friends since he began teaching at the school (Ex. N, [372]).

29. There are no records of any complaints or concerns regarding Houseman acting inappropriately with children prior to 1990.

RESPONSE: Disputed. The records produced by defendants indicate that there were concerns regarding Houseman including being too aloof and critical of students (Marek Aff., Ex. A, p. 114) and that Houseman should take special care to keep oral evaluations of students

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.