

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.

**REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

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Lyndonville Elementary School

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
PRELIMINARY STATEMENT	1
ARGUMENT	1
I. The District Had No Actual or Constructive Knowledge of Houseman’s Propensities Prior to December 1990	1
A. Plaintiff’s Self-Serving Affidavit Does Not Create a Question of Fact	3
B. The Abuse by Houseman Was Not Foreseeable	6
C. Houseman’s Alleged Contact with Students in the Hallways Does Not Constitute Notice	7
D. The Affidavit of Patrick Whipple is Insufficient to Establish Notice	8
E. The District’s Policies and Procedures Were Not Deficient	9
F. Alleged Abuse by Teachers Other Than Houseman is Irrelevant	9
II. Plaintiff’s “Expert” Report Must Be Disregarded	10
III. The District’s Policies and Procedures Conformed to the Relevant Standard of Care	14
IV. The District Did Not Negligently Hire Houseman	16
V. The District Did Not Negligently Retain Houseman or Negligently Train or Supervise Other Employees	17
VI. Plaintiff’s Breach of the Social Services Law Claim Fails	18
CONCLUSION	19

TABLE OF AUTHORITIES**Cases**

<i>Austin v. CDGA Nat. Bank. Tr.</i> , 114 A.D.3d 1298 (4th Dept. 2014).....	11
<i>Behan v. New York Yankees P'ship</i> , 89 A.D.3d 589 (1st Dept. 2011).....	3
<i>Dia CC v. Ithaca City Sch. Dist.</i> , 304 A.D.2d 955 (3d Dept. 2003).....	2, 6
<i>Diana G-D ex rel. Ann D. v. Bedford Cent. School Dist.</i> , 33 Misc.3d 970 (Sup. Ct. Westchester Cnty. 2011) <i>aff'd sub nom Diana Michelle G. v. Bedford Cent. School Dist.</i> , 104 A.D.3d 805 (2d Dept. 2013).....	19
<i>Diaz v. New York Downtown Hosp.</i> , 99 N.Y.2d 542 (2002)	12
<i>Doe v. Rohan</i> , 17 A.D.3d 509 (2d Dept. 2005).....	2
<i>Doe v. Whitney</i> , 8 A.D.3d 610 (2d Dept. 2004).....	6
<i>Estevez-Yalcin v. Children's Village</i> , 331 F. Supp. 2d 170 (S.D.N.Y. 2004).....	16
<i>Fallon v. Duffy</i> , 95 A.D.3d 1416 (3d Dept. 2012).....	11
<i>Fernandez v. VLA Realty, LLC</i> , 45 A.D.3d 391 (1st Dept. 2007).....	3
<i>Frees v. Frank & Walter Eberhart L.P. No. 1</i> , 71 A.D.3d 491 (1st Dept. 2010).....	11
<i>Ghaffari v. N. Rockland Cent. Sch. Dist.</i> , 23 A.D.3d 342 (2d Dept. 2005).....	2, 7, 10
<i>Kenneth R. v. Roman Catholic Diocese of Brooklyn</i> , 229 A.D.2d 159 (2d Dept. 1997).....	16

..

Mary KK v. Jack LL,
203 A.D.2d 840 (3d Dept. 1994)..... 2

Mauro v. Rosedale Enterprises,
60 A.D.3d 401 (1st Dept. 2009)..... 12

Menzel v. Plotnick,
202 A.D.2d 558 (2d Dept. 1994)..... 11

Pater v. City of Buffalo,
141 A.D.3d 1130 (4th Dept. 2016)..... 17

Phillips v. McClellan Street Associates,
262 A.D.2d 748 (3d Dept. 1999)..... 12

Pinks v. Turnbull,
25 Misc. 3d 1245(A) (N.Y. Sup. Ct. 2009) 8

Salas v. Adirondack Transit Lines,
172 A.D.3d 775 (2d Dept. 2019)..... 12

Ulm I Holding Corp. v. Antell,
155 A.D.3d 585 (1st Dept. 2017)..... 11

Vila v. Foxglove Taxi Corp.,
159 A.D.3d 431 (1st Dept. 2018)..... 3, 6

Statutes

2000 N.Y. Sess. Laws Ch. 182 13

N.Y. Soc. Serv. Law § 413 13

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PRELIMINARY STATEMENT

There is no genuine issue of material fact in this case. From 1970-1990, Terry Houseman was a fifth-grade teacher at Lyndonville Central School District (the "District"). During the 1986 to 1987 school year, Plaintiff AB511 Doe was a fifth-grade student at Lyndonville Elementary School and was sexually abused by Houseman. Houseman was arrested in 1990, (3 years after Plaintiff's alleged abuse) when Lyndonville Elementary School principal Russel Martino reported Houseman to the police for molesting a child. All of the evidence developed in this matter definitively establishes that prior to the 1990 report of abuse, the District had no notice that Houseman was a danger to children. Accordingly, the District cannot be liable for negligent supervision of the Plaintiff, or negligent hiring, training, retention and/or supervision of Houseman. The District established its entitlement to judgment as a matter of law, and Plaintiff failed to rebut the District's showing, or establish his own entitlement to summary judgment. Therefore, the District's motion for summary judgment should be granted, Plaintiff's cross motion for summary judgment denied, and Plaintiff's Complaint dismissed, in its entirety and with prejudice.

ARGUMENT

I. The District Had No Actual or Constructive Knowledge of Houseman's Propensities Prior to December 1990.

In its moving papers the District established that it had no notice of Houseman's alleged propensities and that the abuse by Houseman was not foreseeable. Plaintiff failed to rebut the District's showing with any evidence in admissible form, or to demonstrate that the District had actual or constructive notice of the threat posed by

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