

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.

ORDER

WHEREAS, Defendants Lyndonville Central School District and Lyndonville Elementary School (collectively the “District”) filed a motion for summary judgment pursuant to CPLR 3212 seeking dismissal of Plaintiff’s Complaint in its entirety and with prejudice; and

WHEREAS, in support of that motion, the District, by and through their attorneys Webster Szanyi LLP, submitted a Notice of Motion dated June 2, 2023 (Doc. 97), Affirmation of Meghan M. Hayes dated June 2, 2023, with Exhibits A-L (Doc. 98-110), Affidavit of Tanya Marek dated June 2, 2023, with Exhibit A (Doc. 111-112), and Statement of Material Facts (Doc. 113); and

WHEREAS, Plaintiff AB 511 Doe filed an opposition and cross motion for summary judgment pursuant to CPLR 3212, opposing the District’s motion and seeking summary judgment on Plaintiff’s causes of action for negligent failure to protect plaintiff from harm, negligent training and supervision of Houseman and other Lyndonville employees, and negligent retention; and

WHEREAS, in opposition to the District’s motion and in support of Plaintiff’s motion for summary judgment, Plaintiff, by and through his attorneys Steve Boyd P.C.,

submitted a Notice of Motion dated August 17, 2023 (Doc. 117), Affirmation of Leah Costanzo, with Exhibits A-P (Doc. 118-134), and Response to the District's Statement of Material Facts (Doc. 135); and

WHEREAS, in further support of its motion and in opposition to Plaintiff's cross motion the District submitted the Reply Affirmation of Meghan M. Hayes, dated October 25, 2023, with Exhibits A-C (Doc. 137-140), and Affidavit of Elizabeth Jeglic, with Exhibits A-B (Doc. 141-143); and

WHEREAS, the Court having heard oral argument on the motions on October 30, 2023; and

NOW, upon consideration of all the papers, pleadings, and materials submitted by the parties, and due deliberation having been had, and after such due deliberation, the Court having issued a written decision (Doc. 145-146) dated November 13, 2023, and entered on November 15, 2023, attached hereto as **Exhibit A**, it is hereby:

ORDERED, the District's motion for summary judgment on the Plaintiff's causes of action for negligence-failure to protect Plaintiff, and negligent supervision and retention of Houseman is **DENIED**; and it is further

ORDERED, the District's motion for summary judgment on Plaintiff's causes of action for negligent hiring, training of other Lyndonville Employees, and breach of statutory duty to report is **GRANTED**; and it is further

ORDERED, the District's motion to dismiss all claims asserted against Lyndonville Elementary School is **GRANTED**; and it is further

ORDERED, the District's motion for summary judgment as to any claims arising from Houseman's abuse occurring off District property after school hours is

GRANTED; and it is further

ORDERED, Plaintiff's cross motion for summary judgment is **DENIED** in its entirety.

GRANTED:

Hon. Deborah A. Chimes

ENTERED: