

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ORLEANS

AB 511 DOE,

Plaintiff,

Index No.: 20-46602

v.

LYNDONVILLE CENTRAL SCHOOL DISTRICT;
LYNDONVILLE ELEMENTARY SCHOOL.

Defendants.

**DEFENDANTS' REPLY MEMORANDUM OF LAW
IN FURTHER SUPPORT OF ITS MOTIONS IN LIMINE**

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PRELIMINARY STATEMENT

This reply memorandum of law is submitted on behalf of Defendant¹ Lyndonville Central School District (“the District”) in further support of its motions *in limine* to preclude various evidence, testimony and/or other references at trial, and to add the alleged abuser, Terry Houseman (“Houseman”), to the verdict sheet.

STATEMENT OF FACTS

The specific facts material to this motion are set forth in the Affirmation of Ryan G. Smith dated February 9, 2024 (with exhibits) and Reply Affirmation of Ryan G. Smith dated February 22, 2024 (with exhibit) and are incorporated herein by reference.

ARGUMENT

Point I

Allegations or Evidence That Houseman Sexually Abused Other Students Should Be Precluded

In opposition to this motion, Plaintiff cites no authority holding that unreported allegations of abuse by an employee are admissible against an employer in this context.

For example, the *Mullen v. Wishner* decision involved a motion to sever a claim against the individual physician from the remaining claims against his employer. See 178 A.D.3d 830 (2d Dept. 2019). It did not involve a motion to admit or preclude certain evidence at trial. And despite any suggestion to the contrary, nowhere in that decision does the Appellate Division rule that evidence of prior abuse was admissible. In fact, the Court acknowledged that,

¹ All claims against Defendant Lyndonville Elementary School were dismissed per this Court’s Order granted November 29, 2023. See Smith Aff., ¶ 42 (Dkt. 157-158).

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