

**Staub v. East Greenbush School Dist.,
128 Misc. 2d 935, 491 N.Y.S.2d 87 (N.Y. Sup. Ct. 1985)**

Opinion

EDWARD S. CONWAY, Justice:

This is a motion by the defendant for a protective order as to the notice to take deposition upon oral examination served by plaintiffs on May 15, 1985.

The underlying action was brought by the plaintiffs for personal injuries allegedly sustained by the infant plaintiff while playing in a softball game in the gym class held at the Howard Goff School on April 13, 1981.

After issue was joined, plaintiffs served a notice to take deposition upon oral examination on the defendant. The plaintiffs requested various information, including:

“All class lists indicating the name and address of all pupils taking gym for the particular period during which plaintiff, Christopher Lee Jones, was injured at the gym field at the Howard Goff School on April 13, 1981 at approximately 11:00 A.M., and all attendance lists for the particular class.”

The defendant contends that these records relating to students other than the plaintiff are privileged and would constitute a violation of law for the defendant to release this information.

This Court cannot agree with the contentions of the defendant. The information plaintiffs are requesting is directory information concerning the names and addresses of students who were at the scene of the accident and whether they attended school on the date of the accident. Disclosure of such information is not privileged under the Education Law or the Family Educational Rights and Privacy Act; is material and necessary to the prosecution of plaintiff's claim; and is solely within the knowledge of the defendant School District.

The remaining requirements of plaintiffs' notice were ruled on at the oral argument of this motion and were found to be proper.

Defendant's motion for a protective order is denied.