

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: October 20, 2011

512290

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MICHAEL F. LAHENDRO et al.,  
Appellants,

v

MEMORANDUM AND ORDER

NEW YORK STATE UNITED TEACHERS  
ASSOCIATION et al.,  
Respondents.

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Calendar Date: September 7, 2011

Before: Peters, J.P., Rose, Lahtinen, McCarthy and Garry, JJ.

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Cappello, Linden & Ladouceur, Potsdam (Roger B. Linden of  
counsel), for appellants.

Meyer, Suozzi, English & Klein, New York City (Steven E.  
Star of counsel), for respondents.

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Lahtinen, J.

Appeal from an order of the Supreme Court (Demarest, J.),  
entered November 22, 2010 in Franklin County, which, upon  
reargument, partially granted defendants' motion to dismiss the  
complaint.

The facts are set forth in our decision addressing  
defendants' appeal from the earlier order in this case (\_\_\_ AD3d  
\_\_\_ [appeal No. 512107, decided herewith]). Plaintiffs in this  
appeal contend that Supreme Court erred when, after reargument,  
it dismissed the action as to the individual defendants. We are  
unpersuaded.

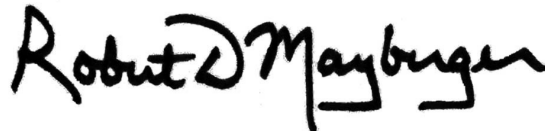
In addition to the reasons for dismissal set forth in our  
decision in the companion appeal, we further note that

"individual defendants cannot be held liable for acts committed in their capacity as union representatives" (Duane Reade, Inc. v Local 338 Retail, Wholesale, Dept. Store Union, UFCW, AFL-CIO, 17 AD3d 277, 278 [2005], appeal dismissed, lv denied 5 NY3d 797 [2005]). Plaintiffs failed to allege acts by the individual defendants unrelated to their union roles. Accordingly, Supreme Court properly dismissed the action against these defendants in their individual capacity (see id.).

Peters, J.P., Rose, McCarthy and Garry, JJ., concur.

ORDERED that the order is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court