

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

729

CA 20-01222

PRESENT: WHALEN, P.J., CENTRA, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

BL DOE 2, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

EDWIN FLEMING, DEFENDANT,
AND ROCHESTER CITY SCHOOL DISTRICT,
DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

ROCHESTER CITY SCHOOL DISTRICT, DEPARTMENT OF LAW, ROCHESTER (ALISON K.L. MOYER OF COUNSEL), FOR DEFENDANT-APPELLANT.

BANSBACH LAW P.C., ROCHESTER (JOHN M. BANSBACH OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Monroe County (Deborah A. Chimes, J.), entered August 28, 2020. The order denied the motion of defendant Rochester City School District to dismiss the complaint against it.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: The Rochester City School District (defendant) appeals from an order denying its motion to dismiss the complaint against it. " 'It is the obligation of the appellant to assemble a proper record on appeal. The record must contain all of the relevant papers that were before the Supreme Court' " (*Fink v Al-Sar Realty Corp.*, 175 AD3d 1820, 1820 [4th Dept 2019]; see CPLR 5017 [b]; 5526; *Mergl v Mergl*, 19 AD3d 1146, 1147 [4th Dept 2005]). Here, defendant's appeal must be dismissed based on defendant's failure to include in the record the complaint, which it seeks to dismiss in its motion (see *Fink*, 175 AD3d at 1821).

Entered: November 19, 2021

Ann Dillon Flynn
Clerk of the Court