

Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: HONORABLE WILLIAM T. GLOVER IA PART 23
Justice

	X	Index	
SRADHANAND KUBLALL, et al.		Number	<u>20625</u> 1998
		Motion	
		- against -	
		Date	<u>June</u>
		<u>12,</u>	2002
		Motion	
WCBS NEWS, et al.		Cal. Number	<u>22</u>
	X		

The following papers numbered 1 to 11 read on this motion by defendants for summary judgment dismissing plaintiffs' complaint.

	<u>Papers</u> <u>Numbered</u>
<u>Notice of Motion - Affidavits - Exhibits.....</u>	1 - 4
Answering Affidavits - Exhibits.....	5 - 8
Reply Affidavits.....	9 - 11

Upon the foregoing papers it is ordered that the motion by defendants for summary judgment is granted.

In March of 1998, defendants received a phone call from a mother of a child who attended a New York City public school. She informed them that her child had been subject to inappropriate corporal punishment at the school. It is apparent that she noticed bruises on her son and asked him how he got them. He told her that security guards at the school had hit him and dragged him from his classroom and forced him to go to a "time out" room where he was required to kneel with his hands behind his head. He also told her that the time out teacher, plaintiff Sradhanand Kublall, hit him with his walkie-talkie. The mother claims that the school was not responsive when she expressed her concerns to the principal, so she called defendant Marcia Kramer at defendant WCBS News, Inc. and spoke with her about what her son had told her. Marcia Kramer met with the mother and son, who demonstrated how he was forced to kneel.

Thereafter, Marcia Kramer contacted the school but they refused to speak with her. She then went to the school in an attempt to interview teachers and other school professionals as they left the building but they had been instructed by the Superintendent's office not to speak with her. That evening, a broadcast of the foregoing events and the statements regarding the alleged corporal punishment took place. Subsequently, after further investigation, the following evening another broadcast about the alleged corporal punishment by plaintiffs was aired.

Plaintiffs commenced actions against defendants for defamation and infliction of emotional distress, claiming that the broadcasts were false. Since the broadcasts were clearly about a matter of public concern, plaintiffs are required to show that defendants "acted in a grossly irresponsible manner without due consideration for the standards of information gathering and dissemination ordinarily followed by responsible parties." (Weiner v Doubleday & Co., 74 NY2d 586, 590, quoting Chapadeau v Utica Observer-Dispatch, 38 NY2d 196, 199.) Despite plaintiff's contentions, based upon the record before the court, they are unable to meet this burden. Marcia Kramer did not act grossly irresponsible in her investigation of the matter considering the severity of the allegations and was actually prevented from conducting a more thorough investigation by school officials. Accordingly, summary judgment must be granted.

Dated: September 18, 2002
J.S.C.
