

1 UNITED STATES COURT OF APPEALS
2 FOR THE SECOND CIRCUIT

3 **SUMMARY ORDER**

4 **THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER**
5 **AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER**
6 **COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER**
7 **COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN**
8 **ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.**

9 At a stated term of the United States Court of Appeals for the
10 Second Circuit, held at the Daniel Patrick Moynihan United States
11 Courthouse, 500 Pearl Street, in the City of New York, on the
12 9th day of August, two thousand and six.

13 PRESENT:

14 HON. AMALYA L. KEARSE,
15 HON. ROBERT D. SACK,

16 Circuit Judges,

17 HON. TIMOTHY C. STANCEU,*

18 Judge.

19 -----
20 BOARD OF EDUCATION OF THE CITY SCHOOL
21 DISTRICT OF THE CITY OF NEW YORK,

22 Plaintiff-Appellee,

23 - v -

No. 05-0566

24 TOM F. on behalf of GILBERT F., a
25 minor child,

26 Defendant-Appellant.
27 -----

* Of the United States Court of International Trade,
sitting by designation.

1 Appearing for Appellant: Paul G. Gardephe, Patterson,
2 Belknap, Webb & Tyler LLP (Alexis
3 Gander, of counsel), New York, NY.

4 Appearing for Appellee: Michael A. Cardozo, Corporation
5 Counsel of the City of New York
6 (Edward F.X. Hart, Drake A. Colley,
7 of counsel), New York, NY.

8 Appeal from the United States District Court for the
9 Southern District of New York (George B. Daniels, Judge).

10 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND
11 DECREED that the judgment of district court be, and it hereby is,
12 VACATED and REMANDED for further proceedings in light of this
13 Court's decision in Frank G. v. Board of Education of Hyde Park,
14 No. 04-4981, --- F.3d ---, 2006 WL 2077009, 2006 U.S. App. LEXIS
15 19029 (July 27, 2006).

16 FOR THE COURT:
17 ROSEANN B. MACKECHNIE, Clerk

18 _____
19 By: