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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 167 SSM 21
Neal Flomenbaum,
Appellant,
v.
New York University,
Respondent.

Submitted by Barry G. Felder, for appellant.
Submitted by Nancy A. Kilson, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed with costs. Plaintiff failed to present sufficient evidence to raise a triable issue of fact regarding whether defendant New York University breached the parties' underlying contract (Zuckerman v City of New York, 49 NY2d 557, 560 [1980]). Plaintiff's remaining contentions lack merit.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided June 3, 2010