

Krouskoff v Clarkstown Cent. Sch. Dist.
2025 NY Slip Op 35549(U)
February 5, 2025
Supreme Court, Rockland County
Docket Number: Index No. 035241/2022
Judge: Larry J. Schwartz
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To commence the 30-day statutory time period for appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

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JOHN KROUSKOFF,

Plaintiff,

-against-

DECISION AND ORDER

Index No.: 035241/2022

Mot. Seq. Nos. 003 & 004

CLARKSTOWN CENTRAL SCHOOL DISTRICT,

Defendant.

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SCHWARTZ, J.

The following papers, designated as document numbers 44 through 79 by NYSCEF, were read and considered in connection with Defendant's Motion and Plaintiff's Cross-Motion for Summary Judgment pursuant to N.Y. CIV. PRAC. L&R ("CPLR") 3212. Upon the Court's review and consideration of these documents, the motion is hereby disposed of as follows:

Plaintiff filed a Summons and Complaint through the NYSCEF system on December 9, 2022, sounding in breach of contract against the Defendant school district for an alleged breach of the Plaintiff's employment agreement. On January 4, 2023, Defendant moved to dismiss the Complaint, which prompted Plaintiff to cross-move for leave to file a late Notice of Claim. The Court (D'Alessio, J.) granted Plaintiff's cross-motion and denied Defendant's motion to dismiss. On April 14, 2023, Defendant, through counsel, filed an Answer with Affirmative Defenses.

It is undisputed that Plaintiff was formerly and continuously employed by the Defendant as the Director of Instructional Technology ("DIT") from July 9, 2007 through Spring of 2014. Plaintiff's terms of employment as DIT were set forth in two (2) employment contracts signed by Plaintiff and Defendant, the first entered into in July 2007 upon Plaintiff's hiring and the second entered into in June 2008, which superseded the first and was virtually identical to the first but for the Plaintiff's salary (the "Agreement").

At issue in this action are the contract terms concerning retiree health insurance, which provide that “after five years of full-time, continuous service to the School District, serving on the superintendent’s staff, you [Plaintiff] will receive 85% of a district contribution towards retiree health insurance...” (Doc. 47). The Agreement had a term of three years, and it was renewed two times. Plaintiff resigned from employment with the Defendant District in 2014, after serving seven years, to accept a position of employment elsewhere, which ultimately led Plaintiff to retire at the age of 57 with the Newburgh Enlarged City School District. Six years after his resignation from the Defendant, Plaintiff filed for retirement with the NYS Teachers Retirement System and began applying for retiree health plans, with the expectation that the Defendant District would fulfill its obligations under the Agreement and contribute 85% of his retiree health plan costs. In November 2020, Plaintiff contacted Defendant’s Assistant Superintendent for Personnel and Instruction, Jeff Soebel, requesting the Defendant District to contribute 85% of his retiree health plan costs and inquiring of its commencement date. The Defendant denied this request, claiming that once the contract ended, the obligations thereunder likewise ended and there was no survival clause as to retiree health insurance that would survive the termination of the contract.

Defendant moves for summary judgment to dismiss the Plaintiff’s Complaint, arguing that the Plaintiff is not entitled to retiree health insurance benefits given his resignation – not retirement – from the Defendant District in 2014, six years prior to Plaintiff’s retirement from education while employed at the Newburgh Enlarged City School District in 2020. Defendant argues that Plaintiff’s resignation terminated the Agreement, which was silent as to the duration of the retiree health insurance benefit which Plaintiff sought and certainly did not provide for a lifetime benefit to Plaintiff.

Plaintiff cross-moves for summary judgment, arguing that the contract language clearly and unambiguously entitles Plaintiff to receive an 85% contribution towards retiree health insurance from the Defendant District because Plaintiff served the required five years of full-time, continuous service to the District on the superintendent’s staff. Plaintiff avers that these benefits are akin to bonus compensation earned by an employee and that there was no duty upon Plaintiff to stay at the District in order to receive these benefits so long as he served the minimum, continuous term of five years.

The proponent of a summary judgment motion must establish its claim or defense sufficient to warrant a court directing judgment in its favor as a matter of law, tendering sufficient evidence

to demonstrate a lack of material issues of fact. *Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 324 (1986). Once such a showing has been made, the burden shifts to the party opposing the motion to produce evidentiary proof in admissible form demonstrating material questions of fact requiring trial. *Id.*; *Winegrad v. New York Univ. Med. Center*, 64 N.Y.2d 851, 487 N.Y.S.2d 316 (1985).

It is well settled that, on a motion for summary judgment, the construction of an unambiguous contract is a question of law for the court to pass on, and that circumstances extrinsic to the agreement or varying interpretations of the contract provisions will not be considered where the intention of the parties can be gathered from the instrument itself. *Lake Const. & Development Corp. v. City of New York*, 211 A.D.2d 514 (1st Dept. 1995) quoting *Mallad Constr. Corp. v. County Fed. Sav. & Loan Assn.*, 32 N.Y.2d 285, 291 (1973). The proper inquiry in determining whether a contract is ambiguous is whether the agreement on its face is reasonably susceptible of more than one interpretation, and therefore, to be entitled to summary judgment, the moving party has the burden of establishing that its construction of the contract is the only construction that can be fairly placed thereon. *Kowalak v. Keystone Medical Services of New York, P.C.*, 197 A.D.3d 893, 895 (4th Dept. 2021) quoting *Maven Technologies, LLC v. Vasile*, 147 A.D.3d 1377 (4th Dept. 2017). Only where intent must be determined by disputed evidence or inferences outside the written words of the instrument is a question of fact presented which may render summary judgment inappropriate. *Mallad Const. Corp.* at 291; *River Park Associates v. Meyerbank Elec. Co., Inc.*, 116 A.D.2d 709, 710 (2d Dept. 1986); *Kowalak* at 894.

Where the language chosen by the parties has a definite and precise meaning, there is no ambiguity. *Riverside South Planning Corp. v. CRP/Extell Riverside, L.P.*, 13 N.Y.3d 398 (2009). Courts may not by construction add or excise terms, nor distort the meaning of those used and thereby make a new contract for the parties under the guise of interpreting the writing. *Id.* quoting *Reiss v. Financial Performance Corp.*, 97 N.Y.2d 195, 199, 738 N.Y.S.2d 658, 764 N.E.2d 958 (2001).

The Court finds that the Agreement's retiree health insurance provision is clear and unambiguous, thereby entitling the Plaintiff to receive 85% contribution from the Defendant District towards retiree health insurance. There is no dispute that Plaintiff served for seven years of continuous, full-time service on the superintendent's staff under the Agreement, which satisfies the required five-year service period in order to be eligible to receive these benefits. Nor is there language present in the Agreement that would otherwise render this provision ambiguous. On the

other hand, there is no language set forth in the Agreement to support the Defendant's argument that the Plaintiff was required to directly retire from the District in order to be eligible for these benefits. A contract's silence on an issue does not create an ambiguity, as an ambiguity never arises out of what was not written at all, but only out of what was written so blindly and imperfectly that its meaning is doubtful. *Donohue v. Cuomo*, 38 N.Y.3d 1, 13 (2022). Therefore, consistent with New York law that a written agreement that is complete, clear, and unambiguous on its face must be enforced according to the plain meaning of its terms, this retiree health insurance provision must be likewise enforced in accordance with the plain meaning of its terms where proof has been submitted to establish that all conditions of eligibility have been satisfied. *Id.*

Based on the foregoing, this Court determines that the Plaintiff has established his entitlement to summary judgment, thereby requiring the Defendant District to reimburse him for 85% of the retiree health insurance premiums already paid to date, and further requiring the Defendant District to pay 85% of retiree health insurance premiums for Plaintiff and his wife from the date of this Order. Since Plaintiff has offered no proof to support the amount Plaintiff seeks as reimbursement for 85% of retiree health insurance premiums already paid for Plaintiff and his wife, the Court will conduct an inquest to determine the appropriate amount of damages.

Accordingly, based on the foregoing, it is hereby

ORDERED, that Plaintiff's Cross-Motion for Summary Judgment is GRANTED to the extent set forth herein; and it is further

ORDERED, that the Defendant's Motion for Summary Judgment is DENIED in its entirety; and it is further

ORDERED, that the Court shall conduct an inquest *on damages* to take place in person before the undersigned on **Tuesday, March 11, 2025 at 9:30 A.M.**

The Clerk of the Court is respectfully directed to terminate Motion Sequence No. 003 (*DENIED*) and Motion Sequence No. 004 (*GRANTED*).

This constitutes the Decision and Order of this Court.

Dated: New City, New York
February 5, 2025



HON. LARRY J. SCHWARTZ, J.S.C.