

Takla v School of Visual Arts

2026 NY Slip Op 30109(U)

January 5, 2026

Supreme Court, New York County

Docket Number: Index No. 158221/2020

Judge: Arlene P. Bluth

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

ANTOUN TAKLA on behalf of himself and all others similarly situated,

Plaintiff,

- v -

SCHOOL OF VISUAL ARTS,

Defendant.

-----X

INDEX NO. 158221/2020
MOTION DATE N/A
MOTION SEQ. NO. 001 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19,

were read on this motion to/for DISMISSAL.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94¹

were read on this motion to/for DISMISSAL.

Motion Sequence Numbers 001 and 002 are consolidated for disposition. Defendant's motion (MS001) to dismiss the complaint was withdrawn and defendant's motion (MS002) to dismiss the amended complaint is granted. Plaintiff's cross-motion for leave to amend is denied.

Discussion

Before the Court delves into the facts, the undersigned must address the elephant in the room and apologize for the extreme delay in the issuance of this decision. These motions were returnable in 2021 and were seemingly forgotten about for the last four years until this matter

¹ The Court did not consider sur-replies filed after the motion was returnable. Although the motion should have been decided long ago, it seems the parties uploaded various filings at will in the years that this motion has been pending. Because there was no briefing schedule, it's not equitable to just accept whatever additional papers the parties uploaded.

was reassigned to this part in mid-December 2025. This Court was embarrassed when it discovered these pending applications. Simply put, these motions should have been decided years ago. There are no excuses; on behalf of the court system, this Court can only apologize.

Turning to the merits, plaintiff brings this case to complain about the online-only education provided by defendant as a result of the COVID-19 pandemic. He insists that defendant breached its contract with him, and other similarly situated students, by conducting the Spring 2020 semester completely remote. Plaintiff contends that he should not have had to pay the full cost of tuition for a limited educational experience and that defendant refused to offer any refunds or discounts. He details that defendant advertises its laboratories as part of a student's on-campus learning and it only provided recorded lectures. Plaintiff styles this case a class action on the ground that defendant promises to provide in-person and on-campus live education and did not do so. He brings claims for breach of contract, unjust enrichment and conversion.

Defendant moves to dismiss on the ground that this case is an attempt to do an end-run around New York's long-standing prohibition in education malpractice cases. It insists that there was never a contract to breach with plaintiff and that the student handbook specifically references an online component to be determined by the course instructor. Defendant emphasizes that plaintiff received instruction and earned credits for all of the courses he took.

In opposition and in support of his cross-motion, plaintiff disputes that he is asserting an educational malpractice claim. He contends that he has stated valid claims for breach of contract, unjust enrichment and for conversion, including a demand for punitive damages for wrongful

retention of his tuition. Plaintiff argues that defendant promised to provide in-person and on campus educational services in exchange for tuition and other fees.

In reply, defendant disputes that there was a contract for in-person only instruction from the various materials cited by plaintiff. It argues that there was no explicit promise for that type of instruction and without that specific promise, defendant's motion must be granted.

Discussion

In the years that this case has been pending, appellate courts have considered and rejected similar claims and so this Court must apply that case law here (*see McCudden v Canisius Coll.*, 236 AD3d 1441, 1442 [4th Dept 2025], *lv to appeal denied*, 242 AD3d 1577 [4th Dept 2025]; *Croce v St. Joseph's Coll. of New York*, 219 AD3d 693, 696 [2d Dept 2023]).

“On a motion to dismiss pursuant to CPLR 3211, the pleading is to be afforded a liberal construction ... [and the court will] accept the facts as alleged in the complaint as true, accord plaintiff[] the benefit of every possible favorable inference, and determine only whether the facts alleged fit within any cognizable legal theory. At the same time, however, allegations consisting of bare legal conclusions ... are not entitled to any such consideration ... Dismissal of the complaint is warranted if the plaintiff fails to assert facts in support of an element of the claim, or if the factual allegations and inferences to be drawn from them do not allow for an enforceable right of recovery” (*McCudden*, 236 AD3d at 1442 [internal quotations and citations omitted]).

In *McCudden*, the Fourth Department dismissed a similar claim brought by a student at Canisius College to recover tuition due to the online-only instruction provided by the institution (*id.* at 1444-46). The Court found that “We agree with the Second Department [in *Croce*] that, in this context, the cause of action for breach of contract requires an allegation of a specific promise

to provide the plaintiff with exclusively in-person learning. The amended complaint also fails to state, in anything more than a conclusory fashion, the manner in which plaintiff's unspecified course of study was impacted by Canisius's shift to remote operations" (*id.* at 1443).

Similarly, here, the amended complaint did not point to a specific promise by defendant that there would be in-person only instruction. In fact, the handbook states that "All SVA undergraduate and graduate courses have an online component available for use as deemed appropriate by the course instructor" (NYSCEF Doc. No. 36 at 17). There is simply no basis to conclude that there was a promise, and therefore, a viable breach of contract claim based on defendant's decision to shift to online-only courses in light of the COVID-19 pandemic.

The Fourth Department in *McCudden* also dismissed the unjust enrichment claim (*id.* at 1145) and the same analysis applies here. There is no dispute that plaintiff earned academic credits for courses provided by defendant for the Spring 2020 semester and so there is no basis for an unjust enrichment claim. For the same reason, the Court dismisses the third claim for conversion as defendant was entitled to accept tuition for providing classes to plaintiff.

Summary

Plaintiff's frustration with receiving online-only courses starting in March 2020 is understandable. But that disappointment is not a basis to recoup tuition where, as here, plaintiff received credits for the courses he took and where plaintiff did not point to a specific promise that the courses would be exclusively in-person. And plaintiff did not offer anything more than generalized and conclusory assertions on this point—for instance, it seems that plaintiff is a film student and he did not point to a specific promise that he needed some in-person film course to complete his degree (*Croce*, 219 AD3d at 696 [noting that the plaintiff did not "articulate in

more than conclusory fashion the manner in which the plaintiff’s course of study—which is not stated—was impacted by the suspension of in-person learning”]).

This is not a situation in which an educational institution cancelled all courses, refused to award credits and still kept the tuition. Rather, plaintiff wished to take advantage of the all of the resources that defendant could offer to in-person students. That hope does not create an implied contract. And appellate division cases reviewing similar complaints (in fact, plaintiff’s counsel was the attorney for both of the plaintiffs in *McCudden* and *Croce*) dismissed these cases. This Court is bound to follow this caselaw under these circumstances.


Accordingly, it is hereby

ORDERED that motion sequence 001 was withdrawn; and it is further

ORDERED that defendants’ motion (MS002) to dismiss this case with prejudice is granted and the Clerk is directed to enter judgment accordingly in favor of defendant and against plaintiff along with costs and disbursements upon presentation of proper papers therefor; and it is further

ORDERED that plaintiff’s cross-motion for leave to replead is denied in light of the aforementioned appellate cases cited above.

1/5/2026
DATE


ARLENE P. BLUTH, J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED		
<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED

<input type="checkbox"/>	NON-FINAL DISPOSITION		
<input type="checkbox"/>	GRANTED IN PART	<input checked="" type="checkbox"/>	OTHER

APPLICATION:

<input type="checkbox"/>	SETTLE ORDER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN

<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE