

Kalia v City Univ. of N.Y.
2026 NY Slip Op 31392(U)
April 7, 2026
Supreme Court, New York County
Docket Number: Index No. 153700/2025
Judge: Phaedra F. Perry-Bond
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. PHAEDRA F. PERRY-BOND PART 35

Justice

INDEX NO. 153700/2025
MOTION DATE 05/30/2025
MOTION SEQ. NO. 001

RAVI KALIA,

Plaintiff,

- v -

CITY UNIVERSITY OF NEW YORK, VINCENT BOUDREAU, and PAUL OCCHIOGROSSO

Defendants.

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35

were read on this motion to/for DISMISSAL

Upon the foregoing documents, Defendants' motion to dismiss Plaintiff's Complaint pursuant to CPLR 3211(a)(1), (a)(2), (a)(5), and (a)(7) is granted.

I. Background

This is Plaintiff's fifth lawsuit against Defendant City University of New York ("CUNY") alleging, inter alia, discrimination, hostile work environment, and retaliation. Plaintiff's prior lawsuits have each been dismissed. Plaintiff is a tenured professor of history at the City College of New York ("City College"), a school within CUNY. Defendant Vincent Boudreau ("Boudreau") is the President of City College and Defendant Paul Occhiogrosso ("Occhiogrosso") is counsel to the office of the President of City College. Plaintiff, an Indian male, alleges that Defendants improperly derailed his designation as a Distinguished Professor despite other non-Indian professors obtaining the title of Distinguished Professor. Plaintiff claims the allegedly disparate treatment was a result of his charges against Defendants before the Equal Employment

Opportunity Commission (“EEOC”) and lawsuits against Defendants in Federal Court “over the past twenty years” (*see* NYSCEF Doc. 1 at ¶ 21).

More recently, Plaintiff claims that in 2018 he filed a charge with the EEOC and sued Defendants for “stringing out” his Distinguished Professor nomination. Plaintiff alleges on May 7, 2019, during the pendency of the EEOC charge, he met with non-party Erec Koch, the Dean of Humanities to discuss the lack of progress with respect to Plaintiff’s latest bid to be named Distinguished Professor. Plaintiff claims his latest attempt to be named Distinguished Professor received disparate treatment because no committee was formed with respect to his application and instead, Anne Kornhauser, who Plaintiff alleges was a “junior faculty member¹,” was assigned to solicit references for Plaintiff. Ultimately, on December 10, 2020, Plaintiff’s latest bid to be named Distinguished Professor was denied after a vote by Plaintiff’s divisional Personnel and Benefits Committee.² Plaintiff claims this vote was retaliatory based on his prior lawsuits and was discriminatory in that less qualified Caucasian professors were granted Distinguished Professor status in the past.

He further claims he was retaliated against because he made a sabbatical request on January 18, 2021, but the request was purportedly denied. E-mail correspondence shows Plaintiff never made a formal application for sabbatical, and he asked to teach courses the same semester he allegedly wanted to take sabbatical. Plaintiff also claims he requested to teach a historiography class in February of 2021 but this request was allegedly ignored and instead the opportunity was given to an allegedly less qualified Caucasian professor. Plaintiff now sues Defendants for retaliation, race and national origin discrimination, and hostile work environment.

¹ Anne Kornhauser was the Chair of the History Department.

² To be appointed Distinguished Professor, an applicant must pass twelve levels of review. The vote by the P&B Committee, which rejected Plaintiff’s application, was only the second level of review.

Plaintiff first brought a nearly identical Complaint in the United States District Court for the Southern District of New York (the “SDNY Action”). However, on February 18, 2025, United States District Judge Vernon S. Broderick dismissed Plaintiff’s federal causes of action with prejudice and declined to exercise supplemental jurisdiction over Plaintiff’s state causes of action. Defendants now move to dismiss this lawsuit arguing collateral estoppel bars Plaintiff’s causes of action, that Defendants are immune from suit under the New York City Human Rights Law, and Plaintiff otherwise fails to state a claim. In opposition, Plaintiff argues collateral estoppel does not preclude Plaintiff’s claims and that Plaintiff has sufficiently alleged discrimination, disparate treatment, retaliation, and hostile work environment claims. Plaintiff further argues that the claims the doctrine of sovereign immunity does not strip this Court of subject matter jurisdiction.

II. Discussion

A. Abandoned Claims

As a preliminary matter, Plaintiff does not oppose dismissal of the fifth and sixth causes of action alleging tortious interference, therefore those claims are dismissed as abandoned (*see, e.g. Saidin v Negron*, 136 AD3d 458 [1st Dept 2016]). Plaintiff likewise does not oppose dismissal of any claim asserted against Boudreau, therefore the claims asserted against him are dismissed.

B. New York City Human Rights Law (“NYCHRL”) Claims

The NYCHRL claims are dismissed pursuant to the doctrine of sovereign immunity. CUNY, which is an instrumentality of New York State, is not subject to the provisions of the NYCHRL (*see Ruderman v New York State Ins. Fund*, 215 AD3d 505, 506 [1st Dept 2023] citing *Jattan v Queens Coll. Of City Univ. of N.Y.*, 64 AD3d 540, 542 [2d Dept 2009]).

Pursuant to CPLR 8602(g), “State” includes any state “officials acting in his or her official capacity.” Therefore, the State’s sovereign immunity extends to officers of the State engaged in

carrying out governmental functions. This includes Ochiogrosso. Plaintiff fails to allege any facts that show Ochiogrosso committed tortious acts outside the scope of his employment as an officer of CUNY. Therefore, the NYCHRL claims asserted against Ochiogrosso are dismissed (*see, e.g. Ajoku v New York State Office of Temporary and Disability Assistance*, 198 AD3d 437, 437-438 [1st Dept 2021]; *see also Miller v City University of New York*, 66 Misc.3d 1227[A] at *5 [Sup. Ct., New York County 2019]).

C. Collateral Estoppel

Plaintiff's remaining causes of action are dismissed pursuant to the doctrine of collateral estoppel. Collateral estoppel applies when the issues in both proceedings are identical, the issue in the prior proceeding was litigated and decided, there was a full and fair opportunity to litigate the decisive issue in the prior proceeding (*Conason v Megan Holding, LLC*, 25 NY3d [2015] [internal quotation marks and citation omitted], *rearg denied* 25 NY3d 1193 [2015]). The litigant seeking the benefit of collateral estoppel must show that the decisive issue was necessarily decided in the prior action against a party, or one in privity with a party, while the party to be precluded bears the burden of demonstrating the absence of a full and fair opportunity to contest the prior determination (*id.*).

Although the Plaintiff's New York State Human Rights Law ("NYSHRL") and Title VII claims are subjected to different pleading standards, "it would be illogical" to find pleadings satisfactory in a state action that were 'rejected by the federal court where the plaintiff had a full and fair opportunity to litigate . . . in the federal action, as long as the same conclusion would result if the allegations were viewed under the more liberal [State Human Rights Law] standard" (*see Anandaraja v Icahn Sch. Of Medicine at Mount Sinai*, 227 AD3d 533, 535-536 [1st Dept 2024] quoting *Russell v New York Univ.*, 204 AD3d 577, 579 [1st Dept 2022], *affd* 42 NY3d 377 [2024]).

The hostile work environment claim is dismissed. Plaintiff's federal hostile work environment claim has been dismissed at least twice in Federal Court (*see Kalia v City University of New York*, 2020 WL 6875173 at *6-7 [SDNY 2020] ["*Kalia 3*"]) and most recently on a motion to dismiss (*see Kalia v City University of New York*, 2025 WL 522544 at *5 [SDNY 2025] ["*Kalia 4*"]). The *Kalia 3* decision states that Plaintiff failed to allege that the treatment he claimed was hostile was due to his race or national origin, which was why the hostile work environment claim was dismissed. The *Kalia 4* decision found Plaintiff collaterally estopped from relitigating the hostile work environment claims since the allegations in that action were essentially identical to the allegations in *Kalia 3*. The result is the same here, even when assessed using the more liberal standard under the NYSHRL.

Plaintiff is still required to allege some facts that conducts and remarks "sufficiently severe or pervasive to alter the conditions of his employment" and which reflect discriminatory animus towards Plaintiff for his race and national origin (*see Pelepelin v City of New York*, 189 AD3d 450, 451-452 [1st Dept 2020]; *Askin v Department of Educ. Of the City of N.Y.*, 110 AD3d 621, 622 [1st Dept 2013]). However, the Complaint in this action, just like the complaints in *Kalia 3* and *Kalia 4* are devoid of any factual allegations showing severe or pervasive conduct or remarks directed at Plaintiff due to his race or national origin (*see also Wiltz v City of New York*, 191 AD3d 452 [1st Dept 2021]).

The retaliation claim is also collaterally estopped, for under both the NYSHRL and Title VII there must be some causal connection between his protected activity and the denial of his Distinguished Professor appointment. But in *Kalia 3* and *Kalia 4*, United States District Judges Jesse M. Furman and Vernon S. Broderick each respectively found Plaintiff failed to allege any

causal nexus (*see, e.g. Dedewo v. CBS Corp.*, 236 AD3d 541, 542 [1st Dept 2025]; *Sanders v Grenadier Realty, Inc.*, 102 AD3d 460, 461 [1st Dept 2013]).

Finally, collateral estoppel precludes Plaintiff's discrimination claims premised on a disparate treatment theory (*see, e.g. Abromavage v Deutsche Bank Securities Inc.*, 249 NYS3d 12 [1st Dept 2026]; *Simmons-Grant v Quinn Emanuel Urquhart & Sullivan, LLP*, 116 AD3d 134 [1st Dept 2014]). Judge Broderick found Plaintiff failed to raise an inference of discrimination where there were insufficient facts showing the proposed comparators were not similarly situated (*Dedewo, supra* at 144-145).

In reaching this result, the Court is also mindful of the Court of Appeals' instruction in *Buechel v. Bain*, 97 N.Y.2d 295 (2001). In *Buechel*, the Court of Appeals held "[t]he fundamental inquiry is whether re-litigation should be permitted in a particular case in light of fairness to the parties, conservation of the resources of the courts and the litigants, and the societal interests in consistent and accurate results." (97 NY2d 295, 304 [2001]). This is Plaintiff's fifth lawsuit against CUNY alleging discrimination and unfair treatment with respect to his denial of the Distinguished Professor title. The four prior lawsuits were each dismissed, and the allegations in this lawsuit are nearly identical to the dismissed Complaint in *Kalia 4*.

It is not fair to Defendants nor the Courts to consistently relitigate the same gripes which Plaintiff has alleged over the span of decades, nor would societal interests in consistent results be furthered by allowing this lawsuit to go forward. At some point, there needs to be some finality. The record shows that despite all his previously dismissed lawsuits, Plaintiff has still consistently been given the opportunity to apply for the Distinguished Professor title. CUNY's guidelines show that "in all but the most exceptional circumstances, candidates who have been rejected may be renominated only once" (NYSCEF Doc. 22). Despite all of Plaintiff's gripes, he has been given

multiple opportunities to apply. That Plaintiff is unhappy with being denied the title, which is highly selective and requires a vigorous twelve-level review process, does not automatically mean he has a meritorious discrimination claim. Therefore, the Complaint is dismissed. The Court has considered the remainder of Plaintiff's contentions and finds them unavailing.³

Accordingly, it is hereby,

ORDERED that Defendant's motion is granted and Plaintiff's Complaint is dismissed; and it is further

ORDERED that within ten days of entry, counsel for Defendants shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

4/7/26
DATE


HON. PHAEDRA F. PERRY-BOND, J.S.C.

CHECK ONE:

<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION
<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
		<input type="checkbox"/>	REFERENCE

APPLICATION:

CHECK IF APPROPRIATE:

³ Were the Court to conduct an ordinary CPLR 3211(a)(7) analysis as opposed to applying collateral estoppel, dismissal would still be warranted.