

Kamboj v New York Univ.
2026 NY Slip Op 31788(U)
April 23, 2026
Supreme Court, New York County
Docket Number: Index No. 159187/2025
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

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INDEX NO. 159187/2025

RAJIT S. KAMBOJ,

MOTION DATE 09/29/2025

Plaintiff,

MOTION SEQ. NO. 001

- v -

NEW YORK UNIVERSITY, CHARLES BERTOLAMI,
LESLIE SMITHEY, MICHAEL O'CONNOR, GRETCHEN
NORTH, STACI RIPKEY, LOUIS TERRACIO, JOHN DOE,
JOHN DOE, JOHN DOE, JOHN DOE,

DECISION + ORDER ON MOTION

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 38, 39, 40, 41, 42,
43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55

were read on this motion to/for DISMISSAL.

Upon the foregoing documents, Defendants' motion to dismiss Plaintiff's Complaint is
granted. Plaintiff, who is proceeding pro se, was formerly enrolled as a student at New York
University's College of Dentistry. Plaintiff was dismissed from the program on July 10, 2019 for
poor academic performance, but he claims that defendants were also engaged in a fraudulent
conspiracy to retroactively justify plaintiff's dismissal on disciplinary issues. Plaintiff concedes
that he previously challenged his dismissal in an Article 78 proceeding (the "Article 78
Proceeding") which was dismissed. Plaintiff claims that fraudulent conduct was not discoverable
at the time of the Article 78 Proceeding, and Plaintiff claims he could not have sought money
damages in his Article 78 petition. Plaintiff now sues Defendants for fraudulent misrepresentation,
fraudulent concealment, and breach of contract.

Defendants move to dismiss on numerous grounds. Defendants claim to the extent Plaintiff
claim his academic dismissal was based on fraud, the challenge to his academic dismissal was

required to be brought by an Article 78 proceeding. Defendants argue there was no fraud or backdating. Defendants further argue Plaintiff's claims are barred by res judicata because Justice Debra James already ruled in the prior Article 78 Proceeding that Defendants' academic dismissal of Plaintiff was rational and supported by the record. In opposition, Plaintiff argues the prior judgment was obtained through extrinsic fraud and the concealing of evidence such that this action should not be barred. The Court finds Plaintiff's arguments without merit and dismisses this action.

As held by the Court of Appeals, a valid final judgment bars future actions between the same parties once a claim is brought to a final conclusion, and "all other claims arising out of the same transaction or series of transactions are barred, even if based upon different theories or if seeking a different remedy." (*see Simmons v Trans Express Inc.*, 37 NY3d 107, 111 [2021] citing *O'Brien v City of Syracuse*, 54 NY2d 353, 357 [1981]). This rule exists "to ensure finality, prevent vexatious litigation and promote judicial economy" (*Xiao Yang Chen v Fischer*, 6 NY3d 94, 100 [2005]). To determine whether two claims arise out of the same transaction or series of transactions, the Court must determine whether they "are related in time, space, origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage" (*Xiao, supra* at 100-101 quoting Restatement [Second] of Judgments §24[2]).

Here, there are identical parties as the Prior Article 78 Proceeding. Although there are numerous individually named Defendants, they are being sued for acts taken in the scope of their employment with Defendant New York University and are therefore in privity and united in interest with New York University, which was a respondent in the Prior Arbitration Action (*see, e.g. Shaoul v Komolov*, 224 AD3d 618 [1st Dept 2024]; *see also Syncora Guarantee Inc. v J.P. Morgan Securities LLC*, 110 AD3d 87, 93 [1st Dept 2023] [where parties allegedly acted in close

affiliation, in concert, and in furtherance of an alleged scheme, parties are treated as same entity for purposes of *res judicata*]).

Moreover, the Article 78 Proceeding and claims in this action arise out of the same transaction or series of transaction – namely Plaintiff’s attendance at New York University and his ultimate expulsion. Finally, contrary to Plaintiff’s contention, there was nothing preventing Plaintiff from bringing a hybrid Article 78 Petition and Complaint seeking monetary damages. (*see Perrotta v Syosset Central School District*, 210 AD3d 986, 989 [2d Dept 2022]).

The alleged fraud or wrongdoing set forth by Plaintiff does not provide an exception to the doctrine of *res judicata*. Although Plaintiff claims there were ongoing disciplinary proceedings against him, he does not dispute that ultimately, he was dismissed not for disciplinary proceedings but because he violated the terms of his academic probation. The documents Plaintiff alleges were concealed or fabricated have nothing to do with the reason that he was ultimately dismissed from dental school. He was dismissed due to his own poor academic performance, not for any disciplinary reasons. Moreover, Justice James already found that Plaintiff’s dismissal from dental school was proper. Plaintiff cannot try to relitigate his dismissal from dental school by ginning up allegations of fraud, especially whenever he never moved to vacate the judgment he claims was fraudulently procured, nor would the allegedly fraudulent acts even impact an assessment as to whether Plaintiff’s expulsion was proper. The Court has considered the remainder of the Plaintiff’s contentions and finds them to be unavailing.

Accordingly, it is hereby,

ORDERED that Defendants’ motion to dismiss is granted, and Plaintiff’s Complaint is hereby 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.

4/23/26
DATE


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

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE