



The First Department recently tackled whether the prior dismissal of two federal lawsuits that had been based on claims of abuse, which were later revived by the Child Victims Act could give the defendants vested rights barring the CVA litigation. Let's take a look at that opinion and what else has been going on in the New York appellate courts over the last week.

## FIRST DEPARTMENT

### CHILD VICTIMS ACT, VESTED RIGHTS

*M.T. v Yeshiva Univ.*, 2026 NY Slip Op 00218 (1st Dept Jan. 15, 2026)

**Issue:** May a Child Victims Act claim be precluded by “vested rights” that defendants assert they have in two federal judgments in their favor and against the plaintiffs, which were previously dismissed on statute of limitations and res judicata grounds?

**Facts:** Following the Legislature’s adoption of the Child Victims Act revival window, 47 plaintiffs sued defendants for abuse that they allege occurred between the 1950s and 1980s. 33 of those plaintiffs had previously brought two federal actions against defendants based on the same claims of abuse, long before the CVA was adopted to revive such claims. The first federal suit was dismissed as time-barred, and affirmed by the Second Circuit. The second federal suit, which again alleged claims based on the same abuse, was dismissed as barred by res judicata.

In this CVA action, defendants moved to dismiss, arguing that “they obtained a constitutionally protected vested property right in the final federal judgments in [first and second federal lawsuits] against 33 of the 47 plaintiffs in this action. That vested property right, they argue, cannot be abrogated by the CVA without violating the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and the Supremacy Clause.” Supreme Court denied that portion of their motion, and defendants appealed.

**Holding:** The Appellate Division, First Department affirmed, noting that “the [federal] doctrine of vested rights is essentially a check on legislative power to alter certain private rights recognized in final court judgments.” The Court explained, federal precedent has recognized that “a final money judgment gives rise to a vested due process property right, which entitles the judgment creditor to the same constitutional protections afforded other forms of property. A judgment lien against real property also creates a property interest protected by the Fourteenth Amendment because it secures the judgment creditor’s ability to collect a money judgment and like other common property interests, a judgment lien can be freely bought, sold, and assigned.”

The prior dismissals of federal lawsuits, however, do not, the Court held. “While a judgment is certainly the vehicle for vesting private property rights, it is not the property right by and of itself. Notably, *McCullough* was premised on the existence of not only a judgment, but a separate property right (a tax refund) associated with the judgment, which became inviolable once vested by a judgment . . . Defendants do not identify any property right under New York law that is associated with the judgments. The judgments do not involve title to real or personal property. Defendants did not obtain a money judgment or a judgment lien. Moreover, the final federal judgments cannot be freely bought, sold, and assigned like other common property interests. Notably, the judgments have no value to anyone except defendants, and that value is based on ‘the hope of avoiding litigation’ which is not a property interest.” Thus, the Court held that defendants did not have a vested right in the prior federal judgments of dismissal that could be impaired by the CVA’s revival window for previously time-barred claims.

Finally, the Court held, “the Supremacy Clause does not provide an independent basis for finding that the CVA, as applied to defendants, is unconstitutional. The CVA does not conflict with the Due Process Clause of the Fourteenth Amendment because the final federal judgments did not vest defendants with a constitutionally protected property right. The CVA is consistent with the Due Process Clause of the Fourteenth Amendment inasmuch as a state legislature, consistently with the Fourteenth Amendment, may repeal or extend a statute of limitations, even after right of action is barred thereby, restore to the plaintiff his remedy, and divest the defendant of the statutory bar. Nor does the CVA, a New York revival statute enacted by the New York legislature governing claims brought in New York courts, conflict with federal law.”

## LABOR AND EMPLOYMENT, DISCRIMINATION, NEW YORK CITY HUMAN RIGHTS LAW

*Abromavage v Deutsche Bank Sec. Inc.*, 2026 NY Slip Op 00052 (1st Dept Jan. 08, 2026)

**Issue:** Can detailed federal court factual findings that no retaliatory or discriminatory motive existed bar under collateral estoppel discrimination claims asserted under the New York City Human Rights Law?

**Facts:** Plaintiff, a former Managing Director at Deutsche Bank Securities Inc., was terminated in August 2016 after he participated in a 2015 internal HR investigation involving another managing director accused of discriminatory conduct. Following his termination, he alleged that his cooperation in the investigation provoked retaliation from his supervisors, including artificially depressed revenue, client reassignments, negative performance reviews, denial of his 2015 bonus, and ultimately his termination.

Plaintiff first sued in federal court under Title VII, the New York State Human Rights Law, and the New York City Human Rights Law. Following extensive discovery in the federal action, the District Court dismissed Plaintiff's Title VII and NYSHRL claims, holding that "plaintiff did not meet his evidentiary burden for a reasonable jury to find that defendants' legitimate and nonretaliatory explanations for these adverse employment actions were pretextual or that a retaliatory motive was the but-for cause of the adverse employment actions about which plaintiff complains." The District Court declined to exercise supplemental jurisdiction over Plaintiff's NYCHRL claims, and dismissed those without prejudice. The Second Circuit affirmed on appeal, agreeing with the District Court's detailed findings that Plaintiff failed to establish pretext or a retaliatory motive.

Following the dismissal of his federal case, Plaintiff filed this action in state court, reasserting his NYCHRL claims only. Defendants moved to dismiss, and "Supreme Court denied plaintiff's cross-motion for limited discovery and dismissed this action on collateral estoppel grounds."

**Holding:** The Appellate Division, First Department affirmed, explaining that "[a]s the Court of Appeals recently reaffirmed in *Russell v New York Univ.*, federal factual findings can bar relitigating even City HRL claims where the prior record established the absence of any evidence of retaliatory intent." The Court held that the collateral estoppel bar applied here, because "the same parties litigated the identical factual question—namely whether defendants acted with retaliatory animus. Plaintiff had extensive discovery and a full and fair opportunity to contest the record before judgment and on appeal. The adverse employment decisions and retaliatory motive were thoroughly litigated under Title VII and the State HRL burden-shifting framework, and the issue was necessarily resolved when the District Court found a total absence of evidence of retaliatory motive and granted defendants summary judgment as a matter of law. The Second Circuit's affirmance ratified those findings."

Notably, the Court reasoned, "the requirement to interpret the City HRL under a more liberal lens does not relieve plaintiff of his burden to produce evidence of a retaliatory motive behind the adverse actions. Under the circumstances presented here, temporal proximity, standing alone, creates at most a prima facie inference of causation. It cannot overcome detailed factual findings that no retaliatory motive existed . . . We emphasize that the City HRL's liberal construction rule lowers the causation threshold, not the evidentiary one. Once the federal record established the absence of any retaliatory motive, no genuine factual issue remained even under the City HRL's mixed-motive framework. To allow this case to go to a jury under the guise of liberal construction finds no support in the record."

## SECOND DEPARTMENT

### MUNICIPAL LAW

*Matter of Wyandanch Union Free Sch. Dist. v Town of Babylon Indus. Dev. Agency*, 2026 NY Slip Op 00252 (2d Dept Jan. 21, 2026)

**Issue:** Did a municipal industrial development agency operate within its statutory authority under the New York State Industrial Development Agency Act (article 18-A of the General Municipal Law) when it determined that a planned affordable senior housing project was eligible for certain financial assistance and benefits under the Act?

**Facts:** After a developer of an affordable senior housing project applied for benefits from the Town of Babylon Industrial Development Agency, the IDA determined that the development constituted a "project" as defined in General Municipal Law § 854(4) entitled to financial assistance and benefits under the Act, finding that the senior housing project would promote job opportunities and economic welfare, that the Town needed affordable senior housing, and that the project was part of a larger revitalization effort in an economically distressed area. The IDA therefore concluded that the project would serve the Act's purposes of preventing unemployment and economic deterioration, and granted the application.

Petitioners challenged the determination in an Article 78, arguing that "providing tax benefits pursuant to the Act for planned construction projects such as the one at issue here—affordable senior housing—is prohibited by the Act and that the Babylon IDA acted outside of its authority by granting financial assistance to the LLC for the senior housing project." Supreme Court, however, disagreed and dismissed the proceeding, holding that the IDA's determination was not arbitrary and capricious.

**Holding:** The Appellate Division, Second Department affirmed. The Court explained that the "IDA, a government entity tasked with the purpose of 'advanc[ing] . . . job opportunities, health, general prosperity and economic welfare' (*id.* § 858), was created for the purpose of preventing unemployment and economic deterioration through the promotion of projects, which include, but are not limited to, fa-

cilities suitable for economically sound purposes (*see id.* §§ 852, 854[4]; 858) and to ‘provide one means for communities to attract new industry, encourage plant modernization and create new job opportunities.’” Upon examining the plain language of the statute, the Court concluded that “General Municipal Law §§ 852 and 854(4) allows the Babylon IDA to treat the senior housing project as a project eligible for certain financial assistance where the record demonstrates that one of the goals of the senior housing project is to promote employment opportunities and to combat economic deterioration in the area served by the Babylon IDA.”

The Court rejected the petitioners’ attempts to read the statutory language narrowly, because, the Court explained, the expansive language in the definition of a “project” under the Act, with a non-exclusive list that begins with ‘including, but not limited to,’” meant that “the listed examples would not be exhaustive.” Thus, the Court held, “the text plainly provides that ‘project,’ in addition to those items listed, ‘includ[es], but [is] not limited to’ other things and that the term ‘project’ is inclusive of non-listed activities which have been targeted for ‘other economically sound purposes.’” Here, the IDA’s determination that the affordable senior housing development was one of those projects eligible for benefits under the Act was not arbitrary, in light of the IDA’s factual conclusions.

CasePrepPlus | January 30, 2026

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