

News **Personal Injury**

Federal Law Against Arbitration Keeps Sorority's Negligence Case in Court, NY Appeals Court Says

In keeping the case in court, the Second Department resolved an issue of first impression on the scope of the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act.

September 24, 2026 at 02:34 PM By **Alyssa Aquino**



Appellate Division, Second Department, Brooklyn, NY..(David Handschuh/NYLJ)..

A court, not an arbitrator, will decide whether a sorority's negligence caused a SUNY Cortland student to be sexually assaulted by a fraternity member, a New York appeals court ruled, determining that a federal law preventing the arbitration of sexual assault claims applies to the case.

The Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act, or EFAA, voids mandatory arbitration agreements in sexual assault cases, including cases that are "related" to the assault.

Based on that "related" language, a New York Supreme Court Appellate Division, Second Department panel said the EFAA covers a student's lawsuit against the Sigma Delta Tau Society, even though the sorority wasn't directly involved in her sexual assault.

“The statutory language does not contain limiting language that would require a direct claim of sexual assault or sexual harassment against the alleged tortfeasor in order for the EFAA to apply. Rather, when an action has a logical connection to conduct by a defendant in the action that in some way concerns sexual assault or sexual harassment, the EFAA will apply and arbitration will be prevented,” Associate Justice Carl Landicino wrote in [a decision](#) issued Wednesday.

Justices Angela G. Iannacci, Valerie Brathwaite Nelson and Elena Goldberg Velazquez also sat on the panel.

In so ruling, the appellate judges resolved a matter of first impression for their court, whether the EFAA’s protections apply to negligence claims against a third party.

The student’s attorney, Nancy Morgan, praised the decision in a Thursday interview with Law.com.

“We’re coming up against these mandatory arbitration clauses across the board,” said Morgan, a personal injury attorney at Finkelstein & Partners. “Uber, Lyft—a lot of other organizations are trying to avoid responsibility by requiring us to go to mandatory arbitration.”

“The movement of cases to mandatory arbitration ... has injured parties significantly,” Morgan said. “If you look at the decisions [by the arbitrators], they’re all in favor of the organization and not the injured party.”

Morgan’s client, who is identified in court papers only as C.N., sued Sigma Delta Tau Society and its SUNY Cortland chapter after she was assaulted by someone she met at a Pi Kappa Phi party.

C.N. claims the sorority required sisters to attend the mixer, even though the frat had allegedly been removed from campus and was no longer recognized by its national organization due to “previous inappropriate and dangerous conduct.”

Sigma Delta Tau, which is represented by Marshall Dennehey, moved to send the case to arbitration in its home state in Indiana, citing an arbitration clause in C.N.’s membership agreement. Nassau County Supreme Court Justice Anna Grimaldi granted the motion, finding that the negligence suit wasn’t covered by the EFAA.

But the Second Department ruled otherwise, saying that C.N. had alleged misconduct related to her assault.

“In sum, although the sorority contends that the plaintiff’s cause of action sounds in negligence as opposed to sexual assault, that distinction is immaterial here. The negligence cause of action is ‘related’ to the sexual assault dispute alleged in the complaint, which is all that is required under the EFAA,” according to the decision.

Counsel for Sigma Delta Tau didn't immediately respond to a Thursday request for comment.

C.N. has separately sued Pi Kappa Phi and her alleged assaulter, Jordan James.

According to court records, James was charged by the Cortland County District Attorney's Office with sexual abuse, rape and unlawful surveillance. Staff at the county clerk's office and the Cortland County Court confirm that James had pleaded guilty to one charge of unlawful surveillance and been sentenced to six months in jail, followed by five years of probation.

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