Westchester County Round-Up:
Recent Significant Decisions from the
Westchester Federal and State Courts
January 2015

This article is the fifth in a quarterly series reviewing decisions from the Federal District Court and State Supreme Court (Commercial Division) judges located in White Plains. This article reviews decisions from the fourth quarter of 2014.

Judge Karas Refuses to Dismiss Anti-Semitic Harassment Lawsuit Against School District and its Administrators

In *T.E. v. Pine Bush Cent. Sch. Dist.*, No. 12-CV-2303 KMK, 2014 WL 5591066 (S.D.N.Y. Nov. 4, 2014), **Judge Kenneth M. Karas** denied Defendants' motion for summary judgment on Plaintiffs' claims of constitutional violations relating to undisputed anti-Semitic harassment in New York public schools, except for claims asserted against school officials in their official capacity, which he dismissed as redundant. In particular, the Court denied Defendants' motion on Plaintiffs' Title VI claim, holding, *inter alia*, that the anti-Semitic harassment Plaintiffs alleged constituted national origin or racial discrimination under Title VI; a jury could reasonably find that the school district, via its administrators, had actual knowledge of severe harassment; and, that the school district was deliberately indifferent to the harassment. While the Court recognized that it must accord sufficient deference to the decisions of school disciplinarians, it held that a jury could reasonably find that the district's responses were unreasonably delayed and were not reasonably calculated to end the harassment. Judge Karas also denied Defendants' motion on Plaintiffs' equal protection claim against individual administrators under 42 U.S.C. § 1983, holding a reasonable jury might infer the requisite discriminatory intent for such a claim based on the administrators' responses to Plaintiffs' complaints of anti-Semitic harassment. The Court further held that the qualified immunity doctrine did not shield the administrators from liability. Finally, the Court rejected Defendants' argument that Plaintiffs' equal protection claim must be dismissed based on *Monell*, which requires a causal link between a municipal policy or custom and the constitutional deprivation, concluding a jury could find that the district's policies and practices were deliberately indifferent to the need to protect against constitutional violations.

Judge Briccetti Grants Motion to Enforce Settlement Based on Binding Memorandum of Understanding

In *Wang v. International Business Machines Corp.*, No. 11 CV 2992 (VB), 2014 WL 6645251 (S.D.N.Y. Oct. 7, 2014), **Judge Vincent L. Briccetti** granted Defendant's motion to enforce a purported settlement agreement between the parties. The parties and their counsel participated in a mediation session at the end of which counsel believed they had reached a settlement in principle in the amount of $207,500. Defendant's counsel drafted a Memorandum of Understanding, which stated "[t]his is a binding agreement and contains all material terms" and provided that the parties would subsequently enter into a more extensive settlement agreement and release. Plaintiff, who communicated with his counsel via American Sign Language, admitted he had reviewed the Memorandum, but later alleged he did not read it carefully. Counsel for both parties signed the Memorandum. Plaintiff subsequently refused to sign the release, claiming he thought the settlement was for $207 million not $207,000 and that his counsel must have misunderstood the amount for which Plaintiff was willing to settle. Judge Briccetti rejected all of Plaintiff's arguments in opposition to Defendant's motion to enforce the settlement agreement holding Plaintiff's counsel had apparent authority to settle for $207,500. He further held the Memorandum of Understanding was a binding contract because it clearly expressed the parties' intent to be bound by it and thus was preliminary "only in form." Finally, the Court rejected Plaintiff's argument that the contract could be nullified because Plaintiff failed to read it.

Judge Seibel Dismisses Suit Brought By Tenants of Apartment Complex Against Federal Housing Agency and Federal and State Housing Officials

In *Thompson v. Donovan*, No. 13-CV-2988 (CS), 2014 WL 5149037 (S.D.N.Y. Oct. 14, 2014), **Judge Cathy Seibel** granted motions to dismiss filed by Defendants United States Department of Housing and Urban Development ("HUD"), HUD's Secretary, and the Commissioner of the New York State Division of Housing and Community Renewal ("HCR"). Plaintiffs were current or former tenants of an apartment complex in Yonkers, New York. In their Complaint, Plaintiffs alleged their landlord had submetered utilities in their building and, pursuant to a lease form mandated by HCR, charged those utilities as "additional rent," thereby permitting the landlord to evict tenants rather than just terminate utility service for nonpayment. Plaintiffs' counsel wrote to HUD that submetering was resulting in tenant displacement and requested HUD's intervention in the matter. Plaintiffs then filed suit, alleging HUD had violated the Administrative Procedure Act ("APA") by failing to take sufficient action in response to Plaintiffs' concerns. They also alleged the HCR Commissioner had violated 42 U.S.C. § 1983 by directing Plaintiffs' landlord to use the lease containing the "additional rent" clause. Judge Seibel held Plaintiffs failed to state claims under the APA because HUD was under no obligation to issue the requested legal interpretation and under no obligation to investigate Plaintiffs' allegations. The Court further held it lacked subject matter jurisdiction over Plaintiffs' claims against the HCR Commissioner under the "*Rooker-Feldman*" doctrine, which bars federal district courts from reviewing state court judgments, finding Plaintiffs were ultimately claiming injury from a prior City Court judgment or stipulation of settlement concerning the propriety of the contested submetering.

Judge Romàn Denies Defendants' Motion to Withdraw Reference of Action to Bankruptcy Court

In *In re Sheldrake Lofts LLC*, No. 14-CV-4274 NSR, 2014 WL 6450340 (S.D.N.Y. Nov. 15, 2014), **Judge Nelson S. Román** denied two Defendants' motion pursuant to 28 U.S.C. § 157(d) for withdrawal of the reference of the action to the Bankruptcy Court. The Court explained that in the Second Circuit, withdrawal is permitted for cause, which focuses judicial economy and uniformity in the administration of bankruptcy law, including whether the proceeding at issue is core or non-core. Judge Román denied the motion based on the following factors: it was a non-core proceeding in a complex bankruptcy, extensive litigation had already proceeded in the Bankruptcy Court, and the Bankruptcy Court's ongoing experience. Judge Román further reasoned that even though the Court would ultimately need to enter a final judgment, the Bankruptcy Court's familiarity with the complexities of the case over the course of four years made it more efficient to allow that court to provide recommendations on findings of facts and conclusions of law. In denying the motion, Judge Romàn rejected Defendants' argument that withdrawal was warranted because the case would hinge on witness credibility.
