

**Academic Health Professionals Ins. Assn. - A
Reciprocal Insurer v Ahluwalia**

2024 NY Slip Op 33932(U)

November 1, 2024

Supreme Court, New York County

Docket Number: Index No. 650875/2024

Judge: Melissa A. Crane

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. MELISSA A. CRANE PART 60M

Justice

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ACADEMIC HEALTH PROFESSIONALS INSURANCE
ASSOCIATION - A RECIPROCAL INSURER,

Plaintiff,

- v -

BRIJ M. SINGH AHLUWALIA, ROBERT FEKETE, SHYLA
KODI, JIN LI, VENKAT RAMANI, RAMANDEEP SAHNI,
ANILA THOMAS, RAJ MURALI, CRAIG BERZOFKY,
CAMERON L. BUDENZ, ANGELA DAMIANO, LIANNE M.
DE SERRES, STEVEN HEMMERDINGER, DEYA N.
JOURDY, AMEET KAMAT, TALI LANDO, DAVID MERER,
AUGUSTINE MOSCATELLO, JK JOHN RASAMNY,
KATRINA STIDHAM, CRAIG H. ZALVAN, JANET BORRA,
THOMAS D. CERABONA, MARISSA F. FORTE,
JONATHAN P. GIANNONE, MADHUVANTI JOSHI,
ASHUTOSH KAUL, ANTHONY MAFFEI, DENTON
ALLMAN, MUHAMMAD CHOUDHURY, ABDOL MAJID
ESHGHI, SEAN FULLERTON, GERALD MATTHEWS,
JOHN PHILLIPS

Defendant.

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INDEX NO. 650875/2024
MOTION DATE 07/29/2024,
08/29/2024,
08/29/2024
MOTION SEQ. NO. 001 003 004

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 15, 16, 17, 18, 19,
20, 21, 22, 23, 24, 25, 26, 27, 32, 39, 40, 41, 42, 43, 44, 68, 69, 70, 71, 72, 75, 76, 77, 78

were read on this motion to/for DISMISS.

The following e-filed documents, listed by NYSCEF document number (Motion 003) 47, 48, 49, 50, 51,
52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 79, 80, 82

were read on this motion to/for DISMISSAL.

The following e-filed documents, listed by NYSCEF document number (Motion 004) 67, 81

were read on this motion to/for DISMISS.

Upon the foregoing documents, defendants' motion to dismiss is granted.

Plaintiff, a reciprocal insurer of medical malpractice insurance, commenced this action to
recover outstanding payments it alleges the defendant physicians owe in connection with a 2017
assessment levied against all policy subscribers. Defendants move to dismiss pursuant to CPLR

3211(a)(1), (5) and (7), arguing that plaintiff's claims are barred under a 2022 settlement agreement between plaintiff and non-parties Westchester County Health Care Corporation ("WCHCC") and New York Medical College ("NYMC" or the "College"), defendants' affiliated medical centers.

In November of 2018, plaintiff filed suit against various medical centers and affiliated doctors, alleging that they breached their respective contracts by withdrawing from their subscribership without discharging their share of the insurer's losses and expenses (NYSCEF Doc. 18). In 2022 plaintiff and WCHCC and NYMC entered into a confidential settlement agreement, disposing of the 2018 suit (NYSCEF Doc. 19). As part of the settlement agreement, plaintiff agreed to release future claims against defendants and affiliates related to the assessments (*id.*). Specifically, Section 3 of the agreement provides,

“RELEASE OF KNOWN AND UNKNOWN CLAIMS 3.1 Except for the obligations under this Agreement, each Party, and each of its current and former members, officers, directors, owners, shareholders, partners, employees, attorneys, agents, representatives, divisions, affiliated entities, subsidiaries, related entities, parents, heirs, beneficiaries, successors, trustees, executors, and assigns, hereby releases, remises, acquits, and forever discharges to the fullest extent of the law, and covenants not to sue, as a full settlement and as an accord and satisfaction, **the other Party, and each of its respective current and former members, officers, directors, owners, past and present employed and/or affiliated physicians including those who are members of affiliated medical practices,** shareholders, partners, employees, attorneys, agents, representatives, divisions, affiliated entities, subsidiaries, related entities, parents, heirs, beneficiaries, successors, trustees, executors, and assigns, from any and all claims and counterclaims, however denominated, and manners of action, causes of action, suits, debts, obligations, choses in action, contracts, torts, covenants, claims, rights of contribution and/or indemnification, rights of subrogation, sums of money, judgments, executions, liabilities, damages, interest, fees, costs, expenses, demands and rights whatsoever, contingent or noncontingent, in law or in equity, **known or unknown, suspected or unsuspected, whether asserted or unasserted, that were previously existing, currently existing, or may hereafter arise from or in any way relate to the Litigation, including without limitations, claims for assessment or withdrawal fees.** For the avoidance of doubt, neither this settlement agreement nor this provision impact ongoing insurance coverage, defense obligations, and claims management governed by insurance policies previously issued”

(*id.* [emphasis added]). Following the settlement, Academic commenced this action to collect unpaid assessments “from the last few subscribers.” Plaintiff does not contest that these “last few subscribers” are “employed or affiliated physicians.”

Defendants now move to dismiss on the basis that plaintiff’s present claims are barred under the 2022 settlement agreement’s release provision. Defendants argue that while the defendant physicians here were not named in the original lawsuit, the agreement nevertheless discharged all claims against WCHCC and NYMC affiliated physicians, including defendants. In opposition, plaintiffs argue the 2022 settlement agreement and its release provision only apply to the 134 doctors specifically referenced in the agreement, who were named defendants in the 2018 litigation.

Generally, “a valid release constitutes a complete bar to an action on a claim which is the subject of the release” (*Centro Empresarial Cempresa S.A. v. América Móvil, S.A.B. de C.V.*, 17 NY3d 269 [2011] citing *Global Mins. & Metals Corp. v Holme*, 35 AD3d 93, 98 [1st Dept 2006]). Moreover, “A release is a contract, and its construction is governed by contract law” (*Burgos v New York Presbyt. Hosp.*, 155 AD3d 598, 600 [2d Dep’t 2017]). If “the language of a release is clear and unambiguous, the signing of a release is a ‘jural act’ binding on the parties” (*id.*)

Whether or not a writing is ambiguous is a question of law to be resolved by the courts” (*W.W.W. Assoc. v Giancontieri*, 77 NY2d 157 [1990]). “A contract is unambiguous if the language it uses has a definite and precise meaning, unattended by danger of misconception in the purport of the [agreement] itself, and concerning which there is no reasonable basis for a difference of opinion” (*Greenfield v Philles Records*, 98 NY2d 562, 569-570 [2002]). “That one party to the agreement may attach a particular, subjective meaning to a term that differs from the

term's plain meaning does not render the term ambiguous" (*Slattery Skanska Inc. v. Am. Home Assur. Co.*, 67 AD3d 1, 14 [2009]; *see also Baron v. New York Mut. Underwriters*, 181 AD3d 638, 640 [2d Dep't 2020]; *Innophos, Inc. v. Rhodia, S.A.*, 38 AD3d 368, 369 [1st Dep't 2007], *aff'd*, 10 NY3d 25 [2008]).

The 2022 settlement agreement clearly and unambiguously bars plaintiff's claims against the defendant physicians in this action. Plaintiff contends that, read in conjunction with the rest of the settlement agreement, Section 3 only releases the 134 doctors sued in the 2017 litigation (*See Westmoreland Coal Co. v. Entech, Inc.*, 100 NY2d 352, 358 [2003]). Specifically, plaintiff points to language in the settlement agreement which states, "WHEREAS Academic contends that Academic was a party to subscriber agreements with each of the 134 physicians affiliated with the Westchester Group..." Additionally, plaintiff points to the language "WHEREAS, Academic contends that the proportionate share of assessments owed by the Westchester Group and the physicians they employ totals \$2,283,531.00." Plaintiff argues that as the \$2,283,531.00 amount was what the 134 physicians owed, this means the release provision was only intended to include the 134 physicians from the 2018 suit.

Plaintiff's position contradicts the plain language of the release provision. As copied above, the agreement explicitly states that the release applies to "the other Party, and each of its respective current and former members, officers, directors, owners, past and present employed and/or affiliated physicians including those who are members of affiliated medical practices." There is no language limiting physicians to those who were named in the suit or the 134 referenced in the settlement agreement. The release provision further states that it applies to claims that are "known or unknown, suspected or unsuspected, whether asserted or unasserted, that were previously existing, currently existing, **or may hereafter arise from or in any way**

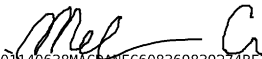
relate to the Litigation, including without limitations, claims for assessment or withdrawal fees.” This is a broad release. There is no ambiguity in this release language. By using the terms “unasserted or asserted” and extending the release to “affiliated physicians,” the release covers claims that could have been, but were not, asserted against the physicians named in this lawsuit.

The court has considered the remainder of plaintiff’s contentions and finds them unavailing.

Therefore, as the court finds plaintiff’s claims are subject to the release provision of the 2022 settlement agreement, plaintiff’s action must be dismissed (*See Rivera v. Wyckoff Heights Medical Center*, 113 AD3d 667 [2d Dep’t 2018]). Accordingly, it is hereby

ORDERED that defendants’ motions to dismiss are granted; and it is further

ORDERED that the clerk dismiss the action and enter judgment accordingly.


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<u>11/1/2024</u> DATE			<u>MELISSA A. CRANE, J.S.C.</u>
CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input type="checkbox"/> NON-FINAL DISPOSITION
APPLICATION:	<input checked="" type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> OTHER
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT
			<input type="checkbox"/> REFERENCE