



--- N.Y.S.3d ----, 2026 WL 2855525
(N.Y.A.D. 2 Dept.), 2026 N.Y. Slip Op. 05405

**This opinion is uncorrected and subject to revision
before publication in the printed Official Reports.**

***1** C. N., appellant,

v.

Sigma Delta Tau Society, et al., respondents.

Supreme Court, Appellate Division,
Second Department, New York
2025-13523, (Index No. 608360/25)
Decided on September 23, 2026

ANGELA G. IANNACCI, J.P., VALERIE BRATHWAITE
NELSON, CARL J. LANDICINO, ELENA GOLDBERG
VELAZQUEZ, JJ.

APPEAL by the plaintiff, in an action to recover damages for personal injuries, from an order of the Supreme Court (Anna M. Grimaldi, J.), dated October 9, 2025, and entered in Nassau County. The order granted the defendants' motion pursuant to [CPLR 7503\(a\)](#) to compel arbitration and to stay the action.

APPEARANCES OF COUNSEL

Finkelstein & Partners, LLP, Newburgh, NY (George A. Kohl II of counsel), for appellant.

Marshall Dennehey, P.C., Melville, NY (Martin A. Schwartzberg of counsel), for respondents.

LANDICINO, J.

OPINION & ORDER

The plaintiff is a college student and member of a sorority, the defendant Sigma Delta Tau, a chapter of the sorority's national organization, the defendant Sigma Delta Tau Society (hereinafter together the sorority), at SUNY Cortland. The plaintiff allegedly was sexually assaulted at an event hosted by and held at a fraternity. The complaint sounds in negligence, alleging that the sorority required its members to attend the fraternity event but failed to supervise and protect them at the event. This case presents an issue of first impression for this Court: whether the Ending Forced

Arbitration of Sexual Assault and Sexual Harassment Act of 2021 (EFAA) ([9 USC §§ 401, 402](#)) can serve to prevent arbitration, notwithstanding an arbitration clause in a contract between the parties, of an action sounding in negligence against a party that did not commit the alleged sexual assault. We hold that it can, under the circumstances presented here.

According to the complaint, the plaintiff attended SUNY Cortland and was a member of the sorority, which was and remains incorporated in the state of Indiana. On September 14, 2023, a fraternity chapter, Pi Kappa Phi (hereinafter the fraternity), allegedly held a mixer event off campus in Cortland. According to the complaint, the plaintiff, as a member of the sorority, was “expected and obligated by [the] sorority to attend the mandatory mixer event to be hosted by the fraternity.” The fraternity purportedly provided alcohol and other intoxicating substances to the attendees at the mixer event, which caused the plaintiff to become impaired. Allegedly, while attending the mixer event, the plaintiff met a member of the fraternity (hereinafter the alleged abuser) who took the plaintiff to a nearby premises where he sexually assaulted her.

In April 2025, the plaintiff commenced this action against the sorority to recover damages for personal injuries. The complaint alleged that the sorority was “negligent, wanton, reckless and careless in requiring all members including [the] plaintiff, to attend [the] fraternity mixer.” The complaint further alleged that the fraternity had been removed from the SUNY Cortland campus and was unaffiliated with the fraternity's national organization due to “previous inappropriate and dangerous conduct,” of which the sorority knew or should have known. The complaint alleged that the sorority failed to provide and maintain adequate supervision over its ***2** members while they attended the mixer event and came into contact with members of the fraternity. Notably, the plaintiff commenced a separate action against the alleged abuser and the fraternity, alleging that he sexually assaulted her.

In July 2025, the defendants moved pursuant to [CPLR 7503\(a\)](#) to compel arbitration and to stay the action, relying upon an arbitration provision in a membership contract the plaintiff purportedly had entered into with the sorority in February 2023. The membership contract stated, in relevant part, that “[a]ny dispute, claim or controversy raised by you against Sigma Delta Tau . . . shall be . . . determined by arbitration in Indiana before one arbitrator.” In opposition, the plaintiff argued that the EFAA barred arbitration of the

matter. In an order dated October 9, 2025, the Supreme Court granted the motion and directed that arbitration be conducted in accordance with the membership contract. The plaintiff appeals.

In 2022, Congress amended the Federal Arbitration Act by enacting the EFAA, which “renders arbitration agreements invalid and unenforceable, at the election of the complainant, in sexual assault and sexual harassment cases” (*Olivieri v Stifel, Nicolaus & Co., Inc.*, 112 F4th 74, 77 [2d Cir 2024]). The EFAA provides:

“Notwithstanding any other provision of this title, at the election of the person alleging conduct constituting a sexual harassment dispute or sexual assault dispute, . . . no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State law and relates to the sexual assault dispute or the sexual harassment dispute” (9 USC § 402[a]).

According to its legislative history, the EFAA serves to “restore access to justice for millions of victims of sexual assault or harassment who are currently locked out of the court system and are forced to settle their disputes against companies in a private system of arbitration that often favors the company over the individual” (*Diaz-Roa v Hermes Law, P.C.*, 757 F Supp 3d 498, 530 [SD NY 2024], quoting HR Rep 117-234, 117th Cong, 2d Sess at 4).

“Congress recognized that in the EFAA's absence, mandatory arbitration clauses often entitle companies 'to choose the arbitrator who decides the case, as well as the rules of procedure and evidence that apply, and the distribution of costs of the arbitration,' 'protect the company by keeping the records of an arbitration secret,' permit employers to retaliate against their victims 'without fear of their actions becoming public through the courts,' and prevent [] victims from sharing their stories” (*id.*).

“The threshold requirement that must be satisfied for the EFAA to permit a litigant to avoid enforcement of a predispute arbitration agreement is that the litigant must allege 'conduct constituting a sexual harassment dispute or sexual assault dispute,' as defined in the statute”¹(*id.* at 531, quoting 9 USC § 402[a]). Under the EFAA, “[t]he term 'sexual assault dispute' means a dispute involving a nonconsensual sexual act or sexual contact, as such terms are defined in section 2246 of title 18 or similar applicable Tribal or State law,

including when the victim lacks capacity to consent” (9 USC § 401[3]). “If that threshold requirement is satisfied, a predispute arbitration agreement does not apply to the case so long as: (1) it is filed under Federal, Tribal, or State law; and (2) 'relates to the sexual assault dispute or sexual harassment dispute' as defined in the statute” (*Diaz-Roa v Hermes Law, P.C.*, 757 F Supp 3d at 531, quoting 9 USC § 402 [a]).

The issue raised on this appeal is whether the plaintiff may invoke the EFAA to prevent arbitration of her claims where the sorority did not commit the alleged sexual assault. The plaintiff's cause of action in this matter does not sound in sexual assault. Rather, the cause of action sounds in negligence based on the alleged failure of the sorority to supervise and protect its members at a function that the members were required to attend, which exposed the plaintiff to the sexual assault. The question is whether the EFAA can bar arbitration of a complaint sounding in negligence *3 only.

We start by analyzing the statutory text. “When presented with a question of statutory interpretation, [the] primary consideration 'is to ascertain and give effect to the intention of the Legislature” (*Matter of DaimlerChrysler Corp. v Spitzer*, 7 NY3d 653, 660, quoting *Riley v County of Broome*, 95 NY2d 455, 463; see *Matter of Gannett Satellite Info. Network, Inc. v County of Putnam*, 142 AD3d 1012, 1016). “The starting point for discerning legislative intent is the language [in] the statute itself” (*Matter of Gannett Satellite Info. Network, Inc. v County of Putnam*, 142 AD3d at 1016, quoting *Yatauro v Mangano*, 17 NY3d 420, 426). “The statutory text is the clearest indicator of legislative intent and courts should construe unambiguous language to give effect to its plain meaning” (*Matter of Mestecky v City of New York*, 30 NY3d 239, 243 [internal quotation marks omitted]).

Contrary to the sorority's contention, a plain reading of the EFAA supports our conclusion that the EFAA applies to this action. As relevant here, the EFAA applies to any matter that “relates” to a “sexual assault dispute” (9 USC § 402[a]). “In the absence of any controlling statutory definition,” courts have “construe[d] words of ordinary import with their usual and commonly understood meaning, and in that connection have regarded dictionary definitions as useful guideposts in determining the meaning of a word or phrase” (*Rosner v Metropolitan Prop. & Liab. Ins. Co.*, 96 NY2d 475, 479-480 [internal quotation marks omitted]). The term “relate,” as used in the statute, is defined as “to have relationship or connection” (Merriam-

Webster.com Dictionary, relate [https://www.merriam-webster.com/dictionary/relate]). When used as a transitive verb, the term means “to show or establish logical or causal connection between” (*id.*). The term tends to be interpreted expansively (see *District of Columbia v Greater Washington Bd. of Trade*, 506 US 125, 129 [explaining that the phrase “relate to” is “deliberately expansive language chosen by Congress” and that applying the phrase’s ordinary meaning gives the phrase its intended effect (internal quotation marks omitted)]; *Morales v Trans World Airlines, Inc.*, 504 US 374, 384 [noting that the ordinary meaning of the phrase “relating to” is “a broad one--‘to stand in some relation; to have bearing or concern; to pertain; refer; to bring into association with or connection with’” (quoting Black’s Law Dictionary [5th ed 1979])]; *Childress v Moore*, 2026 WL 1618598, *3, 2026 US Dist LEXIS 124369, *9 [MD Fla, June 5, 2026, No. 6:25-cv-868-JSS-RMN]).

Moreover, the term “sexual assault dispute”--defined in the EFAA as a “dispute involving a nonconsensual sexual act or sexual contact, as such terms are defined in section 2246 of title 18 or similar applicable Tribal or State law, including when the victim lacks capacity to consent” (9 USC § 401[3])--has been given an expansive interpretation (see *Polen v API Group Life Safety USA, LLC*, 2025 WL 3251349, *3, 2025 US Dist LEXIS 229376, *8 [D Or, Nov. 21, 2025, No. 3:25-cv-1196-SI] [“The plain meaning of the term ‘involving’ is broad. . . . A dispute involving sexual assault, therefore, is a dispute that in some way includes or concerns sexual assault” (citations omitted)]).

Taken together, these definitions suggest that the United States Congress intended for the EFAA to broadly prevent the enforcement of predispute arbitration agreements in legal proceedings that have a logical connection or nexus to an expansive category of sexual assault or sexual harassment disputes, as defined in the EFAA. 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.

The legislative history of the EFAA also supports this interpretation. While the sponsors of the EFAA were clear in their remarks on the United States Senate floor that the statute was not intended to prevent arbitration of all claims

in a complaint where sexual assault or sexual harassment is alleged, the sponsors were clear that all claims that are *related to* sexual harassment disputes or sexual assault disputes would be protected by the EFAA. For example, Senator Joni Ernst stated, “my colleagues agreed with me that this bill should not be the catalyst for destroying predispute arbitration agreements in all employment matters. Specifically, we agreed that harassment or assault claims should not be joined to an employment claim *without a key nexus*” (168 Cong Rec S625 [Feb. 10, 2022] [emphasis added]). Senator Ernst further stated that the EFAA “should not be used as a mechanism to move employment claims *that are unrelated to these important issues* out of the current system” (*id.* [emphasis added]). Senator Lindsey Graham echoed that sentiment, stating, “[w]e do not intend to take unrelated claims out of the [arbitration] contract” (*id.* [emphasis added]). In accord with those statements, Senator Kirsten Gillibrand explained that,

“[t]he bill plainly reads, which is very relevant to Senator Ernst’s concerns, that only disputes that *relate to* sexual assault or harassment conduct can escape the forced arbitration clauses. ‘That relate to’ is in the text. . . . This bill will basically give survivors the ability to go to court where they are ‘*alleging conduct* constituting a sexual harassment dispute or a sexual assault dispute’” (168 Cong Rec S627 [Feb. 10, 2022] [emphasis added]).

Other courts across the nation have encountered similar issues regarding how the EFAA is to be applied in various situations, and, while not binding on this Court, their analyses are instructive. In *P.C. v Driscoll* (2026 WL 699896, 2026 US Dist LEXIS 51021 [DNJ, Mar. 12, 2026, No. 25-739]), the plaintiff alleged that she was sexually assaulted by a doctor during surgery (see *P.C. v Driscoll*, 2026 WL 699896, *1, 2026 US Dist LEXIS 51021, *2). The complaint alleged several claims against the medical practice and other doctors at the practice sounding in medical malpractice, intentional infliction of emotional distress, negligent infliction of emotional distress, vicarious liability, negligent hiring, retention, and supervision, and a violation of the New Jersey Consumer Fraud Act (see *P.C. v Driscoll*, 2026 WL 699896, *2, 2026 US Dist LEXIS 51021, *3). In addressing the moving defendants’ motion to compel arbitration, the United States District Court for the District of New Jersey (hereinafter the District Court) stated that the EFAA “has been interpreted broadly” (*P.C. v Driscoll*, 2026 WL 699896, *10, 2026 US Dist LEXIS 51021, *31). Although the moving defendants argued that the “EFAA is plainly inapplicable because Plaintiff has failed to plead a

claim for sexual harassment and/or assault and that her claims against the moving Defendants (who do not include [the doctor who committed the sexual abuse]) sound in entirely separate, distinct bodies of law” (*P.C. v Driscoll*, 2026 WL 699896, *10, 2026 US Dist LEXIS 51021, *32-33), the District Court rejected that argument because the complaint “explicitly include[d] allegations of sexual harassment and assault” (*P.C. v Driscoll*, 2026 WL 699896, *10, 2026 US Dist LEXIS 51021, *33). The District Court also noted that the claim against the moving defendants “relates” to the sexual assault dispute and thus falls under the ambit of the EFAA (*P.C. v Driscoll*, 2026 WL 699896, *10, 2026 US Dist LEXIS 51021, *33).

In *Delo v Paul Taylor Dance Found., Inc.* (685 F Supp 3d 173 [SD NY 2023]), and *Bulic v Celebrity Cruises, Inc.* (2025 WL 1783865, 2025 US Dist LEXIS 122495 [SD Fla, June 27, 2025, No. 25-21231-CIV-ALTONAGA/Reid]), federal courts considered issues closely related to those in this action. In *Delo*, the plaintiff brought an action against her former employer alleging retaliation in violation of the Fair Labor Standards Act, New York Labor Law, New York State Human Rights Law (NYSHRL), and New York City Human Rights Law (NYCHRL); gender and familial status discrimination in violation of NYSHRL; gender and caregiver discrimination in violation of NYCHRL; and discrimination and retaliation under Title VII of the Civil Rights Act of 1964 (see *Delo v Paul Taylor Dance Found. Inc.*, 685 F Supp 3d at 179). The defendants argued, in part, that the complaint was not subject to the EFAA because the plaintiff did “not style any of her claims as ‘sexual harassment’ claims, instead titling them retaliation, gender discrimination, and familial status discrimination claims” (*id.* at 181). The United States District Court for the Southern District of New York rejected that argument, stating,

“there is nothing in the text of the EFAA that suggests its applicability hinges on how a claim is labeled. To the contrary, [9 USC] § 401 appears to define ‘sexual harassment dispute’ broadly, requiring only that the claim ‘relates to’ conduct that, as alleged, ‘constitutes’ sexual harassment under applicable law” (*Delo v Paul Taylor Dance Found. Inc.*, 685 F Supp 3d at 181).

In *Bulic*, the plaintiff brought causes of action for negligence and unseaworthiness against her employer, a cruise ship operator, alleging that she was supplied alcohol during a crew party on board of one of the defendant’s ships, became intoxicated, and was sexually assaulted by another

crew member (see *Bulic v Celebrity Cruises, Inc.*, 2025 WL 1783865 *1, 2025 US Dist LEXIS 122495, *2). The defendant argued that the plaintiff’s negligence and unseaworthiness claims did not trigger the protections of the EFAA because the EFAA “governs only claims brought under statutes that explicitly prohibit sexual assault and sexual harassment” (*Bulic v Celebrity Cruises, Inc.*, 2025 WL 1783865 *3, 2025 US Dist LEXIS 122495, *6-7). The United States District Court for the Southern District of Florida, upon interpreting the statutory language of the EFAA, found that “the statute’s sexual assault prong imposes no requirement that a plaintiff bring her claim under a law explicitly prohibiting sexual assault” and denied the defendant’s motion to compel arbitration (*Bulic v Celebrity Cruises, Inc.*, 2025 WL 1783865 *4, 2025 US Dist LEXIS 122495, 11).

As such, it appears that federal courts are widely consistent in holding that the EFAA *4 is to be broadly construed and that it applies to claims not explicitly alleging a violation of a law prohibiting sexual assault, such as negligence or discrimination, provided that the case or action “relates” to the sexual assault dispute (see *Childress v Moore*, 2026 WL 1618598, 2026 US Dist LEXIS 124369 [MD Fla, June 5, 2026, No. 6:25-cv-868-JSS-RMN]; *Hankins v Burlington Stores, Inc.*, 2026 WL 1480393, *1, 2026 US Dist LEXIS 117110, *2 [ED NY, May 27, 2026, No. 25-CV-02513 (NRM)]; *Polen v API Group Life Safety USA, LLC*, 2025 WL 3251349, *5, 2025 US Dist LEXIS 229376, *11-12 [D Or, Nov. 21, 2025, No. 3:25-cv-1196-SI]).

Here, as a threshold matter, the plaintiff sufficiently alleged conduct that constitutes a “sexual assault dispute” under the EFAA insofar as it “involv[es] a nonconsensual sexual act” (9 USC § 401[3]). According to the complaint, the plaintiff met the alleged abuser, a member of the fraternity, at the fraternity mixer event, which the sorority “expected and obligated” the plaintiff to attend. The fraternity purportedly had been removed from the SUNY Cortland campus and was unaffiliated with the fraternity’s national organization due to previous inappropriate and dangerous conduct. The complaint further alleged that, after the plaintiff became impaired and entered a disabled condition from intoxicating substances provided to attendees at the event, the alleged abuser took the plaintiff to a neighboring premises, where he sexually assaulted her. This is sufficient to establish that the dispute “involved” a nonconsensual sexual act². Contrary to the sorority’s contentions, “the EFAA requires only that the dispute itself involve sexual assault or contact—not that the

defendant caused or engaged in the sex act” (*Polen v API Group Life Safety USA, LLC*, 2025 WL 3251349, *3, 2025 US Dist LEXIS 229376, *9 [emphasis omitted]).

Since the plaintiff has alleged conduct constituting a sexual assault dispute, the next inquiry is whether the action “relates” to that dispute. The EFAA applies to the negligence cause of action here because, based on the allegations of sexual assault in the complaint, the action specifically “relates to the sexual assault dispute” (9 USC § 402[a]). The cause of action alleged that the sorority negligently failed to provide and maintain adequate supervision over its members while they attended the mixer event and that the plaintiff was sexually assaulted as a result of the sorority’s failure to supervise. It was, according to the plaintiff, the sorority’s tortious failure to act that brought about the sexual assault. There is thus a logical nexus between the action brought against the sorority and the sexual assault. Since the complaint against the sorority plainly included an allegation of a “sexual assault dispute” (*id.* § 401[3]), and the action is “a case which is filed under Federal, Tribal, or State law and relates to the sexual assault dispute” (*id.* § 402[a]), the EFAA applies to the instant matter and serves to render unenforceable the arbitration agreement (*see Bulic v Celebrity Cruises, Inc.*, 2025 WL 1783865, 2025 US Dist LEXIS 122495; *Delo v Paul Taylor Dance Found., Inc.*, 685 F Supp 3d 173).

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 (*see* 9 USC § 402[a]). While the sorority is a third

party that was not directly involved in the sexual assault, the negligence claim is nonetheless “related” to the sexual assault dispute inasmuch as the plaintiff contends that the sorority placed her in a dangerous circumstance that led to the sexual assault. There is a clear logical nexus between the cause of action alleged in the complaint and the alleged sexual assault, which places this matter squarely within the ambit of the EFAA.

In light of this conclusion, we need not reach the issue of whether requiring the plaintiff to arbitrate her claim in the state of Indiana would pose an unreasonable hardship upon her.

Accordingly, the order is reversed, on the law, and the defendants’ motion pursuant to CPLR 7503(a) to compel arbitration and to stay the action is denied.

IANNACCI, J.P., BRATHWAITE NELSON and GOLDBERG VELAZQUEZ, JJ., concur.

ORDERED that the order is reversed, on the law, with costs, and the defendants’ motion pursuant to CPLR 7503(a) to compel arbitration and to stay the action is denied.

ENTER:

Darrell M. Joseph

Clerk of the Court

FOOTNOTES

Copr. (C) 2026, Secretary of State, State of New York

Footnotes

- 1 The Court notes that the Federal Arbitration Act, which was amended by the EFAA, provides that arbitration agreements contained in contracts “evidencing a transaction involving commerce” are valid, except, inter alia, “as otherwise provided” in the EFAA (9 USC § 2; *see e.g.*, *Doe #1 v Pispidikis*, 2026 WL 757376, *3-4, 2026 Mich App LEXIS 2254, *7-8 [Mar. 17, 2026, No. 372831]; *Casey v Superior Ct.*, 108 Cal App 5th 575, 582-583, 329 Cal Rptr 3d 518, 523-524 [Cal Ct App]). The parties do not dispute (and thus concede) that the Federal Arbitration Act applies to the contract at issue, and we will not engage with the issue further.
- 2 Inasmuch as “sexual assault dispute” is defined as “a dispute involving a nonconsensual sexual act or sexual contact, as such terms are defined in section 2246 of title 18 or similar applicable Tribal or State law” (*see* 9 USC § 401[3]), the sorority does not contest on appeal that the alleged sexual assault falls within the definition of “sexual act” found in 18 USC § 2246(2).

End of Document

© 2026 Thomson Reuters. No claim to original U.S.
Government Works.