

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,  
FIRST DEPARTMENT

M.T. v. Yeshiva University

2026 NY Slip Op 00218 · No. Index No. 950111/19; Appeal No. 5010; Case No. 2024-02719 · Decided January 15, 2026

SUMMARY

The Appellate Division, First Department affirmed an order declining to dismiss Child Victims Act claims against Yeshiva University, its high school, estate representatives, and Rabbi Robert Hirt. The court held that prior federal judgments dismissing related claims as time-barred or barred by res judicata did not create constitutionally protected vested property rights preventing the CVA's revival window from applying. The court also held that the complaint sufficiently pleaded negligent supervision, retention, and related claims against Hirt.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                             |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, First Department                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Peter H. Moulton; Sallie Manzanet-Daniels, J.P.; Peter H. Moulton, J.; Saliann Scarpulla, J.; Lizbeth González, J.                                                                                                                                                                          |
| JURISDICTION          | Supreme Court of the State of New York, Appellate Division, First Department                                                                                                                                                                                                                |
| DECIDED               | January 15, 2026                                                                                                                                                                                                                                                                            |
| DOCKET                | Index No. 950111/19; Appeal No. 5010; Case No. 2024-02719                                                                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Defendants appealed from an order denying motions to dismiss plaintiffs' Child Victims Act complaint under CPLR 3211(a)(5) and (a)(7), except that the order dismissed certain board members on qualified-immunity grounds.                                                                 |
| STANDARD OF REVIEW    | On a pre-answer motion to dismiss for failure to state a cause of action under CPLR 3211(a)(7), the court considered whether the allegations gave the defendant sufficient notice and adequately stated a claim; the court held that the pleaded allegations were sufficient at that stage. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                                                   |

## PARTIES

Yeshiva University, Marsha Stern Talmudical Academy-Yeshiva University High School for Boys, Chaye Lamm Warburg and Joshua Lamm, as Executors of the Estate of Norman Lamm, Rabbi Robert Hirt v. M.T., et al., John Doe 6

## TOPICS

motions to dismiss

civil procedure

due process

supremacy clause

appellate procedure

## PRACTICE AREAS

civil procedure

constitutional law

torts

remedies

## QUESTIONS PRESENTED

1. Whether the Child Victims Act's revival of plaintiffs' otherwise time-barred claims violated defendants' constitutionally protected vested rights in prior federal judgments under the Due Process Clauses.
2. Whether application of the Child Victims Act to the prior federal judgments violated the Supremacy Clause.
3. Whether the complaint adequately stated negligent supervision, negligent retention, and negligent failure-to-provide-a-safe-environment claims against Rabbi Robert Hirt under CPLR 3211(a)(7).

## HOLDINGS

1. The prior federal judgments dismissing plaintiffs' claims as time-barred did not themselves create a constitutionally protected vested property right in defendants. The Child Victims Act therefore does not violate due process by reviving the claims.
2. The Child Victims Act does not violate the Supremacy Clause because defendants identified no conflict between the statute and the Constitution or any federal law.
3. The complaint adequately stated claims against Hirt because it alleged that, within the scope of his authority, he knew or should have known of the alleged abusers' dangerous propensities and either condoned or covered up the abuse.

## KEY QUOTATIONS

*“the doctrine of vested rights is essentially a check on legislative power to alter certain private rights recognized in final court judgments”* (at 6)

*“While a judgment is certainly the vehicle for vesting private property rights, it is not the property right by and of itself.”* (at 7)

*“the Supremacy Clause does not provide an independent basis for finding that the CVA, as applied to defendants, is unconstitutional.”* (at 12)

*“The pleading is sufficient to put Hirt on notice of the claims against him, and he can seek amplification in a bill of particulars”* (at 14)

## FACTUAL BACKGROUND

Plaintiffs alleged that they were sexually and physically abused by administrators, teachers, and other employees at Yeshiva University High School for Boys from the 1950s through 1986. A 2012 investigation commissioned by Yeshiva University and the high school's board concluded that multiple incidents of abuse had been committed by individuals in positions of authority, including after administrators had notice of the conduct. Thirty-three plaintiffs had previously litigated related state and federal claims in two federal actions that were dismissed as untimely and, later, on res judicata grounds.

## PROCEDURAL HISTORY

Thirty-three of the plaintiffs previously brought federal actions arising from alleged abuse at Yeshiva University High School. The first action, *Twersky I*, was dismissed as time-barred, affirmed by the Second Circuit, and left undisturbed after the United States Supreme Court denied certiorari; the second, *Twersky II*, was dismissed on res judicata grounds and affirmed. After enactment of the Child Victims Act, plaintiffs commenced this action in New York Supreme Court. Supreme Court rejected defendants' constitutional challenge to the revival statute and denied the challenged dismissal motions, and defendants appealed.

## DISPOSITION

affirmed

## CASES CITED

- *Twersky v. Yeshiva University*, 993 F. Supp. 2d 429 (S.D.N.Y. 2014), aff'd, 579 F. App'x 7 (2d Cir. 2014), cert. denied, 575 U.S. 935 (2015)
- *Twersky v. Yeshiva University*, 112 F. Supp. 3d 173 (S.D.N.Y. 2015), aff'd, 637 F. App'x 48 (2d Cir. 2016)
- *McCullough v. Virginia*, 172 U.S. 102, 123-124 (1898)
- *Pennsylvania v. Wheeling & Belmont Bridge Co.*, 59 U.S. 421, 431 (1855)
- *Benjamin v. Jacobson*, 124 F.3d 162, 176 (2d Cir. 1997)
- *1256 Hertel Ave. Assoc., LLC v. Calloway*, 761 F.3d 252, 263 (2d Cir. 2014)
- *Chase Securities Corp. v. Donaldson*, 325 U.S. 304, 311-312, 316 (1945)
- *Campbell v. Holt*, 115 U.S. 620, 628-629 (1885)
- *Tanges v. Heidelberg North America*, 93 N.Y.2d 48, 55 (1999)
- *Matter of World Trade Center Lower Manhattan Disaster Site Litigation*, 30 N.Y.3d 377, 406 (2017) (Rivera, J., concurring)
- *Phillips v. Washington Legal Foundation*, 524 U.S. 156, 164 (1998)
- *Town of Castle Rock v. Gonzalez*, 545 U.S. 748, 757 (2005)
- *Hodges v. Snyder*, 261 U.S. 600, 603 (1923)
- *Luxford v. Dalkon Shield Claimants Trust*, 978 F. Supp. 221, 227-229 (D. Md. 1997)
- *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211, 217-219 (1995)
- *Mistretta v. United States*, 488 U.S. 361, 380 (1989)

- *Brown v. Board of Education*, 347 U.S. 483 (1954)
- *Cooper v. Aaron*, 358 U.S. 1, 18 (1958)
- *McCulloch v. Maryland*, 17 U.S. 316, 424 (1819)
- *Dusenbery v. United States*, 534 U.S. 161, 167 (2002)
- *G.T. v. Roman Catholic Diocese of Brooklyn, N.Y.*, 211 A.D.3d 413, 413 (1st Dep't 2022)
- *M.O. v. Archdiocese of New York*, 228 A.D.3d 583, 584 (1st Dep't 2024)
- *John Doe-18126 v. Young People's Chorus of N.Y. City*, 238 A.D.3d 633, 634 (1st Dep't 2025)
- *ARK265 Doe v. Archdiocese of New York*, 221 A.D.3d 422, 423 (1st Dep't 2023)

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