

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

Corbex, Inc. v. New York City School Construction Authority

Corbex, Inc. v. New York City Sch. Constr. Auth., 2025 NY Slip Op 06894 (N.Y. Ct. App. 2025) · No. Index No. 809231/22; Appeal No. 5366; Case No. 2024-04574 · Decided December 11, 2025

SUMMARY

The Appellate Division, First Department reversed the dismissal of Corbex, Inc.'s breach-of-contract action against the New York City School Construction Authority as time-barred. The court held that the action was timely under Public Authorities Law § 1744(2), or at minimum that factual issues remained regarding when Corbex's claim accrued, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Kern, J.P.; Friedman, J.; Rodriguez, J.; Pitt-Burke, J.; Rosado, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	December 11, 2025
DOCKET	Index No. 809231/22; Appeal No. 5366; Case No. 2024-04574
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed from an order of Supreme Court, Bronx County, granting the New York City School Construction Authority's motion to dismiss the breach-of-contract complaint as time-barred.
STANDARD OF REVIEW	On a motion to dismiss a complaint as time-barred, dismissal is precluded where issues of fact exist concerning when the claim accrued.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Corbex, Inc. v. New York City School Construction Authority

TOPICS

construction law

breach of contract

statute of limitations

motions to dismiss

municipal law

PRACTICE AREAS

construction law

contract law

municipal law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Corbex's action was timely commenced under Public Authorities Law § 1744(2).
2. Whether dismissal was proper where issues of fact existed concerning when Corbex's claim accrued and whether the Authority had denied the claim before the failed mediation.

HOLDINGS

1. The action was timely commenced because Corbex filed its summons with notice on June 21, 2022, within one year after service of its June 22, 2021 notice of claim.
2. Dismissal was improper because, at minimum, issues of fact existed as to when the claim accrued.

KEY QUOTATIONS

“At the very least, issues of fact exist with respect to when the claim accrued, precluding dismissal” ([*1])

FACTUAL BACKGROUND

Corbex was awarded a construction contract by the New York City School Construction Authority involving exterior masonry, parapet walls, and roofing at a school. The parties disputed whether terra cotta replacement work was included in the contract and whether Corbex was entitled to additional compensation for that work. Corbex submitted a verified notice of claim on June 22, 2021, participated in mediation that failed on March 30, 2022, and commenced the action by filing a summons with notice on June 21, 2022.

PROCEDURAL HISTORY

Corbex commenced an action seeking additional compensation for terra cotta replacement work performed at the Authority's direction. Supreme Court, Bronx County, granted the Authority's motion to dismiss the complaint as time-barred. The Appellate Division, First Department, unanimously reversed, denied the motion, reinstated the complaint, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The motion to dismiss is denied, the complaint is reinstated, and the matter is remanded for further proceedings. The court did not decide the Authority's alternative grounds for dismissal.

CASES CITED

- Zurich Am. Ins. Co. v. Ramapo Cent. Sch. Dist., 63 A.D.3d 729, 731 (2d Dep't 2009)
- Hilt Constr., Inc. v. New York City Sch. Constr. Auth., 2020 NY Slip Op 33783(U) (Sup. Ct., N.Y. County 2020)

OPINION

PER CURIAM.

Corbex, Inc. v New York City Sch. Constr. Auth. (2025 NY Slip Op 06894) Corbex, Inc. v New York City Sch. Constr. Auth. 2025 NY Slip Op 06894 Decided on December 11, 2025 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: December 11, 2025 Before: Kern, J.P., Friedman, Rodriguez, Pitt-Burke, Rosado, JJ. Index No. 809231/22|Appeal No. 5366|Case No. 2024-04574| [*1]Corbex, Inc., Plaintiff-Appellant, v New York City School Construction Authority, Defendant-Respondent. Welby, Brady & Greenblatt, LLP, White Plains (Lita M. Ward of counsel), for appellant. Muriel Goode-Trufant, Corporation Counsel, New York (Lauren L. O'Brien of counsel), for respondent.

Order, Supreme Court, Bronx County (Mitchell J. Danziger, J.), entered on or about July 11, 2024, which granted defendant New York City School Construction Authority's (SCA) motion to dismiss the complaint as time-barred, unanimously reversed, on the law, without costs, motion denied, the complaint reinstated, and the matter remanded for further proceedings.

Plaintiff Corbex Inc. was awarded the contract by defendant SCA to perform work related to the demolition, furnishing, and installation of exterior masonry, parapet walls, and roofing on a construction project at a school.

The crux of this breach of contract action centers on a dispute over whether terra cotta replacement work was included in the contract, and whether plaintiff is entitled to extra-contractual compensation related to the terra cotta replacement work.

The parties disputed whether the contract obligated Corbex to perform this work in various requests for information, notices of direction, and a request for a change order. On June 8, 2021, SCA sent Corbex an email that attached the relevant disputed notice of direction and request for information and stated "Corbex has the right to file for Mediation" and that SCA "was awaiting your filing."

On June 22, 2021, Corbex submitted and presented to SCA the verified notice of claim, executed June 17, 2021, seeking additional compensation for the terra cotta work it had performed at SCA's direction. After mediation on March 30, 2022 failed to resolve the dispute, Corbex, on June 21, 2022, commenced this action by filing a summons with notice.

The June 21, 2022 filing of the summons with notice, which was within one year of the service of the June 22, 2021 notice of claim, timely commenced this action consistent with the requirements of Public Authorities Law § 1744(2) (see e.g. Zurich Am. Ins. Co. v Ramapo Cent. School Dist.,

63 AD3d 729, 731 [2d Dept 2009]). While SCA argues that it denied the Corbex claim for payment in its responses in the requests for information, notices of direction and, at the latest, in the June 8, 2021 email, Corbex argues that SCA never actually issued a denial of a claim for payment until the failed March 30, 2022 mediation.

At the very least, issues of fact exist with respect to when the claim accrued, precluding dismissal (see generally *id.*; *Hilt Constr., Inc. v New York City Sch. Constr. Auth.*, 2020 NY Slip Op 33783[U] [Sup Ct, NY County 2020]).

We decline to address and decide, in the first instance, SCA's alternative arguments for dismissal of the complaint, which Supreme Court did not reach. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: December 11, 2025

PER CURIAM.

Corbex, Inc. v New York City Sch. Constr. Auth. (2025 NY Slip Op 06894) *Corbex, Inc. v New York City Sch. Constr. Auth.* 2025 NY Slip Op 06894 Decided on December 11, 2025 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: December 11, 2025 Before: Kern, J.P., Friedman, Rodriguez, Pitt-Burke, Rosado, JJ. Index No. 809231/22|Appeal No. 5366|Case No. 2024-04574| [*1]Corbex, Inc., Plaintiff-Appellant, v New York City School Construction Authority, Defendant-Respondent. Welby, Brady & Greenblatt, LLP, White Plains (Lita M. Ward of counsel), for appellant. Muriel Goode-Trufant, Corporation Counsel, New York (Lauren L. O'Brien of counsel), for respondent.

Order, Supreme Court, Bronx County (Mitchell J. Danziger, J.), entered on or about July 11, 2024, which granted defendant New York City School Construction Authority's (SCA) motion to dismiss the complaint as time-barred, unanimously reversed, on the law, without costs, motion denied, the complaint reinstated, and the matter remanded for further proceedings.

Plaintiff Corbex Inc. was awarded the contract by defendant SCA to perform work related to the demolition, furnishing, and installation of exterior masonry, parapet walls, and roofing on a construction project at a school.

The crux of this breach of contract action centers on a dispute over whether terra cotta replacement work was included in the contract, and whether plaintiff is entitled to extra-contractual compensation related to the terra cotta replacement work.

The parties disputed whether the contract obligated Corbex to perform this work in various requests for information, notices of direction, and a request for a change order. On June 8, 2021,

SCA sent Corbex an email that attached the relevant disputed notice of direction and request for information and stated "Corbex has the right to file for Mediation" and that SCA "was awaiting your filing."

On June 22, 2021, Corbex submitted and presented to SCA the verified notice of claim, executed June 17, 2021, seeking additional compensation for the terra cotta work it had performed at SCA's direction. After mediation on March 30, 2022 failed to resolve the dispute, Corbex, on June 21, 2022, commenced this action by filing a summons with notice.

The June 21, 2022 filing of the summons with notice, which was within one year of the service of the June 22, 2021 notice of claim, timely commenced this action consistent with the requirements of Public Authorities Law § 1744(2) (see e.g. *Zurich Am. Ins. Co. v Ramapo Cent. School Dist.*, 63 AD3d 729, 731 [2d Dept 2009]). While SCA argues that it denied the Corbex claim for payment in its responses in the requests for information, notices of direction and, at the latest, in the June 8, 2021 email, Corbex argues that SCA never actually issued a denial of a claim for payment until the failed March 30, 2022 mediation.

At the very least, issues of fact exist with respect to when the claim accrued, precluding dismissal (see generally *id.*; *Hilt Constr., Inc. v New York City Sch. Constr. Auth.*, 2020 NY Slip Op 33783[U] [Sup Ct, NY County 2020]).

We decline to address and decide, in the first instance, SCA's alternative arguments for dismissal of the complaint, which Supreme Court did not reach. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.
ENTERED: December 11, 2025

PER CURIAM.

Corbex, Inc. v New York City Sch. Constr. Auth. (2025 NY Slip Op 06894) *Corbex, Inc. v New York City Sch. Constr. Auth.* 2025 NY Slip Op 06894 Decided on December 11, 2025 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: December 11, 2025 Before: Kern, J.P., Friedman, Rodriguez, Pitt-Burke, Rosado, JJ. Index No. 809231/22|Appeal No. 5366|Case No. 2024-04574| [*1]*Corbex, Inc.*, Plaintiff-Appellant, v *New York City School Construction Authority*, Defendant-Respondent. Welby, Brady & Greenblatt, LLP, White Plains (Lita M. Ward of counsel), for appellant. Muriel Goode-Trufant, Corporation Counsel, New York (Lauren L. O'Brien of counsel), for respondent.

Order, Supreme Court, Bronx County (Mitchell J. Danziger, J.), entered on or about July 11, 2024, which granted defendant New York City School Construction Authority's (SCA) motion to dismiss

the complaint as time-barred, unanimously reversed, on the law, without costs, motion denied, the complaint reinstated, and the matter remanded for further proceedings.

Plaintiff Corbex Inc. was awarded the contract by defendant SCA to perform work related to the demolition, furnishing, and installation of exterior masonry, parapet walls, and roofing on a construction project at a school.

The crux of this breach of contract action centers on a dispute over whether terra cotta replacement work was included in the contract, and whether plaintiff is entitled to extra-contractual compensation related to the terra cotta replacement work.

The parties disputed whether the contract obligated Corbex to perform this work in various requests for information, notices of direction, and a request for a change order. On June 8, 2021, SCA sent Corbex an email that attached the relevant disputed notice of direction and request for information and stated "Corbex has the right to file for Mediation" and that SCA "was awaiting your filing."

On June 22, 2021, Corbex submitted and presented to SCA the verified notice of claim, executed June 17, 2021, seeking additional compensation for the terra cotta work it had performed at SCA's direction. After mediation on March 30, 2022 failed to resolve the dispute, Corbex, on June 21, 2022, commenced this action by filing a summons with notice.

The June 21, 2022 filing of the summons with notice, which was within one year of the service of the June 22, 2021 notice of claim, timely commenced this action consistent with the requirements of Public Authorities Law § 1744(2) (see e.g. *Zurich Am. Ins. Co. v Ramapo Cent. School Dist.*, 63 AD3d 729, 731 [2d Dept 2009]). While SCA argues that it denied the Corbex claim for payment in its responses in the requests for information, notices of direction and, at the latest, in the June 8, 2021 email, Corbex argues that SCA never actually issued a denial of a claim for payment until the failed March 30, 2022 mediation.

At the very least, issues of fact exist with respect to when the claim accrued, precluding dismissal (see generally *id.*; *Hilt Constr., Inc. v New York City Sch. Constr. Auth.*, 2020 NY Slip Op 33783[U] [Sup Ct, NY County 2020]).

We decline to address and decide, in the first instance, SCA's alternative arguments for dismissal of the complaint, which Supreme Court did not reach. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.
ENTERED: December 11, 2025