

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT**

Anonymous v. Packer

Anonymous, 2026 NY Slip Op 03133 (Supreme Court of the State of New York Appellate Division Second
Judicial Department 2026) · No. 2022-07580 · Decided May 20, 2026

SUMMARY

The Appellate Division, Second Department affirmed an order dismissing an amended complaint under CPLR 3211(a). The action asserted claims including medical malpractice, fraud, and intentional infliction of emotional distress against the plaintiff's former psychologist. The court rejected the plaintiff's contention that the Supreme Court failed to consider the opposition papers and did not reach or considered de hors-the-record the remaining contentions.

OPINION

PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. Anonymous, appellant, v Leslie E. Packer, respondent. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on May 20, 2026 2022-07580, (Index No. 605245/20) Mark C. Dillon, J.P. Lara J. Genovesi Donna-Marie E. Golia Phillip Hom, JJ. Michael Goldman, East Rockaway, NY, for appellant.

Kaufman Borgeest & Ryan LLP, Valhalla, NY (Jacqueline Mandell and Lisa Fleischmann of counsel), for respondent. [*1] DECISION & ORDER In an action, inter alia, to recover damages for medical malpractice, fraud, and intentional infliction of emotional distress, the plaintiff appeals from an order of the Supreme Court, Nassau County (Roy S. Mahon, J.), dated August 18, 2022.

The order granted the defendant's motion pursuant to CPLR 3211(a) to dismiss the amended complaint. ORDERED that the order is affirmed, with costs. The plaintiff commenced this action against the defendant, who was the plaintiff's psychologist for several years, to recover damages for, inter alia, medical malpractice, fraud, and intentional infliction of emotional distress.

In February 2022, the plaintiff filed an amended complaint. The defendant thereafter moved pursuant to CPLR 3211(a) to dismiss the amended complaint. The plaintiff opposed the motion. In an order dated August 18, 2022, the Supreme Court granted the defendant's motion.

The plaintiff appeals. Contrary to the plaintiff's contention, the Supreme Court properly granted the defendant's motion pursuant to CPLR 3211(a) to dismiss the amended complaint. There is nothing in the record to suggest that the court declined to consider the plaintiff's opposition papers (see *Emigrant Funding Corp. v Kensington Realty Group Corp.*, 178 AD3d 1020, 1022).

The defendant's remaining contentions either need not be reached in light of the foregoing or are based on matter dehors the record. DILLON, J.P., GENOVESI, GOLIA and HOM, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

PER CURIAM.

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