Graham v. N.Y.C. Dep't of Educ.

Docket No.: 25-985-cv

Full decision: Click here to view the decision

Case Information

Court: U.S. Court of Appeals for the Second Circuit

Date Decided: September 22, 2026

Judges: Chief Judge Lohier, Circuit Judge Calabresi, Circuit Judge Carney

Lower Court: U.S. District Court for the Eastern District of New York (Judge William F. Kuntz, II)

Parties and Attorneys

Plaintiff-Appellant: Kenton Graham, Pro Se

Defendants-Appellees: New York City Department of Education, Vernon Johnson, Melanie Werner, Sharaz Scofield; Represented By: Hanna L. St. Marie, Ingrid R. Gustafson, Muriel Goode-Trufant

Overview

Issue: Whether notice supporting conversion to summary judgment on a notice-of-claim defense also justified conversion on unrelated employment-discrimination claims.

Lower Court Held: The district court converted the entire dismissal motion to summary judgment, dismissed all claims, and denied further amendment.

What Was Overturned: The Second Circuit vacated dismissal of the federal claims against the education department and state and city claims against individual defendants, affirmed the remaining rulings, and remanded.

Why: The pro se plaintiff received adequate conversion notice concerning the notice-of-claim defense, but not concerning the unrelated claims.

Background

Kenton Graham, proceeding pro se, alleged disability and national-origin discrimination, retaliation, and a hostile work environment against the New York City Department of Education and three employees. His claims arose under federal, state, and city law. He alleged that Principal Johnson made an anti-Caribbean remark and repeated it by email.

Lower Court Decision

The district court relied on an affidavit addressing Graham's failure to satisfy N.Y. Educ. Law § 3813(1) [requiring timely presentation of a verified notice of claim before suit against a board of education]. It converted the entire dismissal motion to summary judgment, dismissed the second amended complaint, and denied further leave to amend.

Second Circuit Reversal

Reviewing conversion for abuse of discretion and dismissal and summary judgment de novo, the Second Circuit affirmed dismissal of the state and city claims against the New York City Department of Education (DOE): Graham received unequivocal notice concerning the notice-of-claim issue and supplied neither allegations nor evidence of compliance. But that notice did not cover unrelated claims. The Second Circuit therefore vacated dismissal of the federal claims against the DOE and state and city claims against the individuals, remanding for consideration under the pleading standard. It noted that discriminatory supervisory remarks could support discrimination and hostile-environment claims, without definitively resolving their sufficiency. It affirmed dismissal of the conceded federal individual-capacity claims, treated the amendment challenge as abandoned, and declined to consider an aiding-and-abetting theory under the New York State Human Rights Law and New York City Human Rights Law because Graham conceded he first raised it on appeal.

Legal Significance

This nonprecedential summary order illustrates that adequate conversion notice may be issue-specific. Extrinsic evidence addressing one defense does not necessarily justify requiring a pro se plaintiff to produce evidence supporting unrelated claims.

Key Takeaway

Identify precisely which claims and issues a conversion notice covers before seeking or opposing summary judgment.

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