

At a Motion Term of the Supreme Court of the State of New York, held in and for the County of Oneida, at the Oneida County Courthouse, Utica, New York on the 26th day of September 2018.

PRESENT: HON. DAVID A. MURAD
Justice Presiding

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONEIDA

ERSIN KONKUR,

Plaintiff,

-v-

UTICA ACADEMY OF SCIENCE CHARTER SCHOOL,
TURKISH CULTURAL CENTER, HIGHWAY
EDUCATION,

Defendants.

ORDER

Index No. EFCA2018-000883

RJI No. *32-18-0441*

The Defendants, Utica Academy of Science Charter School having moved for an order dismissing Plaintiff's Complaint pursuant to CPLR 3211(a)(7) or, in the alternative, converting its motion to one for summary judgment on notice pursuant to CPLR 3211(c), and Defendant Highway Education having moved for an order dismissing Plaintiff's Complaint pursuant to CPLR 3211(a)(7) or, in the alternative, converting its motion to one for summary judgment on notice pursuant to CPLR 3211(c) and dismissing Plaintiff's Complaint pursuant to CPLR 3212,

NOW, upon reading the Notice of Motion of the Utica Academy of Science Charter School, dated June 13, 2018, the Affirmation of James Evans, Esq. dated June 13, 2018, together with the exhibits attached thereto, the Affidavit of Tolga Hayali, sworn to on June 12, 2018 together with the exhibits attached thereto, the Affidavit of Tolga Hayali, sworn to on September

6, 2017, together with the exhibits attached thereto, the Memorandum of Law filed in support of the motion of Utica Academy of Science Charter School, dated June 13, 2018, and the Reply Affirmation of James Evans, Esq. dated September 21, 2018; and

Upon the reading the Notice of Motion of Highway Education, dated June 28, 2018, the Affirmation of Matthew Piston, dated June 28, 2018 together with the exhibits annexed thereto, the Affidavit of Jafer Yasar, sworn to on June 28, 2018, together with the exhibits annexed thereto and the Memorandum of Law submitted on behalf of Highway Education dated June 28, 2018 *and the affirmation of Matthew Piston dated September 24, 2018 and the reply memorandum of law dated September 24, 2018;*

Upon the reading of the Affirmation of David Goldbas, Esq., dated September 11, 2018, and the Affidavit of Ersin Konkur, sworn to on September 11, 2018, the Affidavit of Jaklin Kornfilt, sworn to on September 11, 2018, together with the exhibits annexed thereto, the parties having been heard and the Court being otherwise fully advised in the premises:

IT IS HEREBY ORDERED, that, for the reasons stated on the record, the motion to of the Utica Academy of Science Charter School to convert its motion to one for summary judgment pursuant to CPLR 3211(c) is denied; and

IT IS FURTHER ORDERED, that, for the reasons stated on the record, the motion of the Utica Academy of Science Charter School to dismiss Plaintiff's Complaint is granted in part, as to Plaintiff's First, Second, and Sixth Causes of Action, on the merits and with prejudice, and denied as to Plaintiff's Third, Fourth and Fifth Causes of Action; and

IT IS FURTHER ORDERED, that, for the reasons stated on the record, the motion of High Way Education to convert its motion to one for summary judgment pursuant to CPLR 3211(c) is denied; and

IT IS FURTHER ORDERED, that, for the reasons stated on the record, the motion of High Way Education to dismiss Plaintiff's Complaint is granted in part, as to Plaintiff's first, second, fourth, fifth, and sixth causes of action, on the merits and with prejudice and denied as to Plaintiff's Third Cause of Action; and

IT IS FURTHER ORDERED, that defendants shall serve Plaintiff with an Answer to Plaintiff's Complaint within 30 days of their respective service with a Notice of Entry of this Order; and

IT IS FURTHER ORDERED, that the filing of the papers associated with these motions is hereby dispensed with pursuant to CPLR Rule 2220(a).

Dated: October 17 2018



Hon. David A. Murad, J.S.C.

ENTER: