

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D59830
C/afa

_____AD3d_____

Argued - March 26, 2019

RUTH C. BALKIN, J.P.
JEFFREY A. COHEN
ROBERT J. MILLER
BETSY BARROS, JJ.

2018-00495

DECISION & ORDER

Athenaeum Blue & White (R.A.), Inc., appellant,
v American Studies Association, Inc., respondent,
et al., defendant.

(Index No. 519686/16)

David Abrams, New York, NY, for appellant.

Jonathan Wallace, Amagansett, NY (Thomas Mugavero, pro hac vice, of counsel),
for respondent.

In an action, inter alia, to recover damages for discrimination on the basis of national origin in violation of the New York State Human Rights Law and the New York City Human Rights Law, the plaintiff appeals from an order of the Supreme Court, Kings County (Carolyn E. Wade, J.), dated November 6, 2017. The order granted that branch of the motion of the defendant American Studies Association, Inc., which was pursuant to CPLR 3211(a) to dismiss the amended complaint insofar as asserted against it on the ground that the plaintiff lacked standing.

ORDERED that the order is affirmed, with costs.

The plaintiff, a not-for-profit organization, commenced this action alleging discrimination on the basis of national origin in violation of the New York State Human Rights Law (*see* Executive Law § 296) and the New York City Human Rights Law (*see* Administrative Code of City of NY § 8-107) (hereinafter NYCHRL). The defendant American Studies Association, Inc. (hereinafter ASA), moved, inter alia, pursuant to CPLR 3211(a) to dismiss the amended complaint insofar as asserted against it on the ground that the plaintiff lacked standing to maintain its causes of action against it. The Supreme Court granted that branch of ASA's motion which was to dismiss

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the amended complaint insofar as asserted against it on the ground that the plaintiff lacked standing to maintain its causes of action against it. The plaintiff appeals.

In order to establish standing to commence an action on behalf of its members, an organizational plaintiff must show that at least one of the members has suffered an injury in fact (see *New York State Assn. of Nurse Anesthetists v Novello*, 2 NY3d 207, 211). Likewise, in order to establish standing to commence an action on its own behalf, an organization must demonstrate an injury in fact to itself (see *Urban Justice Ctr. v Silver*, 66 AD3d 567, 568). Injury in fact requires a showing that an injury that has already occurred by virtue of the challenged action or a concrete demonstration that a member or the organization will actually be injured in the future (see *New York State Assn. of Nurse Anesthetists v Novello*, 2 NY3d at 214; *Urban Justice Ctr. v Silver*, 66 AD3d at 568). Speculation as to whether an injury might be caused by a complained-of policy in the future is insufficient (see *New York State Assn. of Nurse Anesthetists v Novello*, 2 NY3d at 214). "The rules governing standing help courts separate the tangible from the abstract or speculative injury" (*Saratoga County Chamber of Commerce v Pataki*, 100 NY2d 801, 812; see *Jacob v Conway*, 150 AD3d 973, 974).

Here, for purposes of standing, the plaintiff's allegations were insufficient to show an injury in fact to itself or to any of its individual members. Accordingly, we agree with the Supreme Court's determination granting that branch of ASA's motion which was to dismiss the amended complaint insofar as asserted against it for lack of standing.

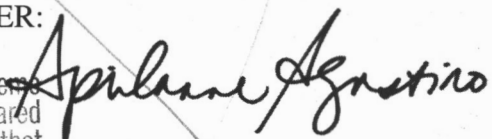
In light of our determination, the parties' remaining contentions need not be reached.

BALKIN, J.P., COHEN, MILLER and BARROS, JJ., concur.

SUPREME COURT, STATE OF NEW YORK
APPELLATE DIVISION SECOND DEPT.

ENTER:

I, APRILANNE AGOSTINO, Clerk of the Appellate Division of the Supreme Court, Second Judicial Department, do hereby certify that I have compared this copy with the original filed in my office on JUN 19 2019 and that this copy is a correct transcription of said original.
IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of this Court JUN 19 2019



Aprilanne Agostino
Clerk of the Court

