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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 167 SSM 21  
Neal Flomenbaum,  
Appellant,  
v.  
New York University,  
Respondent.

Submitted by Barry G. Felder, for appellant.  
Submitted by Nancy A. Kilson, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed with costs. Plaintiff failed to present sufficient evidence to raise a triable issue of fact regarding whether defendant New York University breached the parties' underlying contract (Zuckerman v City of New York, 49 NY2d 557, 560 [1980]). Plaintiff's remaining contentions lack merit.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided June 3, 2010