

State of New York ex rel. Rasmusen v Citigroup, Inc.
2018 NY Slip Op 04845
Decided on June 28, 2018
Appellate Division, First Department
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Decided on June 28, 2018

Friedman, J.P., Tom, Mazzairelli, Singh, JJ.

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[*1]The State of New York ex rel. Eric Rasmusen, Plaintiff-Appellant,

v

Citigroup, Inc., Defendant-Respondent.

Law Offices of Eugene H. Kim LLC, White Plains (Eugene H. Kim of counsel), for appellant.

Davis Polk & Wardell LLP, New York (Edmund Polubinski III of counsel), for respondent.

Orders, Supreme Court, New York County (Charles E. Ramos, J.), entered May 30 and July 5, 2017, which, respectively, granted defendant's motion to dismiss the complaint and granted defendant's request to direct entry of judgment in its favor, unanimously affirmed, without costs.

The court lacked subject matter jurisdiction over this action because plaintiff's allegations that defendant wrongfully underpaid its New York State taxes are derived from and are substantially similar to allegations that were already in the public domain (*see* State Finance Law § 190[9][b]; [*State of N.Y. ex rel. Jamaica Hosp. Med. Ctr., Inc. v UnitedHealth Group, Inc.*, 84 AD3d 442 \[1st Dept 2011\]](#)).

In view of the foregoing, we need not reach the issue of whether the complaint states a cause of action.

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JUNE 28, 2018

CLERK

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