UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOHN DOE #1, JOHN DOE #2, JOHN DOE #3, JOHN DOE #4, JOHN DOE #5, JOHN DOE #6, JOHN DOE #7, JOHN DOE #8 and JOHN DOE #9,

Plaintiffs,

v. **5:18-CV-496 (FJS/DEP)**

SYRACUSE UNIVERSITY; KEN SYVERUD, individually and as Chancellor of Syracuse University; ROBERT HRADSKY, individually and as Syracuse University Dean of Students and Associate Vice President of the Student Experience; and TERESA ABI-NADER DAHLBERG, individually and as the Dean of the College of Engineering and Computer Science,

Defendants.

APPEARANCES	**OF COUNSEL**
SMITH, SOVIK, KENDRICK & SUGNET, P.C. 250 South Clinton Street, Suite 600 Syracuse, New York 13202-1252 Attorneys for Plaintiffs	**KAREN G. FELTER, ESQ.** **KEVIN E. HULSLANDER, ESQ.** **DAVID M. KATZ, ESQ.**
HANCOCK ESTABROOK, LLP 1500 AXA Tower I 100 Madison Street Syracuse, New York 13202 Attorneys for Defendants	**JOHN POWERS, ESQ.** **PAUL J. TUCK, ESQ.**
JENNER & BLOCK LLP 1099 New York Avenue, N.W. Suite 900 Washington, D.C. 20001 Attorneys for Defendants	**DAVID W. DEBRUIN, ESQ.** **ISHAN K. BHABHA, ESQ.**

SCULLIN, Senior Judge

MEMORANDUM-DECISION AND ORDER

I. INTRODUCTION

On September 5, 2018, the Court heard oral argument in support of and in opposition to Defendants' motion "seeking an order directing Plaintiffs to show cause why a preliminary injunction should not be entered enjoining Plaintiffs and their counsel from seeking or placing into effect any judicial remedy from the Supreme Court of the County of Jefferson in the State of New York in the action *John Doe, et al. v. Syracuse University*, Index No. 2018-00001865, RJI No. 22-18-0762." *See*

II. DISCUSSION

Defendants assert that the Court has the authority to issue the preliminary injunction they seek under the All Writs Act, 28 U.S.C. § 1651, and the exceptions to that Act found in the Anti-Injunction Act, 28 U.S.C. § 2283. "The All Writs Act grants federal courts authority to 'issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.'" *United States v. Schurkman*, 728 F.3d 129, 135 (2d Cir. 2013) (quoting 28 U.S.C. § 1651(a)). Courts, however, must read this statute in tandem with the Anti-Injunction Act, 28 U.S.C. § 2283, "which tempers the potency of the All Writs Act by limiting the circumstances under which a federal court may enjoin state court proceedings." *Id.* Pursuant to the Anti-Injunction Act, a federal court "'may not grant an injunction to stay proceedings in a State court except . . . to protect or effectuate its judgments.'" *Id.* (quoting 28 U.S.C. § 2283). Furthermore, "'[a]ny doubts as to the propriety of a federal injunction against state court proceedings should be resolved in favor of permitting the state courts to proceed in an orderly fashion to finally determine the controversy.'" *Id.* (quoting *Atl. Coast Line R.R. Co. v. Bhd. of Locomotive Eng'rs*, 398 U.S. 281, 297, 90 S. Ct. 1739, 26 L. Ed. 2d 234 (1970)). Moreover, because "the Anti-Injunction Act's prohibitory provision 'rests on the fundamental constitutional independence of the States and their courts, the exceptions should not be enlarged by loose statutory construction.'" *Id.* (quotation

2012) (quoting 28 U.S.C. § 2283). This exception, "which was 'designed to implement "well-recognized concepts" of claim and issue preclusion,' authorizes a federal court to enjoin 'state litigation of a claim or issue "that previously was presented to and decided by the federal court."'" *Id.* (quoting *Smith v. Bayer Corp.*, — U.S. —, 131 S. Ct. 2368, 2375, 180 L. Ed. 2d 341 (2011) (quoting *Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 147, 108 S. Ct. 1684, 100 L. Ed. 2d 127 (1988))). When applying this exception, "the Supreme Court has 'taken special care to keep it "strict and narrow,"' . . . because 'issuing an injunction under the relitigation exception is resorting to heavy artillery,' . . . ." *Id.* at 140 (internal quotations omitted). In fact, "'a court does not usually get to dictate to other courts the preclusion consequences of its own judgment. Deciding whether and how prior litigation has preclusive effect is usually the bailiwick of the *second* court' . . ." *Id.* (quoting [*Smith v. Bayer Corp.*, 131 S. Ct.] at 2375). Therefore, "'the fact that an injunction *may* issue under the Anti-Injunction Act does not mean that it *must*

University's Conduct Board had rendered a decision adverse to all Plaintiffs, which Plaintiffs had appealed. Defendant University's Appeals Board had not yet rendered a final decision and, therefore, at that time Plaintiffs did not have standing to file an Article 78 proceeding.[3] Furthermore, Plaintiffs did not seek to enjoin Defendant University from taking any other disciplinary action against them or preventing them from enrolling for the Fall 2018 semester. The

ORDERS that Defendants' motion for a preliminary injunction "enjoining Plaintiffs and their counsel from seeking or placing into effect, any judicial remedy from the Supreme Court of the County of Jefferson in the State of New York in the action *John Doe, et al. v. Syracuse University*, Index No. 2018-00001865, RJI No. 22-18-0762," *see* Dkt. No. 48, is **DENIED**.

IT IS SO ORDERED.

Dated: September 18, 2018
Syracuse, New York

Frederick J. Scullin, Jr.
Senior United States District Judge