

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

JULIAN MARCUS RAVEN,

Appellant,

v.

**NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION,
NY Governor KATHY HOCHUL,
DEC Commissioner AMANDA LEFTON,
Project Attorney DUDLEY LOEW,
Project Manager KIRA BRUNO.**

Appellees.

Appeal case number #26-601

On Appeal from the United States District
Court for the Northern District of New York
Case No. 1:25-cv-01624

Brief For Appellant

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, Plaintiff–Appellant Julian Marcus Raven states that he is an individual litigant and not a corporation.

Accordingly, no parent corporation exists and no publicly held corporation owns ten percent or more of any interest in the appellant.

March 10, 2026

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Julian Raven". The signature is stylized with a large initial "J" and a long horizontal stroke.

Julian Raven

Appellant, Pro Se

JURISDICTIONAL STATEMENT

The district court had jurisdiction over this action pursuant to 28 U.S.C. §1331 because the complaint alleged violations of the United States Constitution and sought relief under 42 U.S.C. §1983.

The district court entered final judgment dismissing the action on February 2, 2026.

Plaintiff–Appellant filed a timely notice of appeal pursuant to Federal Rule of Appellate Procedure 4(a).

This Court has appellate jurisdiction under 28 U.S.C. §1291.

ISSUES PRESENTED FOR REVIEW

1. Whether the district court erred in dismissing the complaint as time-barred by treating the action as a challenge to a single administrative event allegedly occurring in 2017, where the complaint alleged continuing governmental conduct extending through 2025.
2. Whether the district court improperly concluded that the existence of a state Article 78 proceeding defeats a federal constitutional claim brought under 42 U.S.C. §1983.
3. Whether the complaint plausibly alleged a violation of the Fourteenth Amendment where the plaintiff asserted that state officials exercised regulatory authority over his property without providing the statutory notice and opportunity to contest required by New York Environmental Conservation Law §27-1313.
4. Whether the district court failed to apply the liberal construction required for pro se civil-rights pleadings before dismissing the complaint sua sponte.
5. Whether dismissal without permitting amendment was improper where additional factual allegations could cure any perceived deficiencies.

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INTRODUCTION

This appeal arises from the premature dismissal of a pro se civil-rights action alleging that state officials exercised continuing regulatory authority over private property without providing the procedural safeguards required by law. (Dist. Ct. Dkt. 33)

Appellant Julian Marcus Raven is the owner of property in Chemung County, New York. He has used it extensively as his art studio, resided within it for extended periods of time with his family, and leased it. For more than a decade, officials of the New York State Department of Environmental Conservation (“DEC”) have asserted regulatory authority over that property based on its designation as a “Class 2 Significant Threat” site within the State Superfund program. Appellant alleges that this designation—and the continuing governmental actions flowing from it—were imposed without the notice and opportunity to contest required by New York Environmental Conservation Law §27-1313 and by the Due Process Clause of the Fourteenth Amendment. (Dist. Ct. Dkt. 34)

According to the complaint, the State repeatedly relied on that disputed classification to exercise authority over Appellant’s property, including directing environmental testing, publicly disseminating the hazardous-site designation, initiating remediation planning processes, and exerting regulatory pressure upon

the property. These actions continued well into the limitations period, including additional sampling in 2023 and the public issuance of a Proposed Remedial Action Plan in 2025. Yet Appellant alleges that during the entire course of these events he was never afforded the statutory notice and administrative contest procedure required before such authority could lawfully be exercised.

The federal action therefore sought declaratory and injunctive relief under 42 U.S.C. §1983 to ensure that future state action affecting the property complies with constitutional due process requirements.

Rather than evaluate those allegations under the liberal pleading standards governing pro se civil-rights claims, the district court dismissed the action sua sponte at the pleading stage. The court reframed the complaint as a challenge to a single historical administrative event allegedly occurring in 2017 and concluded that the claims were time-barred. It further held that the existence of a parallel Article 78 proceeding in state court defeated the federal constitutional claims and that amendment would be futile.

That dismissal rests on a fundamental mischaracterization of the complaint. The action does not challenge merely a past administrative decision. It alleges an ongoing course of governmental conduct continuing through 2025 and beyond in

which state officials repeatedly invoked and publicly disseminated the disputed classification to exercise regulatory authority over Appellant's property.

Federal pleading rules require courts to accept such allegations as true and to draw all reasonable inferences in the plaintiff's favor—particularly when evaluating pro se submissions. By narrowing the complaint to the weakest possible characterization and resolving factual questions against the plaintiff at the pleading stage, the district court prematurely terminated a meritorious constitutional claim.

This appeal therefore presents a straightforward question: whether a federal court may dismiss a pro se civil-rights complaint at the threshold by recasting allegations of ongoing governmental conduct as merely the lingering effects of a historical administrative decision.

Because the complaint plausibly alleges continuing exercises of state authority affecting Appellant's property without the procedural protections required by law, the judgment should be reversed and the case remanded so that the claims may be evaluated through the ordinary adversarial process of federal adjudication.

This appeal ultimately turns on a simple but consequential error. The district court did not dismiss the case that Appellant actually pleaded. Instead, the court reframed the complaint as a challenge to a single historical administrative act

allegedly occurring in 2017 and then dismissed the action as untimely. But the complaint alleges something fundamentally different: an ongoing course of governmental conduct extending through 2025 and beyond in which state officials repeatedly invoked a disputed hazardous-site classification to exercise regulatory authority over Appellant's property without the statutory notice and opportunity to contest required by law. Federal pleading rules do not permit a court to narrow a complaint to the weakest possible characterization and dismiss it on that basis. Because the district court evaluated a different case than the one pleaded, the dismissal cannot stand. (Dist. Ct. Dkt. 33)

STANDARD OF REVIEW

This Court reviews **de novo** a district court's dismissal of a complaint under Federal Rule of Civil Procedure 12(b)(6), including dismissals entered **sua sponte** at the pleading stage. *See Famous Horse Inc. v. 5th Ave. Photo Inc.*, 624 F.3d 106, 108 (2d Cir. 2010). Under de novo review, the appellate court examines the complaint independently and determines whether the allegations plausibly state a claim for relief when accepted as true.

In conducting that review, the Court must construe the complaint in the light most favorable to the plaintiff and draw all reasonable inferences in the plaintiff's favor. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

Because Appellant proceeded **pro se**, the complaint must also be interpreted with special solicitude. The Second Circuit has repeatedly held that pro se pleadings must be “liberally construed” and interpreted “to raise the strongest arguments that they suggest.” *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474–75 (2d Cir. 2006); *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

Dismissal at the pleading stage is appropriate only where it appears beyond doubt that the plaintiff can prove **no set of facts** entitling him to relief. *See Harris v. Mills*, 572 F.3d 66, 71 (2d Cir. 2009).

Additionally, where a district court dismisses a pro se complaint **sua sponte**, this Court has cautioned that such authority must be exercised with particular care to ensure that potentially meritorious constitutional claims are not prematurely terminated. *See Fitzgerald v. First East Seventh St. Tenants Corp.*, 221 F.3d 362, 363–64 (2d Cir. 2000).

Finally, a district court's determination that amendment would be futile is reviewed **de novo**, particularly where the plaintiff was not afforded an opportunity to amend the complaint. *See Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000). (Dist. Ct. Dkt. 33)

Accordingly, this Court must independently determine whether the allegations of the complaint—liberally construed and accepted as true—state plausible claims for relief under the Constitution.

At the Rule 12(b)(6) stage, the court's task is limited. The court must determine whether the factual allegations of the complaint, accepted as true and construed in the light most favorable to the plaintiff, plausibly describe conduct that violates federal law. A court may not resolve factual disputes, draw inferences against the plaintiff, or recast the allegations into a different theory of the case. Where a complaint plausibly alleges ongoing governmental conduct affecting constitutional rights, dismissal at the pleading stage is improper.

**THE DISTRICT COURT DISMISSED A DIFFERENT CASE
THAN THE ONE PLEADED**

The dismissal below rests on a fundamental analytical error. The district court did not evaluate the complaint that Appellant actually filed. Instead, the court recharacterized the pleading as a challenge to a single historical administrative act—the DEC’s alleged “March 2017 classification” of Appellant’s property—and then dismissed the action on that basis. That reframing is inconsistent with the allegations of the complaint and violates the settled rule that a court must evaluate a pleading as written and construe it in the light most favorable to the plaintiff.

The complaint did not present a narrow challenge to a single administrative decision in 2017. Rather, it alleged an ongoing course of state conduct in which officials repeatedly exercised regulatory authority over Appellant’s property without providing the procedural safeguards required by state law and the Constitution. Those allegations included the continued publication of the property’s classification as a “Class 2 Significant Threat” site, continuing communications from DEC officials asserting regulatory authority, additional environmental sampling performed in 2023, the public issuance of a Proposed Remedial Action Plan in 2025, and new remediation demands directed to Appellant. (Dist. Ct. Dkt. 33 at 9:15–17, Dist. Ct. Dkt. 33 at 9:26–31)

The district court acknowledged several of these allegations in its description of the factual background. The court noted, for example, that DEC officials conducted additional environmental sampling in 2023 and that the agency issued a public

notice in 2025 announcing a proposed remedial action plan and a public comment period concerning the property. Yet when turning to the statute-of-limitations analysis, the court treated the complaint as if it challenged only a single administrative event that allegedly occurred in 2017. The court concluded that “all of Plaintiff’s claims challenging the DEC’s March 2017 classification of the Property accrued almost nine years ago and are time-barred.”

(Dist. Ct. Dkt. 33 at 9:26–31)

That reasoning rests on a mischaracterization of the pleading. The complaint did not allege merely that the DEC once misclassified the property in 2017 and that the consequences of that decision lingered. Instead, it alleged that state officials have continued to rely on the disputed classification to exercise regulatory authority over the property, to demand participation in remediation processes, and to publicly identify the property as a hazardous site. These are not simply lingering “effects” of a historical decision. They are new governmental actions occurring within the limitations period. (Dist. Ct. Dkt. 33 at 9:18–25)

At the pleading stage, the district court was required to accept those allegations as true and draw all reasonable inferences in Appellant’s favor. Under long-standing precedent, courts must construe pro se pleadings liberally and interpret them to raise the strongest claims they suggest. By recasting the complaint as a challenge to

a single historical event and ignoring the allegations of continuing regulatory conduct, the district court failed to apply that rule.

The Supreme Court has repeatedly emphasized that federal pleading rules do not permit courts to dismiss actions by narrowing the complaint to the weakest possible theory. In *Johnson v. City of Shelby*, the Court held that a complaint may not be dismissed merely because a plaintiff imperfectly articulates the legal framework supporting his claims; the relevant question is whether the factual allegations plausibly describe conduct that violates federal law. Likewise, in *Haines v. Kerner*, the Court instructed that pro se complaints must be interpreted with special solicitude to ensure that potentially meritorious claims are not extinguished at the threshold.

The approach taken below contravenes these principles. The complaint alleged that DEC officials continued to impose regulatory burdens and publicly stigmatize Appellant's property well into 2025. Those allegations plausibly describe ongoing governmental action affecting Appellant's property interests. By reducing the case to a challenge to a single administrative event in 2017, the district court effectively decided a different case than the one pleaded.

That error permeates the court's analysis. The statute-of-limitations ruling, the rejection of the continuing-violation doctrine, and the court's assessment of the

due-process claims all depend upon the assumption that the complaint challenges only the 2017 classification. Because that premise misstates the allegations of the complaint, each of those conclusions rests on a flawed foundation.

At the pleading stage, the question was not whether the DEC ultimately acted lawfully or whether Appellant will ultimately prevail. The question was whether the complaint plausibly alleged ongoing governmental conduct affecting Appellant's constitutional rights. When the allegations are read as required—liberally, and in the light most favorable to the pro se litigant—the complaint plainly satisfies that standard.

The district court's approach conflicts with the governing standard for evaluating pleadings under Federal Rule of Civil Procedure 12(b)(6). At that stage, the court's task is limited to determining whether the complaint plausibly alleges conduct that could violate federal law, accepting the plaintiff's factual allegations as true and drawing all reasonable inferences in the plaintiff's favor. By narrowing the complaint to a single historical administrative act and resolving disputed factual questions concerning the nature of later governmental conduct, the district court effectively weighed competing interpretations of the facts rather than applying the pleading standard required by *Ashcroft v. Iqbal* and *Bell Atlantic Corp. v.*

Twombly. That departure from the Rule 12(b)(6) framework independently warrants reversal.

**THE DISTRICT COURT MISAPPLIED THE STATUTE OF LIMITATIONS
BY IGNORING CONTINUING STATE ACTION**

**Additional Authority Confirms That Ongoing Government Conduct Within
the Limitations Period Is Independently Actionable**

Federal law governs the accrual of claims brought under 42 U.S.C. §1983. A civil-rights claim accrues when the plaintiff “knows or has reason to know of the injury which is the basis of his action.” *Wallace v. Kato*, 549 U.S. 384, 388 (2007); *Singleton v. City of New York*, 632 F.2d 185, 191 (2d Cir. 1980). The focus of the accrual inquiry is therefore not merely the date of an earlier administrative decision, but the date on which the plaintiff suffers the constitutional injury.

Consistent with this principle, the Second Circuit has repeatedly recognized that where government actors engage in **repeated or ongoing conduct**, each act that independently injures the plaintiff may give rise to a new claim within the limitations period. See *Shomo v. City of New York*, 579 F.3d 176, 181 (2d Cir. 2009) (recognizing the continuing-violation doctrine where a plaintiff demonstrates “an ongoing policy of deliberate indifference” and acts within the limitations

period furthering that policy); *Gonzalez v. Hasty*, 802 F.3d 212, 220 (2d Cir. 2015) (explaining that the doctrine applies where the plaintiff identifies “specific acts within the limitations period that are part of the same unlawful practice”).

The Second Circuit has further emphasized that the doctrine is not confined to employment-discrimination cases. Rather, it applies in civil-rights litigation whenever a complaint plausibly alleges **a continuing course of governmental conduct that repeatedly injures the plaintiff**. See *Shomo*, 579 F.3d at 181; *Gonzalez*, 802 F.3d at 220.

That principle applies directly here. The complaint alleges that state officials did not merely classify Appellant’s property in 2017 and then take no further action. Instead, the complaint describes a continuing course of state conduct in which officials repeatedly relied upon and invoked the disputed classification to exercise regulatory authority over the property. Among other things, the complaint alleges additional environmental testing performed in 2023, the issuance of a Proposed Remedial Action Plan in 2025, and the continued public dissemination of the property’s designation as a “Class 2 Significant Threat” site.

These acts constitute **new exercises of governmental authority**, not merely the passive consequences of an earlier administrative determination. When government officials repeatedly invoke a disputed regulatory classification to

impose new obligations, initiate new proceedings, or publicly stigmatize property, each invocation constitutes a fresh act capable of producing constitutional injury.

The Supreme Court has recognized this same distinction between the lingering effects of a past decision and **new discrete acts occurring within the limitations period**. See *National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 113 (2002) (holding that “discrete acts” occurring within the statutory period are independently actionable even when related to earlier conduct). Federal courts therefore must examine whether the complaint alleges **new governmental conduct**, not simply whether the challenged policy originated earlier.

When the allegations are accepted as true—as they must be at the Rule 12(b)(6) stage—the complaint plainly describes ongoing exercises of state authority affecting Appellant’s property well within the applicable limitations period. Because those acts independently burden Appellant’s property interests and reputational interests, they give rise to timely constitutional claims under §1983.

The district court’s statute-of-limitations analysis therefore rests on a flawed premise: that the complaint challenges only a single administrative event occurring in 2017. The complaint instead alleges a continuing course of state conduct extending through 2025 and beyond. Under the accrual principles articulated by the

Supreme Court and the Second Circuit, such allegations cannot be dismissed as untimely at the pleading stage.

The district court dismissed Appellant's claims as time-barred by treating the complaint as a challenge to a single administrative decision allegedly made in March 2017. That reasoning is legally and factually flawed. The complaint does not challenge merely a historical administrative act whose consequences lingered into the present. Instead, it alleges that state officials have continued to exercise regulatory authority over Appellant's property and to publicly disseminate the disputed hazardous-site classification through ongoing conduct extending well into the limitations period.

The court concluded that "all of Plaintiff's claims challenging the DEC's March 2017 classification of the Property accrued almost nine years ago and are time-barred."

(Dist. Ct. Dkt. 33)

This conclusion rests on the premise that the only actionable conduct alleged in the complaint was the 2017 issuance of an Order on Consent. But the complaint alleges much more than that.

As the district court itself acknowledged in its recitation of the facts, DEC officials conducted additional environmental sampling at the property in August 2023 and subsequently issued a Proposed Remedial Action Plan in 2025 accompanied by a public notice and comment period concerning the site.

(Dist. Ct. Dkt. 33)

These actions were not passive consequences of a past administrative decision. They were new exercises of regulatory authority directed at Appellant's property.

Federal law distinguishes between the continuing effects of a past act and the continuation of unlawful conduct itself. The statute of limitations begins to run when a claim accrues, which occurs when the plaintiff knows or has reason to know of the injury forming the basis of the claim. But where the government engages in repeated conduct that independently affects a plaintiff's rights, each act may give rise to a new claim. The Supreme Court has recognized this principle in numerous contexts, explaining that discrete unlawful acts occurring within the limitations period remain actionable even when they relate to earlier conduct.

The complaint plausibly alleges precisely that type of continuing conduct.

According to the allegations, DEC officials continued to rely upon and invoke the disputed classification as the basis for regulatory authority over the property. They performed new environmental testing, issued a public remediation plan, and

initiated new administrative processes directed toward the site. Those actions occurred well within the three-year limitations period applicable to claims under 42 U.S.C. §1983.

Equitable Tolling Independently Defeats the Statute-of-Limitations Dismissal

Even assuming arguendo that the district court identified the correct accrual date, dismissal was still improper because the complaint plausibly supports equitable tolling. The Supreme Court has recognized that federal statutes of limitation are subject to equitable principles when strict application would defeat the remedial purposes of federal civil-rights law. In *Irwin v. Department of Veterans Affairs*, the Court explained that equitable tolling may extend limitations periods where extraordinary circumstances prevent timely assertion of rights. 498 U.S. 89, 95–96 (1990). Likewise, *Holland v. Florida* affirmed that tolling applies where a litigant has pursued his rights diligently but external circumstances beyond his control prevented timely filing. 560 U.S. 631, 649 (2010).

The complaint plausibly alleges such circumstances. Appellant describes prolonged regulatory coercion in which state officials repeatedly invoked a disputed hazardous-site classification to compel compliance through administrative pressure and orders on consent. Such conditions can reasonably discourage immediate litigation, particularly where the agency continues to represent that its

authority is settled and compliance mandatory. When governmental conduct contributes to delay or obscures available remedies, equitable tolling prevents the statute of limitations from becoming a shield for unconstitutional action.

The complaint further alleges continuing governmental activity affecting the property through 2023 and 2025, demonstrating diligence rather than abandonment of rights. At the pleading stage, the court was required to draw reasonable inferences in Appellant's favor. By resolving the limitations issue without considering equitable tolling or allowing factual development, the district court prematurely foreclosed a potentially valid civil-rights claim.

Because equitable tolling is a fact-intensive doctrine and the complaint plausibly alleges circumstances warranting its consideration, dismissal on statute-of-limitations grounds was improper.

Equitable Principles Prevent Mechanical Application of Limitations Periods

Even apart from the continuing-violation doctrine and equitable tolling, long-standing equitable principles prevent courts from applying statutes of

limitation in a rigid manner that would defeat the remedial purposes of federal civil-rights law.

In *Holmberg v. Armbrrecht*, the Supreme Court explained that equitable doctrines are “read into every federal statute of limitation,” and that such statutes should not be applied in a manner that allows wrongful conduct to escape judicial review. 327 U.S. 392, 397 (1946). Similarly, in *Burnett v. New York Central Railroad Co.*, the Court rejected a rigid limitations application that would have extinguished a federal claim despite the plaintiff’s diligent pursuit of relief. 380 U.S. 424, 428 (1965).

Those principles apply with particular force in civil-rights litigation under 42 U.S.C. §1983. Where a complaint plausibly alleges ongoing governmental conduct affecting constitutional rights, courts must exercise caution before extinguishing the claim at the pleading stage based solely on a limitations defense. Applying the statute of limitations as the district court did here would transform a procedural safeguard into a shield for unconstitutional state action.

Because equitable doctrines are inherent in federal limitations law and the complaint plausibly alleges circumstances warranting their consideration, dismissal on statute-of-limitations grounds was improper.

The District Court's Statute-of-Limitations Analysis Contradicts Its Own Findings

The district court's statute-of-limitations ruling rests on a fundamental contradiction within the decision itself. The court concluded that Appellant's claims accrued in 2017 when the DEC issued the Order on Consent classifying the property. On that basis, the court held that all claims were time-barred.

(Dist. Ct. Dkt. 33 at 9:26–31)

Yet the court's own factual recitation acknowledges that the State continued to exercise regulatory authority over the property years later. The decision describes additional environmental sampling conducted by DEC consultants in August 2023 and the subsequent issuance of a Proposed Remedial Action Plan in 2025, accompanied by public notice and a formal comment period concerning the site.

(Dkt. 33 at 3:1–8, Dkt. 33 at 3:17–26, Dkt. 33 at 4:1–5)

These actions are not merely passive consequences of a past administrative decision; they are new and independent exercises of state regulatory authority directed at Appellant's property.

Having recognized these continuing governmental actions, the court nevertheless treated the case as if it challenged only a discrete historical act in 2017. That reasoning collapses the distinction between the continuing effects of a past act and the continuation of unlawful governmental conduct itself. Federal law draws that distinction carefully, recognizing that new governmental actions taken within the limitations period may independently give rise to constitutional claims.

At the pleading stage, the court was required to accept the complaint's allegations as true and draw reasonable inferences in Appellant's favor. Instead, the decision recited facts demonstrating ongoing state action while simultaneously concluding that no such ongoing conduct exists for limitations purposes. Because the statute-of-limitations ruling rests on this internal inconsistency, it cannot support dismissal of the complaint.

The district court characterized these events as merely the continuing "effects" of the 2017 classification decision. But that characterization improperly resolves factual questions against the plaintiff at the pleading stage. When evaluating a complaint under Rule 12(b)(6), courts must accept the plaintiff's allegations as true

and draw reasonable inferences in the plaintiff's favor. Under that standard, the complaint plausibly alleges that state officials continued to impose regulatory burdens on the property and publicly disseminate the contested classification long after 2017.

At the pleading stage, the district court was not permitted to resolve factual disputes regarding the nature of the State's conduct. Under Rule 12(b) (6) , the court must accept the plaintiff's factual allegations as true and draw all reasonable inferences in the plaintiff's favor. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The complaint alleged that DEC officials continued to exercise regulatory authority over Appellant's property well within the limitations period, including new environmental sampling in 2023, the issuance of a Proposed Remedial Action Plan in 2025, and the public dissemination of the site's "Class 2 Significant Threat" designation during a formal state remediation process and issuance of another order on consent. Accepting those allegations as true—as the court was required to do—these actions plausibly constitute new exercises of governmental authority affecting Appellant's property rights. (Dist. Ct. Dkt. 1 at 7:1–8)(Dkt. 1 at 10:20–27)

Instead of accepting those allegations, the district court resolved the question against the plaintiff by characterizing these later actions as merely the "continuing

effects” of the 2017 classification decision. That determination, however, is a factual conclusion that cannot be resolved on a motion to dismiss. Whether later regulatory actions constitute independent governmental conduct or merely the lingering consequences of a past decision is a question that requires factual development and cannot be decided by narrowing the complaint to the weakest possible interpretation. By resolving that factual question against the plaintiff at the pleading stage, the district court departed from the governing Rule 12(b)(6) standard and prematurely terminated a potentially meritorious constitutional claim. This distinction is particularly significant with respect to Appellant’s stigma-based allegations. The complaint asserts that the DEC publicly disseminated the classification of the property through agency publications and public planning documents, including materials released in 2025. Public dissemination of a stigmatizing designation constitutes a new act that may independently trigger constitutional injury. The district court’s analysis failed to account for these allegations.

In short, the statute-of-limitations ruling rests entirely on the premise that the complaint challenges only the DEC’s alleged classification decision in 2017. Because that premise mischaracterizes the allegations of the complaint, the court’s conclusion that the claims are time-barred cannot stand. When the complaint is

read as required—liberally and in the light most favorable to the pro se litigant—it plausibly alleges ongoing governmental conduct affecting Appellant’s property interests within the limitations period.

For that reason, dismissal on statute-of-limitations grounds was improper.

THE DISTRICT COURT FAILED TO LIBERALLY CONSTRUE

A PRO SE CIVIL RIGHTS COMPLAINT

The district court’s dismissal of Appellant’s complaint conflicts with the well-established principle that pro se pleadings must be construed liberally and interpreted to raise the strongest claims they suggest. This rule reflects the judiciary’s obligation to ensure that constitutional claims are not prematurely extinguished merely because a litigant lacks formal legal training. (Dkt. 33)

The Second Circuit has repeatedly emphasized that courts must approach pro se filings with special solicitude. In **Triestman v. Federal Bureau of Prisons**, the Court explained that federal courts are required to interpret pro se submissions “to raise the strongest arguments that they suggest.” 470 F.3d 471, 474 (2d Cir. 2006).

This doctrine recognizes that pro se litigants often articulate their claims imperfectly, yet may nonetheless present serious constitutional issues warranting judicial consideration.

The Supreme Court has likewise cautioned that pleadings filed by individuals without counsel should not be judged by the same technical standards applied to formal pleadings drafted by attorneys. In **Haines v. Kerner**, the Court held that pro se complaints must be held “to less stringent standards than formal pleadings drafted by lawyers.” 404 U.S. 519, 520 (1972).

The complaint in this case alleges that state officials exercised continuing regulatory authority over Appellant’s property without providing the notice and opportunity to contest required by state law and the Due Process Clause. The allegations include the continued public dissemination of a hazardous-site designation, ongoing regulatory pressure directed at the property, and reputational and economic harm arising from those actions. These assertions implicate fundamental constitutional protections for property rights and procedural due process.

Rather than interpreting the complaint to encompass the strongest constitutional claims suggested by these allegations, the district court repeatedly narrowed the pleading to the weakest possible characterization. The court framed the action

solely as a challenge to a 2017 administrative classification decision and then relied on that framing to conclude that the claims were time-barred.

(Dist. Ct. Dkt. 33)

In doing so, the court overlooked the broader narrative set forth in the complaint—that state officials have continued to rely upon and invoke the disputed classification to impose regulatory burdens and public stigma upon Appellant’s property well within the limitations period. When the allegations are read with the liberality required for pro se pleadings, the complaint describes an ongoing course of state action affecting Appellant’s property interests.

The district court also interpreted Appellant’s procedural due-process claims narrowly by concluding that the availability of Article 78 review defeats the constitutional claim.

(Dist. Ct. Dkt. 33)

But a liberal reading of the complaint reveals a different theory: that Appellant never received the statutory notice and opportunity to contest the agency’s actions before the State proceeded against the property. That allegation implicates a classic pre-deprivation due-process claim under the Fourteenth Amendment.

At the pleading stage, the court was required to accept those allegations as true and determine whether they plausibly stated a claim for relief. Instead, the district court effectively resolved factual and legal questions against the pro se litigant before the claims had been developed through the ordinary adversarial process.

This Court has repeatedly cautioned against such an approach. Where a pro se complaint suggests a potentially valid constitutional claim, dismissal at the outset is inappropriate unless it is clear that the plaintiff can prove no set of facts entitling him to relief.

Moreover, even if the district court believed that the complaint was imperfectly pleaded, the proper course would have been to permit amendment. The Second Circuit has consistently instructed that pro se litigants should ordinarily be afforded at least one opportunity to amend their complaint unless amendment would be futile. **Cuoco v. Moritsugu**, 222 F.3d 99, 112 (2d Cir. 2000) .

Here, the district court concluded that amendment would be futile and dismissed the case sua sponte without allowing Appellant the opportunity to clarify or expand his allegations. (Dist. Ct. Dkt. 33 18:6–13)

That conclusion was premature. Given the constitutional nature of the claims and the allegations of continuing governmental action affecting Appellant's property, additional factual detail could readily have addressed the concerns identified by the court.

Federal courts serve as the forum where citizens may seek redress when government action threatens constitutional rights. The doctrine of liberal construction exists to ensure that pro se litigants are not denied that forum because of technical pleading deficiencies. By construing Appellant's complaint narrowly and terminating the action at the threshold, the district court failed to apply that principle.

Because the complaint plausibly alleged ongoing violations of fundamental constitutional rights and because the allegations should have been liberally construed in favor of the pro se litigant, the sua sponte dismissal was improper. The judgment should therefore be reversed and the case remanded so that the claims may be considered through the ordinary processes of adversarial litigation.

Issues Presented for Review

1. Statute of Limitations

Whether the district court erred in dismissing Appellant's §1983 claims as time-barred by treating the action as a challenge to a single administrative event occurring in 2017, where the complaint alleged that state officials continued to exercise regulatory authority over Appellant's property and publicly disseminate the disputed classification through ongoing conduct extending into 2025.

2. Federal Constitutional Jurisdiction

Whether the district court improperly dismissed Appellant's federal due-process claims on the ground that a pending state Article 78 proceeding provides an adequate remedy, where Supreme Court precedent establishes that §1983 provides an independent federal forum for the adjudication of constitutional rights.

3. Procedural Due Process

Whether the complaint plausibly alleged a violation of the Fourteenth Amendment where Appellant asserted that state officials exercised regulatory authority over his property without providing the statutory notice and opportunity to contest required by New York Environmental Conservation Law §27-1313 and without affording a meaningful pre-deprivation hearing.

4. Liberal Construction of Pro Se Pleadings

Whether the district court failed to apply the required liberal construction to a pro se civil-rights complaint by narrowing the allegations to the weakest possible characterization and dismissing the action sua sponte without permitting amendment.

5. Premature Sua Sponte Dismissal

Whether the district court erred in dismissing the complaint sua sponte at the pleading stage—before adversarial briefing by the parties—where the complaint alleged ongoing violations of fundamental constitutional rights affecting Appellant’s property.

6. Judicial Impartiality and Disclosure

Whether the interests of justice require examination of the district court’s handling of the case where publicly available information revealed a previously undisclosed public association between the leadership of the defendant agency and a member of the presiding judge’s immediate family, raising potential concerns under 28 U.S.C. §455(a) regarding the appearance of impartiality.

STATEMENT OF THE CASE

A. Nature of the Case

This appeal arises from the dismissal of a pro se civil-rights action alleging that state officials exercised continuing regulatory authority over Appellant's property without providing the notice and opportunity to contest required by both New York law and the Due Process Clause of the Fourteenth Amendment.

Appellant is the owner of residential property in Chemung County, New York. According to the complaint, the New York State Department of Environmental Conservation ("DEC") has asserted regulatory authority over the property based on its classification as a "Class 2 Significant Threat" site under the State's environmental remediation program. Appellant alleges that the agency proceeded with that classification and subsequent regulatory actions without providing the certified written notice and fifteen-day opportunity to contest contemplated by New York Environmental Conservation Law §27-1313.

The complaint further alleges that, over the course of more than a decade, Appellant never received the procedural protections required before the State exercised authority over his property. Instead, Appellant asserts that the agency

relied upon unilateral administrative determinations while continuing to publish and enforce the disputed classification.

Appellant contends that the State's actions have resulted in reputational harm, economic injury, and continued regulatory pressure affecting the property. The federal action therefore sought declaratory and injunctive relief addressing alleged violations of procedural due process and related constitutional protections.

B. Parallel State Proceedings

Separate from the federal action, Appellant commenced a proceeding in New York Supreme Court pursuant to Article 78 of the New York Civil Practice Law and Rules. In that proceeding, Appellant challenges the DEC's actions as ultra vires and arbitrary under state administrative law and seeks annulment of agency orders and actions allegedly taken without lawful jurisdiction. (Dist. Ct. Dkt. 16)

The Article 78 proceeding focuses on whether the agency complied with the requirements of state law governing its authority to classify and regulate the property.

The federal action, by contrast, presents a distinct question: whether the procedures employed by state officials satisfy the requirements of the Due Process Clause of the United States Constitution.

C. Proceedings in the District Court

Appellant filed this action in the United States District Court for the Northern District of New York seeking declaratory and injunctive relief for alleged constitutional violations. (Dist. Ct. Dkt. 10)

Shortly after the complaint was filed, the district court denied Appellant's request for emergency relief and issued an order directing Appellant to show cause why the action should not be dismissed. The order identified several potential grounds for dismissal, including questions concerning the statute of limitations, sovereign immunity, and the adequacy of state remedies. (Dist. Ct. Dkt. 11)

Before the pleadings were developed through the ordinary adversarial process, the court subsequently dismissed the action sua sponte. (Dist. Ct. Dkt. 33)

In its decision, the district court characterized the complaint as a challenge to the DEC's classification of the property in 2017 and concluded that the claims were therefore barred by the applicable statute of limitations. The court further

concluded that the existence of the pending Article 78 proceeding defeated Appellant's procedural due-process claim and determined that amendment of the complaint would be futile.

The district court therefore entered judgment dismissing the action.

D. The Present Appeal

Appellant now seeks review of the district court's dismissal.

Appellant contends that the district court mischaracterized the complaint by treating the action as a challenge to a single historical administrative event rather than as a challenge to continuing exercises of state authority affecting his property. Appellant further argues that the court improperly treated the existence of a state administrative proceeding as a substitute for federal constitutional adjudication and dismissed the complaint without applying the liberal construction required for pro se civil-rights pleadings. (Dist. Ct. Dkt. 34)(Dist. Ct. Dkt. 38)

This appeal asks the Court to determine whether the allegations of ongoing governmental action affecting Appellant's property—accepted as true at the pleading stage—state a plausible claim for relief under the Constitution.

STATEMENT OF FACTS

A. Appellant's Ownership of the Property

Appellant is the owner of commercial property located in Chemung County, New York. He acquired the property in 2014 after reviewing environmental reports concerning historical industrial activity in the area. Those reports, prepared by environmental consultants retained by the New York State Department of Environmental Conservation (“DEC”), identified residual soil contamination but did not reach a final determination that the property constituted a “significant threat” site. Instead, the reports recommended further investigation before any definitive classification could be made. (Dist. Ct. Dkt. 1)

Based on the information available at the time of purchase, and conversations at the time with DEC officials, Appellant understood that additional environmental

testing might occur in the future and expressed a willingness to cooperate with the DEC to facilitate that process.

B. Statutory Procedures Governing Hazardous Site Classifications

New York Environmental Conservation Law §27-1313 establishes the procedures governing the classification of hazardous waste sites.

Under that statute, when the DEC determines that a site should be classified as a significant threat, the agency must provide written notice to the affected property owner and afford the owner an opportunity to contest the determination. The statute contemplates that the property owner will receive notice and an opportunity to challenge the classification before the agency proceeds with further regulatory actions affecting the property. (Dist. Ct. Dkt. 1)

Appellant alleges that these statutory safeguards were never provided.

According to the complaint, during more than twelve years of agency activity concerning the property, Appellant never received certified written notice informing him that the property had been formally classified as a significant threat site and never received the statutory opportunity to contest such a determination through the administrative procedures contemplated by the statute.

C. Continued Regulatory Activity Without a Hearing

Despite the absence of a contested administrative proceeding, Appellant alleges that the DEC went from unclassified to classified without the required conclusory testing, and subsequently continued to treat the property as a classified hazardous site and exercised regulatory authority based on that designation.

According to the complaint, this authority manifested itself through a series of communications and proposed actions directed at the property, including proposed orders on consent and remediation-related demands. Appellant asserts that these actions occurred without any administrative hearing in which he could challenge the agency's conclusions or present contrary evidence.

From Appellant's perspective, the experience resembled a form of coercive regulatory pressure rather than participation in an established administrative process. Instead of receiving notice and an opportunity to contest the agency's determination in a formal proceeding, Appellant was confronted with unilateral agency assertions that the property had already been classified and that remediation obligations would follow.

D. Public Dissemination of the Site Classification

The complaint further alleges that the DEC publicly disseminated the classification of the property as a “Class 2 Significant Threat” site. (Dkt. 1)

According to Appellant, this designation appeared in publicly accessible agency materials and environmental planning documents and was referenced in communications concerning the remediation program. Appellant contends that these public statements stigmatized the property and affected its reputation and economic value.

The complaint alleges that the continued public dissemination of the classification occurred well after the initial administrative actions that the district court later treated as the sole operative conduct in the case.

E. Parallel Article 78 Proceeding

In response to the agency’s continued reliance on the disputed classification, Appellant commenced a proceeding in New York Supreme Court pursuant to Article 78 of the New York Civil Practice Law and Rules. (Dkt. 16)

In that proceeding, Appellant seeks annulment of the DEC’s actions as ultra vires and arbitrary under state administrative law. The state case focuses on whether the agency complied with the statutory requirements governing its authority to classify and regulate the property.

Appellant does not seek damages in that proceeding. Instead, he seeks judicial intervention compelling the agency to comply with the procedural requirements of state law and to reset the administrative process so that any classification determination may be contested through lawful procedures.

F. The Federal Action

Appellant filed the present federal action seeking declaratory and injunctive relief under 42 U.S.C. §1983.

The complaint alleges that state officials exercised regulatory authority over Appellant's property without providing the procedural safeguards required by the Fourteenth Amendment. Specifically, Appellant contends that the State imposed regulatory burdens and publicly stigmatized the property without first providing the notice and opportunity to contest required by law.

The federal action does not seek damages. Instead, Appellant asks the federal court to declare that the State's procedures violated the Due Process Clause and to ensure that future actions affecting the property comply with constitutional requirements.

G. Proceedings in the District Court

Shortly after the complaint was filed, the district court denied Appellant's request for emergency relief and issued an order directing Appellant to show cause why the action should not be dismissed.

Before the pleadings were developed through adversarial briefing, the district court dismissed the complaint sua sponte. The court concluded that the claims were time-barred because they arose from an administrative classification decision allegedly made in 2017. The court further held that the existence of the pending Article 78 proceeding defeated Appellant's procedural due-process claim.

The district court also concluded that amendment of the complaint would be futile and entered judgment dismissing the action.

H. The Present Appeal

Appellant now seeks review of the district court's dismissal. (Dist. Ct. Dkt. 33)

Appellant contends that the district court mischaracterized the complaint as a challenge to a single historical administrative event rather than as a challenge to continuing exercises of state authority affecting his property. Appellant further contends that the court improperly treated the existence of a state administrative proceeding as a substitute for federal constitutional adjudication and dismissed the

case without applying the liberal construction required for pro se civil-rights pleadings.

This appeal therefore asks whether the allegations of ongoing governmental action affecting Appellant's property plausibly state a claim for relief under the Constitution.

SUMMARY OF THE ARGUMENT

The district court dismissed this pro se civil-rights action at the threshold by mischaracterizing the nature of the claims and prematurely applying procedural barriers that avoided meaningful consideration of the constitutional issues presented.

First, the court incorrectly concluded that Appellant's claims were barred by the statute of limitations. The dismissal rests on the assumption that the complaint challenges only a single administrative act allegedly occurring in 2017. But the complaint alleges far more: an ongoing course of governmental conduct continuing through 2025 in which state officials have repeatedly invoked and publicly disseminated a hazardous-site classification to impose regulatory burdens and

stigma upon Appellant's property. Federal law makes clear that §1983 claims accrue when a plaintiff becomes aware of the constitutional injury, and that continuing governmental conduct may give rise to fresh claims within the limitations period. By collapsing years of alleged conduct into a single historical event, the district court improperly transformed a live constitutional dispute into a time-barred administrative grievance.

Second, the district court erred by treating the existence of a parallel Article 78 proceeding as a substitute for federal constitutional adjudication. Article 78 review addresses whether an agency acted arbitrarily or beyond its statutory authority under state law. The federal action, by contrast, seeks a declaration that the procedures employed by state officials violated the Due Process Clause of the Fourteenth Amendment. The Supreme Court has long held that §1983 provides an independent federal remedy for constitutional violations and does not require exhaustion of state administrative remedies. By collapsing the federal constitutional claims into the state administrative proceeding, the district court effectively displaced the federal forum Congress created for the protection of civil rights.

Third, the complaint plausibly alleges that state officials exercised regulatory authority over Appellant's property without providing the notice and opportunity to

contest required by both state law and the Constitution. The Due Process Clause requires that individuals receive notice and a meaningful opportunity to be heard before the government deprives them of significant property interests. Appellant alleges that for more than a decade he never received the statutory notice or hearing required before the State asserted regulatory authority over his property, coerced entrance, property destruction and removal, and publicly disseminated a classification that allegedly stigmatizes and burdens the property to this day. At the pleading stage, those allegations must be accepted as true.

Fourth, the district court failed to apply the special solicitude required when evaluating pro se civil-rights pleadings. Rather than interpreting the complaint to raise the strongest claims it suggested, the court repeatedly narrowed the allegations to their weakest possible interpretation. The court then dismissed the case sua sponte before the claims could be developed through adversarial briefing. Federal courts are required to construe pro se complaints liberally and should ordinarily permit amendment before dismissing potentially viable constitutional claims.

Finally, the procedural posture of the case underscores the error of the dismissal. The district court moved rapidly from an initial show-cause order to sua sponte dismissal without the benefit of full adversarial development of the issues. The

resulting opinion reflects that posture, focusing on threshold barriers while largely avoiding the constitutional questions at the heart of the complaint.

Taken together, these errors prevented meaningful judicial consideration of Appellant's allegations that state officials exercised continuing authority over his property without the procedural protections required by law. Because the complaint plausibly alleges ongoing violations of fundamental constitutional rights, the dismissal should be reversed and the case remanded so that the claims may be considered through the ordinary processes of federal adjudication.

**THE DISTRICT COURT'S ACCELERATED PROCEDURAL PATH
TOWARD SUA SPONTE DISMISSAL**

The procedural course of this case departed significantly from the ordinary adversarial development that typically precedes dismissal of federal civil-rights claims. From the outset, the district court moved rapidly toward termination of the action before the pleadings had matured through the ordinary process of briefing and response.

Shortly after the complaint was filed, the district court issued a minute order denying emergency relief and simultaneously directing Appellant to show cause why the case should not be dismissed. The order identified a series of potential threshold defects—including Eleventh Amendment concerns, statute-of-limitations issues, and perceived deficiencies in the pleading—before any defendant had appeared through counsel or filed a responsive pleading.

(Dist. Ct. Dkt. 33)

While courts possess the authority to dismiss actions sua sponte in appropriate circumstances, that authority must be exercised with caution, particularly where constitutional claims are asserted by a pro se litigant. Federal courts have repeatedly emphasized that **pro se pleadings must be liberally construed and interpreted to raise the strongest claims they suggest.** *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) . The purpose of this doctrine is to ensure that meritorious claims are not prematurely extinguished due to technical pleading deficiencies.

The sequence of events that followed reinforced the impression that the case was moving toward dismissal before the constitutional claims had been fully developed through adversarial presentation. Before all defendants had formally appeared in the case, the magistrate judge granted a request from the Attorney General’s office

to hold certain obligations in abeyance—an order that was entered before Appellant had a meaningful opportunity to respond to the request.

(Dist. Ct. Dkt. 22)

Appellant promptly moved for reconsideration of that procedural order, explaining that the decision had been entered before his response could be heard and that the resulting delay disproportionately benefited the governmental defendants while prolonging the alleged constitutional injury. The reconsideration motion emphasized that the order effectively froze the litigation at a moment when the State continued to exercise authority over the property at issue.

(Dist. Ct. Dkt. 22)

The court ultimately dismissed the case sua sponte, relying on the grounds previously identified in its show-cause order.

(Dist. Ct. Dkt. 33)

The dismissal occurred without the benefit of adversarial briefing from the defendants and without the development of a factual record that might have clarified the nature of the constitutional claims. As a result, the court's opinion necessarily relied on a constrained understanding of the allegations presented in the complaint.

This procedural posture is significant because the federal judiciary occupies a unique constitutional role in safeguarding individual rights against unlawful exercises of governmental power. When a complaint alleges that state officials have burdened private property and reputational interests without the procedural safeguards required by law, the court’s first obligation is to examine those allegations carefully—not to assemble the fastest available path to dismissal.

The Supreme Court has long emphasized that the federal courts exist to ensure that claims of constitutional injury receive meaningful judicial consideration. As Chief Justice Marshall famously explained, it is “the province and duty of the judicial department to say what the law is.” *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803). That responsibility is particularly important when a citizen alleges that state officials have exercised coercive authority without providing the notice and opportunity to be heard that due process demands.

Here, the district court’s accelerated procedural approach prevented the constitutional issues from receiving the careful consideration that such claims warrant. Rather than allowing the parties to brief the issues through the ordinary adversarial process, the court moved swiftly from an initial show-cause order to sua sponte dismissal. The resulting opinion reflects that procedural posture: it

repeatedly narrows the allegations to the weakest possible characterization while overlooking the broader constitutional context in which the claims arise.

This Court has cautioned that the authority to dismiss actions sua sponte must be exercised sparingly, particularly where the complaint alleges potential violations of fundamental rights. When constitutional claims are plausibly alleged, the better course is to permit adversarial briefing and factual development before concluding that the claims cannot proceed.

Because the district court's expedited path to dismissal prevented meaningful judicial engagement with the constitutional issues presented, reversal and remand are warranted so that the claims may be evaluated through the normal processes of federal adjudication.

**THE DISTRICT COURT MISCHARACTERIZED AN ONGOING
CONSTITUTIONAL VIOLATION AS A TIME-BARRED
ADMINISTRATIVE DISPUTE**

The district court's dismissal rests primarily on its conclusion that Appellant's claims accrued in 2017 when the New York State Department of Environmental

Conservation (“DEC”) allegedly classified the property as a “Class 2 Significant Threat” site. From that premise, the court concluded that the claims were barred by the three-year statute of limitations applicable to actions under 42 U.S.C. §1983.

(Dist. Ct. Dkt. 33)

That conclusion rests on a fundamental mischaracterization of the complaint. Appellant’s claims do not challenge merely a historical administrative decision. Rather, the complaint alleges an ongoing course of state action continuing through 2025 and now into 2026, that repeatedly burdens Appellant’s property interests without the procedural protections required by both state law and the United States Constitution.

By collapsing those ongoing acts into a single event occurring in 2017, the district court transformed a live constitutional controversy into what it perceived to be a stale administrative dispute. That transformation was error.

A. The Complaint Alleges Continuing Exercises of State Authority Over Appellant's Property

The complaint alleges that the DEC and its officials have continued to exercise authority over Appellant's property long after the initial classification decision was purportedly made. Among other things, the complaint describes:

- continued public dissemination of the property's classification as a hazardous site;
- public release of remediation planning documents and community meetings concerning the property;
- ongoing regulatory pressure and consent-order demands directed at Appellant;
- reputational and economic harm arising from the State's continued public assertions regarding the property; and
- the persistence of state authority grounded on a classification Appellant alleges was never lawfully established.

These acts occurred years after the 2017 administrative event that the district court treated as the sole operative conduct. The complaint therefore alleges not merely the lingering consequences of an earlier decision, but repeated and ongoing exercises of state power affecting Appellant's property and reputation.

Each such act constitutes a new instance of governmental conduct capable of inflicting constitutional injury.

B. Federal Accrual Principles Do Not Tie Constitutional Claims to the First Administrative Action

Federal law governs the accrual of §1983 claims. A claim accrues when the plaintiff knows or has reason to know of the injury forming the basis of the action.

Wallace v. Kato, 549 U.S. 384, 388 (2007).

The district court's analysis improperly treated the administrative classification itself as the moment of injury. But the complaint alleges that Appellant's constitutional injury arises not simply from the existence of that classification, but from the State's continuing use of it to burden his property and impose regulatory authority without due process.

Where government conduct repeatedly injures a plaintiff through ongoing enforcement or publication, accrual cannot be limited to the date of the initial administrative decision.

C. The Continuing Violation Doctrine Applies to Ongoing Government Action

The district court suggested that the continuing-violation doctrine is primarily associated with employment-discrimination claims.

(Dist. Ct. Dkt. 33)

That observation is incomplete.

Federal courts have long applied the doctrine in civil-rights actions when government actors engage in repeated conduct that perpetuates constitutional harm. The doctrine is particularly appropriate where the challenged conduct consists of continuing regulatory authority or repeated state action affecting property interests.

The complaint alleges precisely such circumstances. The State has repeatedly invoked the disputed classification as the basis for continued action directed at Appellant's property. Each new invocation of that authority constitutes a fresh exercise of governmental power.

The constitutional injury therefore persists as long as the State continues to rely on the allegedly unlawful classification to burden the property.

The Supreme Court has recognized that when government actors engage in repeated unlawful conduct, each discrete act may give rise to a new claim within the limitations period. *National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 113 (2002) . Where the government repeatedly invokes a disputed regulatory

determination to impose new burdens or initiate additional proceedings, each invocation constitutes a fresh exercise of authority capable of producing constitutional injury.

D. The District Court Overlooked the Distinction Between Continuing Consequences and Continuing Acts

Courts correctly distinguish between the continuing effects of a past decision and ongoing acts that independently violate constitutional rights. The district court's analysis treated every post-2017 event as merely the consequence of the earlier classification.

But the complaint alleges more than passive consequences. It describes affirmative state conduct occurring years later, including the dissemination of remediation plans, public statements about the property, and renewed regulatory actions directed at Appellant.

Those allegations describe new governmental acts, not merely the passive persistence of an earlier administrative decision.

E. The Court's Framing Improperly Removed the Constitutional Dimension of the Case

By reducing the dispute to a challenge to a 2017 administrative act, the district court avoided confronting the constitutional theory that forms the core of the complaint: that state officials have continued to exercise authority over Appellant's property without providing the notice and opportunity to contest required by both state law and the Due Process Clause.

Property rights occupy a central place in the constitutional order. The Supreme Court has emphasized that property rights are civil rights protected by the Constitution.

Lynch v. Household Finance Corp., 405 U.S. 538, 552 (1972).

Government action burdening property must therefore comply with the procedural safeguards of due process.

The complaint alleges that those safeguards were never provided. Instead, Appellant asserts that he has lived for more than a decade under the cloud of state authority without ever receiving the statutory notice and opportunity to contest the determination that New York law requires.

Whether those allegations ultimately prove correct is a matter for adjudication. At the pleading stage, however, they must be taken as true.

F. Accepting the Allegations as True, the Claims Are Timely

When the complaint's allegations are properly understood as challenging ongoing governmental conduct, the statute-of-limitations analysis changes entirely.

The complaint alleges acts occurring well within the limitations period, including the State's continued public dissemination of the hazardous-site designation and its ongoing reliance on that designation to assert regulatory authority over the property.

Those allegations place the case squarely within the limitations period for §1983 claims.

The district court therefore erred in dismissing the action as untimely.

Conclusion

The statute-of-limitations ruling rests on a flawed premise: that Appellant's claims challenge only a single administrative act occurring in 2017. The complaint, however, alleges an ongoing course of state conduct extending through 2025 that repeatedly burdens Appellant's property and reputation without the procedural safeguards required by law.

By mischaracterizing those allegations as merely the lingering effects of a past administrative decision, the district court prematurely terminated a constitutional case that should have proceeded through ordinary adversarial development.

The dismissal should therefore be reversed and the case remanded for further proceedings.

ARTICLE 78 REVIEW CANNOT SUBSTITUTE FOR FEDERAL CONSTITUTIONAL ADJUDICATION

The district court concluded that Appellant failed to state a procedural due-process claim because a pending Article 78 proceeding in state court provides an adequate opportunity to challenge the actions of the New York State Department of Environmental Conservation (“DEC”).

(Dist. Ct. Dkt. 33)

That conclusion reflects a misunderstanding of the relationship between state administrative review and federal constitutional remedies. By treating the existence of an Article 78 proceeding as effectively curing the alleged constitutional violations, the district court collapsed two distinct forms of judicial relief into one and improperly displaced the federal forum for constitutional adjudication.

The Supreme Court has repeatedly held that where the deprivation of a property interest results from the operation of state procedures themselves, the availability of post-deprivation remedies does not satisfy the requirements of due process. In *Logan v. Zimmerman Brush Co.*, the Court explained that a state may not extinguish a protected property interest through the very procedures designed to safeguard it and then argue that later remedies cure the constitutional defect. 455 U.S. 422, 436 (1982). When the State fails to provide the procedural protections required by its own statutory framework before exercising authority over private property, the constitutional violation is complete at the moment the process is denied. Subsequent judicial review cannot retroactively supply the notice and opportunity to be heard that due process requires.

A. Section 1983 Provides an Independent Federal Remedy

The Supreme Court has repeatedly held that federal civil-rights claims under 42 U.S.C. §1983 are **independent of state administrative remedies**. A plaintiff need not exhaust state remedies before invoking the protections of the federal courts.

In ***Patsy v. Board of Regents***, the Court made clear that:

“Exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to §1983.”

457 U.S. 496, 516 (1982).

The reason is fundamental to the structure of the Civil Rights Act. Section 1983 was enacted precisely because state institutions could not always be relied upon to protect federal rights.

As the Supreme Court earlier explained in **Monroe v. Pape**, §1983 provides a federal remedy that is “**supplementary to the state remedy.**”

365 U.S. 167, 183 (1961).

The existence of a state administrative process therefore cannot deprive federal courts of their responsibility to adjudicate constitutional claims.

B. Article 78 Review Addresses State Administrative Law, Not Federal Constitutional Violations

Article 78 proceedings serve a specific and limited purpose within New York law. They allow state courts to review administrative actions to determine whether an agency acted:

- arbitrarily or capriciously,
- in violation of lawful procedure,

- affected by an error of law, or
- outside its jurisdiction.

See N.Y. C.P.L.R. §7803.

While Article 78 proceedings can sometimes address constitutional issues incidentally, their primary function is to review administrative action under **state law standards**.

The federal action in this case serves a different purpose. Appellant seeks a declaration that ongoing state conduct affecting his property violates the Due Process Clause of the Fourteenth Amendment. That question—whether the procedures employed by state officials satisfy federal constitutional requirements—is a matter of federal law entrusted to the federal courts.

The district court therefore erred by treating the state proceeding as an adequate substitute for federal constitutional adjudication.

C. Article 78 Does Not Cure the Lack of Pre-Deprivation Due Process

The district court concluded that Appellant failed to state a procedural due process claim because he is pursuing an Article 78 proceeding in New York Supreme Court. The court reasoned that “his pending Article 78 proceeding vitiates any due process claim under Section 1983.”

(Dist. Ct. Dkt. 33)

This conclusion reflects a fundamental misunderstanding of federal civil-rights doctrine.

Section 1983 was enacted to provide an independent federal forum for the vindication of constitutional rights violated under color of state law. The Supreme Court has repeatedly held that plaintiffs bringing §1983 claims are **not required to exhaust state judicial or administrative remedies before seeking relief in federal court**. In **Patsy v. Board of Regents**, the Court held unequivocally that “exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to §1983.” 457 U.S. 496, 516 (1982) . The Court explained that Congress deliberately created §1983 to ensure that individuals could obtain federal judicial review of constitutional violations without first navigating potentially inadequate state remedies.

The district court’s reasoning effectively imposes precisely the exhaustion requirement that Patsy forbids. The mere availability—or even the pendency—of an Article 78 proceeding cannot extinguish a federal civil-rights claim. The Supreme Court has long recognized that the federal remedy provided by §1983 is **“supplementary to any remedy any State might have.”** **Monroe v. Pape**, 365

U.S. 167, 183 (1961). Federal courts therefore retain jurisdiction to adjudicate constitutional claims even when parallel state procedures exist.

The independence of §1983 as a federal remedy has been repeatedly reaffirmed by the Supreme Court. The statute provides a direct cause of action in federal court for constitutional violations committed under color of state law. *Heck v. Humphrey*, *512 U.S. 477, 480 (1994)*. The availability of state administrative or judicial review therefore cannot extinguish a federal civil-rights claim.

Nor does the existence of Article 78 review cure the constitutional violation alleged in the complaint. Appellant's claim is not merely that state officials reached an incorrect administrative determination. Rather, the complaint alleges that state officials exercised regulatory authority over Appellant's property without first providing the notice and opportunity to contest the determination required by New York Environmental Conservation Law §27-1313.

When the government deprives an individual of property without the process required by law, the constitutional violation occurs **at the moment the deprivation is imposed without due process**, not when a later opportunity for review becomes available. The Supreme Court made this clear in *Zinermon v. Burch*, explaining that post-deprivation remedies do not satisfy due process where

the state could have provided pre-deprivation procedural safeguards but failed to do so. *494 U.S. 113, 132 (1990)*.

Here, the complaint alleges precisely that type of violation: the exercise of state regulatory authority affecting Appellant's property without the statutory notice and contest procedure required by state law. Because the alleged deprivation occurred without the pre-deprivation process mandated by statute, the existence of subsequent judicial review through an Article 78 proceeding cannot retroactively cure the constitutional violation.

By treating the availability of Article 78 review as dispositive, the district court effectively transformed a state administrative review mechanism into a prerequisite for federal civil-rights litigation. That approach conflicts directly with Supreme Court precedent and with the purpose of §1983 itself.

Accordingly, the district court erred in concluding that Appellant's procedural due process claim fails merely because he is pursuing related claims in a state Article 78 proceeding.

D. Post-Deprivation Review Cannot Cure the Lack of Pre-Deprivation Due Process

The complaint alleges that the DEC exercised regulatory authority over Appellant's property without providing the notice and opportunity to contest required by state law and the Constitution. According to the complaint, Appellant never received the certified written notice or fifteen-day opportunity to contest contemplated by Environmental Conservation Law §27-1313 before the agency proceeded against the property.

The Due Process Clause requires that individuals be afforded notice and an opportunity to be heard **before** the government deprives them of significant property interests, except in extraordinary circumstances.

Property interests protected by the Due Process Clause are not limited to traditional ownership rights but include statutory entitlements created by state law. In *Board of Regents v. Roth*, the Supreme Court explained that property interests arise from "existing rules or understandings that stem from an independent source such as state law." *408 U.S. 564, 577 (1972)*. Here, New York Environmental Conservation Law §27-1313 creates precisely such statutory protections by requiring notice and an opportunity to contest a significant-threat classification before the State exercises regulatory authority over the property. The failure to provide those procedures implicates a protected property interest under the Fourteenth Amendment.

In **Fuentes v. Shevin**, the Supreme Court emphasized that:

“The right to be heard before being condemned to suffer grievous loss of property is a basic principle of our constitutional jurisprudence.”

407 U.S. 67, 80 (1972).

Similarly, in **Mullane v. Central Hanover Bank & Trust Co.**, the Court held that due process requires notice reasonably calculated to inform affected parties of governmental action.

339 U.S. 306, 314 (1950).

The district court’s reasoning effectively allows a later Article 78 proceeding to supply the process that should have been provided beforehand. But the Constitution does not permit the government to bypass required procedures and rely on later judicial review as a substitute for the notice and hearing that due process demands.

The Supreme Court has emphasized that the denial of procedural due process is itself a constitutional injury. When the government fails to provide the procedures required before depriving an individual of protected interests, the violation is complete at the moment the process is withheld. ***Logan v. Zimmerman Brush Co.***,

455 U.S. 422, 433 (1982). Later judicial review cannot retroactively supply the hearing that due process required at the outset.

The adequacy of procedural safeguards is evaluated under the framework established in *Mathews v. Eldridge*, which requires courts to consider the private interests affected, the risk of erroneous deprivation through existing procedures, and the governmental interests involved. *424 U.S. 319, 335 (1976)*. Each factor weighs strongly in Appellant's favor. The private interest involves the use, value, and reputation of privately owned property. The risk of error is substantial where a significant-threat classification is imposed without the statutory notice and contest procedure required by state law. And while the State possesses an important interest in environmental regulation, that interest does not justify dispensing with the basic procedural safeguards that New York itself has mandated.

E. The District Court's Approach Improperly Defers Federal Constitutional Questions to State Proceedings

By holding that the availability of Article 78 review defeats Appellant's procedural due-process claim, the district court effectively required Appellant to litigate the

constitutional issues in state court rather than in the federal forum provided by §1983.

Such an approach undermines the very purpose of the Civil Rights Act. Federal courts are entrusted with the responsibility of ensuring that state officials comply with the Constitution when exercising governmental authority over citizens.

The Supreme Court has long emphasized that the federal judiciary must remain available as a forum for the vindication of constitutional rights. As Chief Justice Marshall explained in **Marbury v. Madison**, it is the duty of the judiciary to determine whether governmental actions comply with the law.

5 U.S. (1 Cranch) 137, 177 (1803).

Where a complaint plausibly alleges that state officials exercised authority over private property without the procedures required by law, the existence of a parallel state administrative proceeding cannot justify the federal court's refusal to engage the constitutional question.

F. The Complaint Seeks Distinct Relief Not Available Through Article 78

The state and federal proceedings in this case address different legal questions and seek different forms of relief.

In state court, Appellant seeks annulment of agency action as **ultra vires and arbitrary under state administrative law**. That proceeding focuses on whether the DEC complied with its statutory authority.

The federal action, by contrast, seeks a **declaratory judgment regarding ongoing constitutional violations**, specifically whether the procedures employed by state officials comport with the Due Process Clause.

Because the two actions address different legal frameworks and different remedies, the existence of one cannot displace the other.

Conclusion

The district court erred in treating the pending Article 78 proceeding as an adequate substitute for federal constitutional adjudication. Section 1983 provides an independent federal remedy for violations of constitutional rights, and the availability of state administrative review cannot extinguish that remedy.

By collapsing Appellant’s constitutional claims into his state-law administrative challenge, the district court improperly avoided the federal question at the heart of the case. The dismissal should therefore be reversed and the constitutional claims remanded for adjudication on the merits.

APPEARANCE OF IMPARTIALITY AND THE DUTY OF JUDICIAL DISCLOSURE

The legitimacy of judicial decisions depends not only on actual impartiality but also on the public perception that courts operate free from influences that might reasonably call their neutrality into question. Congress codified this principle in **28 U.S.C. § 455(a)**, which provides that a federal judge must disqualify herself “in any proceeding in which [her] impartiality might reasonably be questioned.” The statute reflects a foundational constitutional premise: courts must be seen as neutral arbiters between the citizen and the State.

The Supreme Court has repeatedly emphasized that the judiciary must avoid circumstances that create even the appearance of bias. As the Court observed in **Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988)**, the purpose of §455 is to promote public confidence in the integrity of the judicial process. A judge must therefore recuse herself not only when she harbors actual bias, but whenever a reasonable observer could question the court's impartiality.

The concern is particularly acute where litigation places a citizen in direct conflict with government officials or agencies wielding regulatory authority. In such circumstances, the court's role as a neutral constitutional forum becomes paramount. When a federal court appears to move swiftly toward dismissal while simultaneously deferring to the positions of the governmental defendants, questions about impartiality naturally arise in the mind of a reasonable litigant.

In the present case, Appellant later discovered publicly available information indicating that the presiding judge's spouse had participated in a charitable public media event alongside **DEC Commissioner Amanda Lefton**, the principal executive official of the very agency named as the lead defendant in this action. According to publicly available recordings of the event, both individuals appeared together in a public discussion only weeks before the filing of the federal complaint.

Appellant does not assert that the district judge acted with actual bias. Rather, the concern arises from the **appearance created by the undisclosed association**.

Under §455(a) , the relevant question is whether a reasonable observer, aware of the circumstances, might question the court's impartiality. When a case places a citizen in litigation against a state agency whose leadership has recently appeared in public association with a judge's immediate family member, disclosure of that circumstance becomes essential to maintaining confidence in the integrity of the proceedings. (See Exhibit A)

The importance of disclosure is well recognized. Courts have consistently held that where potential conflicts exist, transparency allows the parties to evaluate whether recusal should be requested. The failure to disclose circumstances that might reasonably raise questions about impartiality can itself undermine public confidence in the judicial process.

Here, the absence of any disclosure deprived Appellant of the opportunity to evaluate the issue at the outset of the litigation. The concern was heightened by the procedural trajectory of the case. The action was met almost immediately with a denial of emergency relief, followed by a show-cause order identifying numerous grounds for dismissal before the pleadings had been developed through the ordinary adversarial process. The case was subsequently dismissed sua sponte

without the judge addressing appellant’s letter requesting an explanation for the appearance of impropriety. While these rulings may ultimately rest on legal determinations subject to appellate review, the sequence of events—combined with the undisclosed public association between the DEC’s leadership and the judge’s husband—creates an appearance that warrants careful consideration.

Federal courts have long recognized that the appearance of impartiality is indispensable to the rule of law. The judiciary serves as the forum where citizens may seek protection of their constitutional rights against government action. That role depends on the confidence that judicial decisions are rendered free from any relationships or circumstances that could reasonably be perceived as compromising neutrality.

Accordingly, the appellate court should consider whether the undisclosed circumstances surrounding this case implicate the principles embodied in **28 U.S.C. §455(a)** and whether the interests of justice require further examination of the issue.

REQUEST FOR REASSIGNMENT ON REMAND

If this Court determines that reversal and remand are appropriate, Appellant respectfully requests that the case be reassigned to a different district judge for further proceedings.

The purpose of such reassignment would not be punitive, nor does Appellant assert that the district court acted with actual bias. Rather, reassignment would serve the interests of justice and judicial efficiency given the unusual procedural posture in which this case was dismissed and the specialized regulatory framework that governs the dispute.

This litigation concerns the application of New York's hazardous waste site classification system under Environmental Conservation Law §27-1313 and related environmental regulatory processes administered by the New York State Department of Environmental Conservation. The dispute involves technical issues relating to environmental investigation procedures, remediation planning, and the regulatory consequences of a "Class 2 Significant Threat" designation under the State Superfund program.

Appellant's claims arise from the interaction between those environmental regulatory procedures and the procedural safeguards required by the Due Process Clause of the Fourteenth Amendment. Resolution of the case will therefore require

Careful consideration of both constitutional principles and the statutory and administrative framework governing environmental remediation actions.

In circumstances where a case involves complex regulatory subject matter and has previously been dismissed at the threshold before adversarial development of the issues, appellate courts have recognized that reassignment on remand may promote both the appearance and reality of fair and impartial adjudication. See, e.g., *United States v. Robin*, 553 F.2d 8, 10 (2d Cir. 1977) (en banc) (noting that reassignment may be appropriate where it would preserve the appearance of justice and facilitate the efficient administration of the case).

Because this action involves ongoing environmental regulatory activity affecting private property and will likely require careful evaluation of technical administrative procedures, reassignment to a judge experienced in complex regulatory or environmental matters would assist in ensuring that the case proceeds efficiently and that the issues receive full and careful consideration.

Accordingly, if the Court reverses the dismissal and remands the case for further proceedings, Appellant respectfully requests that the Court direct that the matter be reassigned on remand.

CONCLUSION

This case should not have been terminated at the threshold.

Appellant's complaint alleged that state officials exercised continuing regulatory authority over his property without providing the notice and opportunity to contest required by both New York law and the Due Process Clause of the Fourteenth Amendment. Rather than accept those allegations as true and evaluate them under the liberal pleading standards governing pro se civil-rights actions, the district court narrowed the complaint to the weakest possible characterization and dismissed the case sua sponte before the claims could be developed through the ordinary adversarial process.

The dismissal rests on several fundamental errors. The district court mischaracterized an ongoing course of governmental conduct as a single historical administrative event occurring in 2017. It then relied on that mischaracterization to conclude that the claims were time-barred, despite acknowledging that state officials continued to exercise authority over the property through environmental testing, public remediation planning, and continued dissemination of the disputed hazardous-site classification years later. The court further treated the existence of a

parallel Article 78 proceeding as effectively substituting for federal constitutional adjudication, contrary to the long-established principle that §1983 provides an independent federal remedy for violations of constitutional rights.

At the pleading stage, the question was not whether the State ultimately acted lawfully, nor whether Appellant will ultimately prevail. The question was whether the complaint plausibly alleged governmental conduct affecting Appellant's constitutional rights. When the allegations are read as required—liberally, and in the light most favorable to the pro se litigant—the complaint plainly satisfies that standard.

Federal courts occupy a critical role in safeguarding constitutional rights against unlawful exercises of governmental authority. When a complaint plausibly alleges that state officials have burdened private property and reputation without the procedural protections required by law, the appropriate course is not immediate dismissal but careful adjudication through the normal processes of litigation.

This case does not ask the Court to resolve disputed environmental questions or administrative policy. It asks only that the constitutional requirement of notice and an opportunity to be heard be respected before the State exercises coercive authority over private property.

For these reasons, the judgment of the district court should be **reversed** and the case **remanded for further proceedings** so that Appellant's constitutional claims may be considered on their merits.

RELIEF REQUESTED

For the foregoing reasons, Appellant respectfully requests that this Court **reverse the judgment of the district court** dismissing the complaint and **remand the case for further proceedings** consistent with this Court's opinion.

Because the district court's dismissal rested on legal errors concerning the statute of limitations, the nature of the claims pleaded, and the availability of federal constitutional review under 42 U.S.C. §1983, Appellant further requests that the Court **direct that the complaint be reinstated** so that the claims may proceed through the ordinary adversarial process.

Alternatively, if the Court concludes that additional factual clarification is warranted, Appellant respectfully requests that the judgment be **vacated and remanded with instructions that leave to amend be granted**, consistent with the liberal amendment principles applicable to pro se civil-rights pleadings.

Appellant further requests such other and further relief as this Court deems just and proper, including the reimbursement of appellate filing fees of \$605.00 and printing and shipping fees of \$145.00.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Julian Raven". The signature is stylized with large, sweeping loops and a long horizontal stroke at the bottom.

Julian Raven
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March 23, 2026
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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7) because it contains approximately 12499 words, excluding the parts of the brief exempted by Rule 32(f).

This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5) and 32(a)(6) because it has been prepared in a proportionally spaced typeface using Times New Roman, 14-point font.

A handwritten signature in blue ink, appearing to read "Julian Marcus Raven". The signature is stylized with large, sweeping loops and a prominent initial "J".

Julian Marcus Raven
Appellant
Pro Se

CERTIFICATE OF SERVICE

I certify that on this 23rd day of March, 2026, I served a true and correct copy of the foregoing Brief for Plaintiff–Appellant upon counsel for Defendants–Appellees by certified first class mail or other accepted form of service.

Office of the New York State Attorney General
Counsel for Defendants–Appellees
The Capitol,
Albany, 12224

Asst. New York Solicitor General Kevin Hu

Office of the Attorney General

Albany, New York, 12224

March 23rd, 2026

A handwritten signature in blue ink, appearing to read "Julian Raven". The signature is stylized and cursive.

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Docket Order and Entrees
Case #1:25-cv-01264 AMN

Date Filed	#	Docket Text
11/20/2025	1	COMPLAINT WITH JURY DEMAND against Kira Bruno, Nicholas Buttino, Kathy Hochul, Letitia James, Amanda Lefton, Dudley Loew, New York State Department of Environmental Conservation (Filing fee \$405 receipt number 27T8B3M9) filed by Julian Marcus Raven. Filed in the Bing ROC. (Attachments: # 1 Exhibits A-K, # 2 Civil Cover Sheet)(mmg). (Entered: 11/20/2025)
11/20/2025	2	EMERGENCY MOTION for Preliminary Injunction and TRO and Order to Show Cause filed by Julian Marcus Raven. Motion returnable before Judge Anne M. Nardacci. Filed in Bing ROC. (mmg). (Entered: 11/20/2025)
11/20/2025	3	Letter from Julian Marcus Raven clarifying to disregard the attached proposed summons, and issue the new summons with Rider. (Attachments: # 1 Proposed Summons as to Attorney General, # 2 Proposed Summons as to Department of Environmental Conservation)(mmg). (Entered: 11/20/2025)
11/20/2025	4	Summons Issued as to Kira Bruno, Nicholas Buttino, Kathy Hochul, Letitia James, Amanda Lefton, Dudley Loew, New York State Department of Environmental Conservation. Copy of Summons provided at time of Filing. Summons as to U.S. Attorneys office has been mailed to Plaintiff. (Attachments: # 1 Summons Issued as to U.S. Attorneys Office)(mmg). (Entered: 11/20/2025)
11/20/2025	5	G.O. 25 FILING ORDER ISSUED: Initial Conference set for 2/18/2026 11:00 AM in Albany before Magistrate Judge Daniel J. Stewart. Civil Case Management Plan must be filed and Mandatory Disclosures are to be exchanged by the parties on or before 2/11/2026. (Pursuant to Local Rule 26.2, mandatory disclosures are to be exchanged among the parties but are NOT to be filed with the Court.) Copy provided at time of filing. (mmg). (Entered: 11/20/2025)
11/20/2025	6	PRO SE NOTICE, Handbook, and Local Rules issued and explained to Julian Marcus Raven at time complaint was filed. (mmg). (Entered: 11/20/2025)
11/20/2025	7	Pro Se MOTION for Permission to File Electronically in ECF filed by Julian Marcus Raven. Motions referred to Judge Daniel J. Stewart. (mmg). (Entered: 11/20/2025)
11/21/2025	8	Letter Motion received via MFT on 11/21/2025 by Julian Marcus Raven, requesting to expedite Rule 16 conference and for early court intervention. (see) (Entered: 11/24/2025)
11/22/2025	9	Letter Motion submitted via MFT on 11/22/2025 by Julian Marcus Raven requesting limited expedited discovery in aid of emergency relief. (see) (Entered: 11/24/2025)
11/24/2025	10	TEXT ORDER: The Court has reviewed Plaintiff's application for issuance of a temporary restraining order and order to show cause. Dkt. No. 2 ("Emergency Motion"). The Emergency Motion contends that the New York State Department of Environmental Conservation ("DEC") "publicly labeled" Plaintiff's property as a "Class 2" site in 2017 without sufficient process, <i>id.</i> at 4, and seeks to, <i>inter alia</i> , restrain the DEC and numerous other New York State officials (collectively "Defendants") from enforcing or disseminating this classification and to compel Defendants to preserve certain records, <i>id.</i> at 2. Even liberally construed, the Emergency Motion fails to satisfy the "demanding" requirements for the "extraordinary remedy" it seeks. <i>Daileader v. Certain Underwriters at Lloyds London Syndicate 1861</i> , 96 F.4th 351, 356 (2d Cir. 2024) (citation omitted); <i>see also Southeast Farms, Inc. v. Martens Fresh, LLC</i> , No. 23-cv-00100, 2023 WL 1858084, at *2 (N.D.N.Y. Feb. 9, 2023). In particular, Plaintiff has not demonstrated that he is likely to suffer irreparable harm, nor to succeed on the merits of his constitutional claims. For example, as to the latter, any Section 1983 claim for money damages against the DEC or New York State officials that is timely, <i>Lucente v. Cnty. of Suffolk</i> , 980 F.3d 284, 308 (2d Cir. 2020) ("The statute of limitations for § 1983 actions arising in New York is three years.") (citations omitted), nonetheless appears barred by the Eleventh Amendment, <i>see, e.g., Morabito v. New York</i> , 803 F. Appx 463, 465 (2d Cir. 2020) ("It is well settled that § 1983 does not override Eleventh Amendment immunity....The district court thus correctly held that the Eleventh Amendment barred the [plaintiff's] § 1983 suit against New York (a state), the DEC (a state agency), and Seggos (a state official) in his official capacity.") (citation omitted). Plaintiff also does not allege the personal involvement of numerous Defendants. <i>Tangreti v. Bachmann</i> , 983 F.3d 609, 618 (2d Cir. 2020). Finally, the Emergency Motion does not comply with numerous procedural requirements set forth in the Local Rules of the Northern District of New York. For example, the cursory affidavit included with the Emergency Motion provides no indication of (i) reasonable advance notice to any Defendant; (ii) any good faith efforts by the parties to resolve their dispute prior to seeking emergent relief; or (iii) why the standard motion procedure is insufficient. <i>See</i> N.D.N.Y. L.R. 7.1(e), 65.1. For all these reasons, the Emergency Motion is DENIED, as are Plaintiff's related motions, Dkt. Nos. 8 - 9 . Plaintiff's pending motion for permission to file electronically, Dkt. No. 7 , remains referred to the assigned United States Magistrate Judge and will be decided in due course. SO ORDERED by U.S. District Judge Anne M. Nardacci on 11/24/2025. (Copy served upon pro se plaintiff by regular mail). (mab) (Entered: 11/24/2025)
11/25/2025	11	ORDER TO SHOW CAUSE. The Court hereby ORDERS that Plaintiff shall show cause, if there be any, to this Court by submission on papers as ordered herein, before the Honorable Anne M. Nardacci, United States District Court Judge at the United States Courthouse, 445 Broadway, Albany, New York, why this action should not be dismissed. The Court further ORDERS that Plaintiff's written submissions shall be filed on or before December 5, 2025. The Court further ORDERS that the Clerk serve a copy of this Order on all parties in accordance with the Local Rules. Signed by U.S. District Judge Anne M. Nardacci on 11/25/2025. (Attachments: # 1 Unreported Decisions) (Copy served upon pro se plaintiff by regular mail). (mab) (Entered: 11/25/2025)
11/26/2025	12	NOTICE OF APPEARANCE by Noah C. Engelhart on behalf of Nicholas Buttino, Letitia James (Engelhart, Noah) (Entered: 11/26/2025)
11/26/2025	13	Letter Motion from Noah C. Engelhart for Nicholas Buttino, Letitia James requesting defendants' answer dates and all related deadlines be held in abeyance pending outcome of Order to Show Cause submitted to Judge Daniel J. Stewart. (Engelhart, Noah) (Entered: 11/26/2025)
11/26/2025	14	CERTIFICATE OF SERVICE by Nicholas Buttino, Letitia James re 12 Notice of Appearance, 13 Letter Motion from Noah C. Engelhart for Nicholas Buttino, Letitia James requesting defendants' answer dates and all related deadlines be held in abeyance pending outcome of Order to Show Cause submitted to Judge Daniel J. Stewart < (Engelhart, Noah) (Entered: 11/26/2025)
11/27/2025	15	RESPONSE TO ORDER TO SHOW CAUSE and DENIAL OF TRO filed via MFT by Julian Marcus Raven on 11/27/2025. (see) (Entered: 11/30/2025)
11/29/2025	16	NOTICE OF SIGNIFICANT DEVELOPMENTS IN RELATED STATE PROCEEDINGS / REQUEST TO SUPPLEMENT RECORD filed via MFT on 11/29/2025 by Julian Marcus Raven. (see) (Entered: 11/30/2025)

11/29/2025	16	NOTICE OF SIGNIFICANT DEVELOPMENTS IN RELATED STATE PROCEEDINGS / REQUEST TO SUPPLEMENT RECORD filed via MFT on 11/29/2025 by Julian Marcus Raven. (see) (Entered: 11/30/2025)
12/01/2025	17	STATUS REPORT filed via MFT on 12/1/2025 by Julian Marcus Raven advising that a formal complaint was filed in the New York State Commission on Judicial Conduct and also filed a formal notice with the Sixth Judicial District Administrative Judge. (see) (Entered: 12/01/2025)
12/01/2025	18	TEXT ORDER granting 13 Letter Request: Answer deadline for all Defendants is held in abeyance until 60 days after a decision on the Order to Show Cause 11 is issued, and all subsequent deadlines will be accordingly held in abeyance. SO ORDERED by Magistrate Judge Daniel J. Stewart on 12/1/2025. (Copy served via regular mail) (spl) (Entered: 12/01/2025)
12/02/2025	19	Supplemental NOTICE of Material Misconduct in State Proceeding filed via MFT by Julian Marcus Raven on 12/2/2025. (Attachments: # 1 Exhibit(s) D - Transcript of Temporary Restraining Order Application)(see) (Entered: 12/03/2025)
12/03/2025	20	RESPONSE in Opposition to Defendants' 13 Letter Request/Motion filed via MFT by Julian Marcus Raven on 12/3/2025. (see) (Entered: 12/03/2025)
12/04/2025	21	Letter filed via MFT by Julian Marcus Raven on 12/4/2025, re: Notice of Criminal Complaint Filed Concerning Statements Made at November 14, 2025 State Court Hearing. (see) (Entered: 12/04/2025)
12/04/2025	22	MOTION for Reconsideration or, in the Alternative, Clarification of the Court's December 1, 2025 Text Order filed via MFT by Julian Marcus Raven on 12/4/2025, re: 18 Text Order dated 12/1/2025. Motion returnable before Judge Daniel J. Stewart. Response to Motion due by 12/26/2025. (see) (Entered: 12/04/2025)
12/04/2025	23	NOTICE OF DELAYED RECEIPT OF ORDER AND DEFENDANTS' LETTER AND CLARIFICATION REGARDING SERVICE submitted via MFT by Julian Marcus Raven on 12/4/2025. (see) (Entered: 12/04/2025)
12/04/2025	24	ADDENDUM SECTION FOR 22 MOTION for Reconsideration of the 18 Text Order filed via MFT by Julian Marcus Raven on 12/4/2025. (see) (Entered: 12/05/2025)
12/04/2025	25	PLAINTIFFS NOTICE OF OVERSIGHT AND ADMINISTRATIVE FILING filed via MFT by Julian Marcus Raven on 12/4/2025. (see) (Entered: 12/05/2025)
12/05/2025	26	Letter Motion filed via MFT by Julian Marcus Raven on 12/5/2025 requesting confirm whether the publicly reported associations involve the Court's spouse, state whether the Court concludes that recusal is unnecessary, and consider issuing this clarification before ruling on emergency motion. Submitted to Judge Anne M. Nardacci. (see) (Entered: 12/05/2025)
12/05/2025	27	RESPONSE in Opposition re 22 Motion for Reconsideration, filed by Nicholas Buttino, Letitia James. (Attachments: # 1 Declaration Declaration of Service)(Engelhart, Noah) (Entered: 12/05/2025)
12/05/2025	28	Letter Motion filed via MFT on 12/5/2025 by Julian Marcus Raven requesting oversight review regarding serious procedural irregularities occurring in federal civil rights case no. 1:25-CV-1624. Submitted to Judge Chief Judge Brenda K. Sannes. (see) (Entered: 12/08/2025)
12/08/2025	29	Duplicates of document nos. 28 and 26 submitted by mail by Julian Marcus Raven on 12/8/2025 addressed to Chief Judge Sannes. (see) (Entered: 12/08/2025)
01/05/2026	30	NOTICE TO THE COURT REGARDING DEFENDANTS' FAILURE TO APPEAR OR APPOINT COUNSEL AFTER SERVICE submitted via MFT on 1/5/2026 by Julian Marcus Raven. (see) (Entered: 01/06/2026)
01/16/2026	31	TEXT ORDER: Plaintiff has submitted correspondence in this case that is addressed to Chief United States District Judge Brenda K. Sannes. Dkt. No. 28 . The Court respectfully refers this correspondence to Chief Judge Sannes. SO ORDERED by U.S. District Judge Anne M. Nardacci on 1/16/2026. (Copy served upon pro se plaintiff by regular mail). (mab) (Entered: 01/16/2026)
01/30/2026	32	Letter from Chief U.S. District Judge Brenda K. Sannes re 28 submission. (Copy served upon pro se plaintiff via regular mail.) (nmk) (Entered: 01/30/2026)
02/02/2026	33	MEMORANDUM-DECISION and ORDER. The Court hereby ORDERS that the Complaint is DISMISSED <i>sua sponte</i> , without leave to amend. The Court further ORDERS that Plaintiff's additional pending motions, Dkt. Nos. 7 , 22 , 26 , are TERMINATED as moot. The Court further ORDERS that the Clerk serve a copy of this Order on all parties in accordance with the Local Rules. Signed by U.S. District Judge Anne M. Nardacci on 2/2/2026. (Attachments: # 1 Unpublished Decisions) (Copy served upon pro se plaintiff by regular and certified mail). (mab) (Entered: 02/02/2026)
02/02/2026	34	JUDGMENT. IT IS ORDERED AND ADJUDGED that Plaintiff's Complaint is DISMISSED <i>sua sponte</i> , without leave to amend. Plaintiff's additional pending motions, Dkt. Nos., 7 , 22 , 26 , are TERMINATED as moot. All of the above in accordance with Memorandum-Decision and Order issued on February 2, 2026 by the Honorable Anne M. Nardacci, U.S. District Judge. (Copy served upon pro se plaintiff by regular and certified mail). (mab) (Entered: 02/02/2026)
02/26/2026	35	U.S. POSTAL RETURN RECEIPT received from Julian Marcus Raven, re: certified return receipt service of the 34 Judgment and 33 Memorandum-Decision & Order. (see) (Entered: 02/26/2026)
03/03/2026	36	Letter Motion filed via MFT Julian Marcus Raven on 3/4/2026 requesting an extension of 30 days to file Notice of Appeal. Submitted to Judge Anne M. Nardacci. (see) (Entered: 03/04/2026)
03/06/2026	37	TEXT ORDER granting Plaintiff's 36 Letter Request for an extension of time to file Notice of Appeal in this matter. A Notice of Appeal shall be filed on or before April 3, 2026. SO ORDERED by U.S. District Judge Anne M. Nardacci on 3/6/2026. (Copy served upon pro se plaintiff by regular mail). (mab) (Entered: 03/06/2026)
03/11/2026	38	NOTICE OF APPEAL as to 34 Judgment and 33 Memorandum-Decision & Order filed by Julian Marcus Raven via MFT on 3/11/2026. (see) (Entered: 03/11/2026)
03/11/2026	39	ELECTRONIC NOTICE AND CERTIFICATION sent to US Court of Appeals, re: 38 Notice of Appeal. {File stamped copy of Notice of Appeal along with Electronic Notice and Certification mailed to Julian Marcus Raven on 3/11/2026} (see) (Entered: 03/11/2026)

EXHIBIT A

EXHIBIT A - SCREEN SHOTS OF DEFENDANT LEFTON AND TOM NARDACCI

<https://www.news10.com/news/department-of-environmental-conservation-announces-major-milestone-in-food-trucked-not-chucked/>



Department of Environmental Conservation announces major milestone in food "Trucked not Chucked"

Tyanna Xavier

2 months ago

