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Federal Free Speech Lawsuit Against City of Elmira Intensifies as Court Orders Defendants to Respond to New Retaliation Allegations; Citizens Prepare to Demand Councilman's Resignation

ELMIRA, N.Y. — July 12, 2026 — A rapidly escalating constitutional dispute between independent mayoral candidate **Julian Raven** and the **City of Elmira** is entering a new phase as local citizens prepare to appear before the Elmira City Council on **Monday, July 13, 2026, at 5:30 p.m.** to call for the resignation of Councilman **Gary Brinn** following the release of online communications that Raven contends provide direct evidence of unconstitutional retaliation against him for exercising his First Amendment rights.

The growing controversy comes as Raven's federal civil rights action, **Raven v. City of Elmira, et al., Case No. 6:26-cv-6561-MAV**, continues in the United States District Court for the Western District of New York.

Court Orders Defendants to Respond

On **July 7, 2026**, U.S. District Judge **Meredith A. Vacca** issued a scheduling order after receiving Raven's renewed motion for a temporary restraining order and preliminary injunction.

Rather than summarily rejecting the renewed motion, the Court ordered the defendants to respond by **July 21, 2026**, specifically noting Raven's allegation that Councilman Gary Brinn's proposed FOIL resolution constituted "**continuing retaliation**." The order states:

"Plaintiff alleges that a recent proposal by Defendant Gary Brinn, which was ultimately removed from the City Council's agenda, constituted 'continuing retaliation.' Defendants' response...is due on or before July 21, 2026."

The Court's decision to require a response means the renewed allegations will now be addressed by the defendants in federal court.

Supplemental Evidence Filed

Following the Court's scheduling order, Raven filed an **Emergency Notice of Supplemental Direct Evidence** advising the Court that additional evidence had become available after his renewed motion was filed.

According to that filing, publicly released screenshots of communications attributed to Councilman Brinn appear to identify Raven by name while discussing efforts to "hold" him "accountable," referring to certain FOIL requesters as "nuisance agitators," and stating that "public shaming plays a role." Raven argues these statements support his claim that the proposed FOIL resolution was directed toward constitutionally protected activity rather than a neutral administrative purpose.

The filing further argues that the new evidence bears directly upon:

- alleged retaliatory motive;
- continuing irreparable harm;
- Raven's request for prospective injunctive relief; and
- the ongoing constitutional controversy before the Court.

First Amendment Issues

Raven's federal lawsuit does **not** challenge the City's authority to regulate the order of council meetings as a matter of municipal procedure. Rather, the lawsuit alleges that governmental action was taken because of the content of his protected speech and his criticism of city officials.

The Supreme Court has long held that government may not retaliate against citizens because they exercise their constitutional rights.

In **Lozman v. City of Riviera Beach**, 585 U.S. 87 (2018), the United States Supreme Court recognized that objective evidence of official municipal action directed toward a government critic may support a First Amendment

retaliation claim. Raven expressly relies upon that decision in his supplemental filing.

Likewise, in **Nieves v. Bartlett**, 587 U.S. 391 (2019), the Court reaffirmed that retaliation against protected speech can violate the First Amendment when motivated by a citizen's exercise of constitutional rights.

Potential State Law Proceedings

Raven stated that he is evaluating additional proceedings under **New York Public Officers Law § 36**, which authorizes resident citizens to petition the Appellate Division of the New York Supreme Court to remove certain local officials for **misconduct, maladministration, malfeasance, or malversation in office**.

Raven emphasized that no decision has yet been made regarding additional litigation, but stated that discovery in the pending federal action may determine whether other officials participated in any alleged retaliatory conduct.

Citizens Becoming Increasingly Engaged

Independent of Raven's litigation, local residents have announced plans to attend Monday evening's City Council meeting to express concern regarding the controversy surrounding the proposed FOIL resolution and Councilman Brinn's reported communications.

The growing public response reflects what many observers describe as a significant increase in civic participation throughout Elmira as residents become more engaged in questions involving transparency, government accountability, and constitutional rights.

Statement from Julian Raven

"This case has never been about whether the City can organize its meetings. It has always been about something much more fundamental: whether government officials may shut down

portions of a public meeting to prevent and silence disfavored speech, target citizens because they criticize their government, file FOIL requests, petition elected officials, or seek relief in federal court. The First Amendment exists precisely to protect citizens from retaliation by those who hold public office. The Constitution protects unpopular speech just as much as popular speech. That principle deserves a full and careful judicial review."