

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

Lilia Angello v. Barrett D. Mack, Esq., et al.

No. 1:26-cv-089 (ECC/DJS) · No. 1:26-cv-089 (ECC/DJS) · Decided February 2, 2026

SUMMARY

The Northern District of New York dismissed sua sponte, without prejudice, a pro se plaintiff’s 42 U.S.C. § 1983 claims against attorneys involved in her state-court matrimonial proceedings. The court held that the complaint failed to allege that the defendants acted under color of state law or conspired with a state actor, and it denied the plaintiff’s motion for a temporary restraining order as moot. The court granted thirty days to file an amended complaint.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Elizabeth C. Coombe
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	February 2, 2026
DOCKET	1:26-cv-089 (ECC/DJS)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a fee-paid pro se complaint asserting Fourteenth Amendment due process and civil conspiracy claims under 42 U.S.C. § 1983, along with a motion for temporary restraining order and preliminary injunction. After transfer from the Southern District of New York, the Northern District of New York sua sponte dismissed the complaint without prejudice as frivolous and denied the renewed emergency motion for a temporary restraining order as moot, while granting leave to amend.
STANDARD OF REVIEW	The court liberally construed the pro se complaint and reviewed it sua sponte for frivolousness and jurisdictional defects. Sua sponte dismissal of a fee-paid complaint without notice is permissible when it is unmistakably clear that the case is frivolous or that the court lacks jurisdiction.
PRECEDENTIAL VALUE	Unknown; district court memorandum-decision and order with no reported citation.

TOPICS

section 1983 motions to dismiss due process civil rights injunctions

PRACTICE AREAS

civil procedure civil rights constitutional law remedies appellate procedure

QUESTIONS PRESENTED

1. Whether the complaint stated a claim under 42 U.S.C. § 1983 against Plaintiff's private matrimonial attorneys by alleging action under color of state law.
2. Whether Plaintiff adequately pleaded a § 1983 conspiracy by alleging an agreement between the defendants and a state actor to deprive her of a constitutional right.
3. Whether the complaint should be dismissed sua sponte as frivolous and whether Plaintiff's request for temporary injunctive relief should be denied as moot.
4. Whether Plaintiff should be granted leave to amend.

HOLDINGS

1. Private attorneys and law firms do not act under color of state law and are not state actors for purposes of § 1983 merely by representing a client in state-court proceedings, holding state-issued licenses, or using or misusing state courts.
2. A § 1983 conspiracy claim requires facts showing an agreement between a state actor and a private party to act in concert to inflict an unconstitutional injury, an overt act in furtherance of that goal, and resulting damages; conclusory assertions of concerted action are insufficient.
3. A district court may sua sponte dismiss a fee-paid complaint without notice when it is unmistakably clear that the case is frivolous or that the court lacks jurisdiction.
4. A pro se plaintiff should generally be given an opportunity to amend, unless amendment would be futile; here, the court granted thirty days to amend.

KEY QUOTATIONS

“District courts have the inherent authority to dismiss a complaint sua sponte as frivolous even where, as here, the plaintiff has paid the required filing fee, if the claims ‘lack[] an arguable basis either in law or in fact.’” (Legal Standard section)

“Private parties’ ‘mere use, and even misuse, of the state courts does not turn [them] into state actors.’” (Discussion section)

“To succeed on a Section 1983 conspiracy claim, a plaintiff must prove: “(1) an agreement between a state actor and a private party; (2) to act in concert to inflict an unconstitutional injury; and (3) an overt act done in furtherance of that goal causing damages.”” (Discussion section)

FACTUAL BACKGROUND

The action arose from Plaintiff's state-court matrimonial proceedings, in which the defendants represented her at the trial or appellate level. Plaintiff alleged that a reply to her counterclaims was never filed in the trial court but later appeared in the appellate record, and that her appellate attorney proceeded despite the allegedly unfiled document and discouraged oral argument. She alleged that foreclosure proceedings had begun and that she faced an order to sell a residence that she regarded as a marital and family-business asset.

PROCEDURAL HISTORY

Plaintiff commenced the action in the Southern District of New York on December 31, 2025, and simultaneously sought temporary and preliminary injunctive relief. After Plaintiff paid the filing fee, the case was transferred to the Northern District of New York on January 12, 2026. The court conducted a sua sponte review, dismissed the complaint without prejudice, denied the emergency motion as moot, and allowed Plaintiff thirty days to amend.

DISPOSITION

dismissed

CASES CITED

- *Tewari v. Sattler*, No. 23-36-cv, 2024 WL 177445, at *1 (2d Cir. Jan. 17, 2024)
- *Pillay v. INS*, 45 F.3d 14, 16 (2d Cir. 1995)
- *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474-75 (2d Cir. 2006)
- *West v. Atkins*, 487 U.S. 42, 48-49 (1988)
- *Sykes v. Bank of Am.*, 723 F.3d 399, 406 (2d Cir. 2013)
- *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 295 (2001)
- *Ciambriello v. Cnty. of Nassau*, 292 F.3d 307, 323-25 (2d Cir. 2002)
- *Masters v. Mack*, No. 22-cv-6582, 2022 WL 17961211, at *5 (E.D.N.Y. Dec. 27, 2022)
- *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 51-52, 55-58 (1999)
- *Koziol v. King*, No. 14-cv-946 (GLS/TWD), 2015 WL 2453481, at *11 (N.D.N.Y. May 22, 2015)
- *Manko v. Steinhardt*, No. 11-cv-5430, 2012 WL 213715, at *4 (E.D.N.Y. Jan. 24, 2012)
- *Malek v. New York Unified Ct. Sys.*, No. 22-cv-5416, 2023 WL 2429528, at *17 (E.D.N.Y. Mar. 9, 2023)
- *Rodriguez v. Weprin*, 116 F.3d 62, 66 (2d Cir. 1997)
- *Yapi v. Kondratyeva*, 340 F. App'x 683, 684 (2d Cir. 2009)
- *Dwares v. City of New York*, 985 F.2d 94, 98 (2d Cir. 1993)
- *Leatherman v. Tarrant Cnty. Narcotics Intel. & Coordination Unit*, 507 U.S. 163, 164 (1993)
- *Pangburn v. Culbertson*, 200 F.3d 65, 72 (2d Cir. 1999)
- *Errato v. Seder*, No. 23-638, 2024 WL 726880, at *2 (2d Cir. Feb. 22, 2024)
- *Buon v. Spindler*, 65 F.4th 64, 78 (2d Cir. 2023)
- *Hill v. Curcione*, 657 F.3d 116, 123-24 (2d Cir. 2011)
- *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988)

