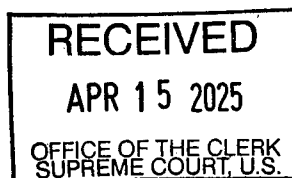


APPENDIX – A:

Summary Order of the U.S. Court of Appeals for the Second Circuit presented by Circuit Judges Richard J. Sullivan, Denny Chin, and Beth Robinson.

- Order to move for leave to file an oversized petition for rehearing and for leave to attach an appendix to the petition denial letter from the U.S. Court of Appeals for the Second Circuit, and extension to refile a compliant petition for rehearing presented by Circuit Judge Beth Robinson.
- Petition for rehearing denial letter presented by Circuit Judges Beth Robinson, Richard J. Sullivan, and Denny Chin.



APPENDIX A:

Pages: 1 to 11.

23-7565

Alexander v. Gleeson

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 1st day of July, two thousand twenty-four.

PRESENT:

DENNY CHIN,
RICHARD J. SULLIVAN,
BETH ROBINSON,
Circuit Judges.

OWEN MARLON ALEXANDER,

Plaintiff-Appellant,

v.

No. 23-7565

ANDREEA GLEESON, TUNECORE INC., DEVON ROACH, PADLOCK RECORDS, DR. PHILLIP NICHOLS, FACEBOOK, INSTAGRAM, WHATS APP, YOUTUBE, ARIEL VARGAS, MOLLY WASOW PARKS, NEW ROCK CITY, DEPARTMENT OF HOMELESS SERVICES, OFFICE OF THE OMBUDSMAN, LYMARIS ALBORS, JASMILKA GONZALEZ, HAMMOND JOHN,

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0A

RENAIYA THOMAS, CLARA GARCIA, ACACIA NETWORK SUPER 8, BRENDA ROSEN, THOMAS WASHINGTON, AARON R MCBRYAR, ANA FISHER, DAVE BEER, FELICESADE BRANDT, DAVIDSON HEADLEY, BREAKING GROUND/ HEGEMAN AVENUE HOUSING LIMITED PARTNERSHIP, KEISHA ASHMAN, ROY A. BECOAT, JETTE JOHNSON, LUNA MALACHOWSKI BAJAK, ALYSSA WRINKLE, KRYSTLE BARKLEY, JOSHUA FLINK, SAMUEL BARTON, CAMILLE REYES, CENTER FOR URBAN COMMUNITY SERVICES (CUCS), KELLNER, HERLIHY, GETTY & FRIEDMAN, LLP, CITY OF NEW YORK POLICE DEPARTMENT/ 73 PRECINCT, P.O. ANGEL RODRIGUEZ, DR. MARTIN BRENNAN, DR. ROBERT GREEN, LYNN VAIRO, ROBERT O. STRANDER, NATASHA PAYSON, PROGRAM DEVELOPMENT SERVICES INC., CHRISTOPHER WRAY, FEDERAL BUREAU OF INVESTIGATION, MICHAEL WEISBERG, CHERY J. GONZALES, DEBRA KAPLAN, BRIAN M. COGAN, MONIQUE GUIDRY, KATHY HOCHUL, ARCHBISHOP CHRISTOPHE PIERRE, APOSTOLIC NUNCIO & THE ROMAN CATHOLIC CHURCH,

*Defendants-Appellees.**

For Plaintiff-Appellant:

OWEN MARLON ALEXANDER, *pro se*, New York, NY.

* The Clerk of Court is respectfully directed to amend the official case caption as set forth above.

Appeal from a judgment of the United States District Court for the Eastern District of New York (Pamela K. Chen, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the October 6, 2023 judgment of the district court is **AFFIRMED**.

Appellant Owen Marlon Alexander, proceeding *pro se* (that is, representing himself), appeals from a judgment of the district court dismissing his claims against various defendants, including several non-profit housing organizations and their employees, the Roman Catholic Church, the Governor of New York, and the internet platforms Facebook and YouTube. He alleges that “organized corruption within the judicial branch of government, the entertainment industry, housing industry, [and] the mental and . . . medical health industry” caused him to be illegally evicted from his low-income housing unit and prevented him from using an online music streaming platform, among other asserted harms. Dist. Ct. Doc. No. 6 (“Am. Compl.”) at 3; *see, e.g., id.* at 15–17, 25–27, 30–31. After dismissing Alexander’s original complaint with leave to amend, the district court dismissed the amended complaint as frivolous

under 28 U.S.C. § 1915(e)(2)(B). We assume the parties' familiarity with the remaining facts, procedural history, and issues on appeal.

We review a district court's dismissal under 28 U.S.C. § 1915(e)(2) without deference. See *Hardaway v. Hartford Pub. Works Dep't*, 879 F.3d 486, 489 (2d Cir. 2018). That statute says that if a plaintiff files a lawsuit and has the required filing fee waived, the district court may screen and dismiss the complaint if it finds that the lawsuit "is frivolous" or "fails to state a claim on which relief may be granted." 28 U.S.C. § 1915(e)(2)(B)(i), (ii); see *Abbas v. Dixon*, 480 F.3d 636, 639 (2d Cir. 2007). We "liberally construe pleadings and briefs submitted by *pro se* litigants, reading such submissions to raise the strongest arguments they suggest." *McLeod v. Jewish Guild for the Blind*, 864 F.3d 154, 156 (2d Cir. 2017) (internal quotation marks omitted).

At the outset, we note that Alexander's appellate brief does not meaningfully address the district court's determination that his amended complaint was frivolous. While "we accord filings from *pro se* litigants a high degree of solicitude, even a litigant representing himself [must] set out identifiable arguments in his principal brief." *Terry v. Inc. Vill. of Patchogue*, 826 F.3d 631, 632–33 (2d Cir. 2016) (internal quotation marks omitted). Alexander

has not done so here. Instead, he principally repeats the allegations made in his amended complaint and asserts only in passing that the district court erroneously based its decision on "outdated" information in his previously filed complaint, Alexander Br. at 11, 36 – an argument we find unpersuasive, since the dismissal order makes clear that the district court considered the amended (and operative) complaint in this action, *see* Alexander App'x at 17–18. By merely pointing to his prior factual assertions, Alexander has forfeited appellate review of the district court's dismissal order. *See LoSacco v. City of Middletown*, 71 F.3d 88, 93 (2d Cir. 1995) ("[W]e need not manufacture claims of error for an appellant proceeding *pro se*."); *see also Gerstenbluth v. Credit Suisse Sec. (USA) LLC*, 728 F.3d 139, 142 n.4 (2d Cir. 2013) (concluding that a *pro se* litigant forfeited his challenge because he only mentioned the district court's ruling "obliquely and in passing").

In any event, even after reviewing anew Alexander's amended complaint, we agree with the district court that his pleading is frivolous, or at the very least does not state any viable legal claim upon which relief could be granted. An action is "frivolous" when the factual allegations are "clearly baseless" (that is, "fanciful" or "delusional"), or when the claims asserted are based on indisputably invalid legal theories. *Neitzke v. Williams*, 490 U.S. 319, 325, 328

(1989); see *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998).

And even if not frivolous, a complaint must still include “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

Alexander’s amended complaint recounts a long series of incidents that appear unrelated. While he cites some statutes throughout his complaint, he does not describe legally recognized grounds for suing anyone. Certain allegations do not make sense or defy belief, rendering them factually frivolous. See *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). And many other allegations are not connected to any legal theory with an “arguable basis in law.” *Livingston*, 141 F.3d at 437. Alexander alleges, for example, that the New York state judges in his eviction proceedings “collaborated” with his landlord and its attorneys to falsify evidence, “hack[]” his computer and cell phone, and “manipulate [him] into thinking he had a mental health issue.” Am. Compl. at 31. Elsewhere, he alleges that various individuals – including the Director of the Federal Bureau of Investigation, the Governor of New York, and a Roman Catholic archbishop – either failed to respond to his complaints about his landlord or indicated that they could not assist him with his housing issues. See *id.* at 29–31. The first set

of allegations are not plausible, and the second set of allegations, even if true, do not support any plausible claim for legal relief from a court.

Alexander's more developed allegations – for example, those made against Acacia Network, TuneCore, and their respective employees – likewise fall short. The amended complaint alleges that employees of Acacia Network, a non-profit organization operating the shelter where Alexander resided, bullied him, failed to help him with his public assistance case, and denied his requests for a reasonable accommodation. But these vague and conclusory allegations regarding his negative interactions with the shelter's staff do not give rise to a plausible claim for relief. For example, they do not support a cause of action under the Americans with Disabilities Act or related federal anti-discrimination statutes, as Alexander does not allege a disability or that Acacia Network failed to accommodate or otherwise discriminated against him on the basis of such disability. *See McElwee v. County of Orange*, 700 F.3d 635, 640–41 (2d Cir. 2012). Similarly, we discern no viable legal claim arising from Alexander's allegations that he experienced technical difficulties while using TuneCore's online music streaming services. *See, e.g., Arista Recs., LLC v. Doe 3*, 604 F.3d 110, 117 (2d Cir. 2010) (discussing elements of copyright-infringement claim); *Orlander v. Staples*,

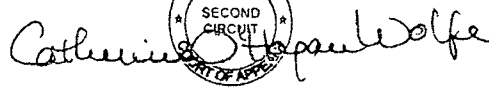
Inc., 802 F.3d 289, 294 (2d Cir. 2015) (discussing elements of New York breach-of-contract claim).

In short, even generously construed, the amended complaint lacks an arguable basis in law or fact, *see Neitzke*, 490 U.S. at 325, or otherwise does not state a plausible claim for relief, *see Twombly*, 550 U.S. at 570. The district court therefore did not err in dismissing Alexander's action.

We have considered Alexander's remaining arguments and find them to be without merit. Accordingly, we **AFFIRM** the judgment of the district court.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

A circular seal of the United States Second Circuit Court of Appeals is stamped over the signature. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS".

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 19th day of September, two thousand twenty-four.

Before: Beth Robinson,
Circuit Judge.

Owen Marlon Alexander,

Plaintiff - Appellant,

v.

Andreea Gleeson, et al.,

Defendants - Appellees.

ORDER

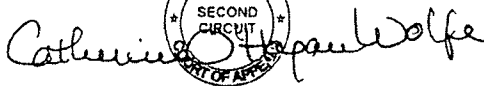
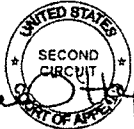
Docket No. 23-7565

Appellant, pro se, moves for leave to file an oversized petition for rehearing and for leave to attach an appendix to the petition.

IT IS HEREBY ORDERED that the motion is DENIED. Appellant is granted an extension to October 18, 2024 to refile a compliant petition for rehearing.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court

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UNITED STATES COURT OF APPEALS
for the
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 24th day of October, two thousand twenty-four,

Present: Denny Chin,
Richard J. Sullivan,
Beth Robinson,

Circuit Judges,

Owen Marlon Alexander,

Plaintiff - Appellant,

v.

Andreea Gleeson, TuneCore Inc., Devon Roach, Padlock Records, Dr. Phillip Nichols, Facebook, Instagram, Whats App, Youtube, Ariel Vargas, Molly Wasow Parks, New Rock City, Department of Homeless Services, Office of the Ombudsman, Lymaris Albors, Jasmilka Gonzalez, Hammond John, Renaiya Thomas, Clara Garcia, Acacia Network Super 8, Brenda Rosen, Thomas Washington, Aaron R McBryar, Ana Fisher, Dave Beer, Felicesade Brandt, Davidson Headley, Breaking Ground/ Hegeman Avenue Housing Limited Partnership, Keisha Ashman, Roy A. Becoat, Jette Johnson, Luna Malachowski Bajak, Alyssa Wrinkle, Krystle Barkley, Joshua Flink, Samuel Barton, Camille Reyes, Center for Urban Community Services (CUCS), Kellner, Herlihy, Getty & Friedman, LLP, City of New York Police Department/ 73 Precinct, P.O. Angel Rodriguez, Dr. Martin Brennan, Dr. Robert Green, Lynn Vairo, Robert O. Strander, Natasha Payson, Program Development Services Inc., Christopher Wray, Federal Bureau of Investigation, Michael Weisberg, Chery J. Gonzales, Debra Kaplan, Brian M. Cogan, Monique Guidry, Kathy Hochul, Archbishop Christophe Pierre, Apotolic Nuncio & The Roman

ORDER

Docket No. 23-7565

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Catholic Church.

Defendants - Appellees.

Appellant Owen Marlon Alexander having filed a petition for panel rehearing and the panel that determined the appeal having considered the request,

IT IS HEREBY ORDERED that the petition is DENIED.

For The Court:

Catherine O'Hagan Wolfe,
Clerk of Court

 Catherine O'Hagan Wolfe

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APPENDIX – B

- Notice of Electronic Filing from the U.S. District Court for the Eastern District of New York dismissing complaint for failure to comply with Fed.R.Civ.P.8(a), granting leave to amend the Complaint, and Motion for Leave to proceed in forma pauperis, ordered by Magistrate Judge Ramon E. Reyes, Jr, and District Judge Pamela K. Chen.
- Memorandum and Order from Magistrate Judge Ramon E. Reyes, Jr, and District Judge Pamela K. Chen of the U.S. District Court for the Eastern District of New York, dismissing petitioner complaint for failure to comply with Rule 8 of the Federal Rules of Civil procedures and practices.
- Memorandum and Order by Magistrate Judge Ramon E. Reyes, Jr, and District Judge Pamela K. Chen of the U.S. District Court for the Eastern District dismissing the petitioner complaint as being frivolous.

APPENDIX B:

Pages: 12 to 23.

Samuel Kuhn

From: ecf_bounces@nyed.uscourts.gov
Sent: Monday, August 7, 2023 2:42 PM
To: nobody@nyed.uscourts.gov
Subject: Activity in Case 1:23-cv-05663-PKC-RER Alexander v. Gleeson et al Order on Motion for Leave to Proceed in forma pauperis

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

NOTE TO PUBLIC ACCESS USERS There is no charge for viewing opinions.

U.S. District Court

Eastern District of New York

Notice of Electronic Filing

The following transaction was entered on 8/7/2023 at 2:42 PM EDT and filed on 8/7/2023

Case Name: Alexander v. Gleeson et al

Case Number: 1:23-cv-05663-PKC-RER

Filer:

Document Number: 4

Docket Text:

ORDER: For the reasons stated in the attached Memorandum & Order, Plaintiff's [1] Complaint is dismissed for failure to comply with Fed. R. Civ. P. 8(a). Plaintiff is granted leave to amend the Complaint by September 6, 2023. Additionally, the Court grants Plaintiff's [2] Motion for Leave to Proceed in forma pauperis. Ordered by Judge Pamela K. Chen on 8/7/2023. (SK)

1:23-cv-05663-PKC-RER Notice has been electronically mailed to:

1:23-cv-05663-PKC-RER Notice will not be electronically mailed to:

Owen Marlon Alexander
P.O. Box 1049
New York, NY 10163

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: n/a

Electronic document Stamp:

[STAMP NYEDStamp_ID=875559751 [Date=8/7/2023] [FileNumber=18132320-0]
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
OWEN MARLON ALEXANDER,

Plaintiff.

MEMORANDUM AND ORDER

23-CV-05663 (PKC) (RER)

-against-

ANDREEA GLEESON; TUNECORE, INC.;
DR. PHILLIP NICHOLS; ARIEL VARGAS;
MOLLY WASOW PARKS; THE CITY OF NEW
YORK CITY & THE DEPARTMENT OF
HOMELESS SERVICES; LYMARIS ALBORS;
JASMILKA GONZALEZ; ASHELY MARRERO;
HAMMOND JOHN; RENAIYA THOMAS;
CLARA GARCIA; ACACIA NETWORK/
SUPER 8; BRENDA E. ROSEN; THOMAS
WASHINGTON; AARON R. McBRYAR;
ANA FISHER; DAVE BEER; FELICESADE
BRANDT; DAVIDSON HEADLEY; BREAKING
GROUND/ HEGEMAN AVENUE HOUSING
LIMITED PARTNERSHIP; KEISHA ASHMAN;
ROY A. BECOAT; JETTE JOHNSON; LUNA
MALACHOWSKI BAJAK; ALYSSA WRINKLE;
MARINA MULE; KRYSTLE BARKLEY; JOSHUA
FLINK; SAMUEL BARTON; CAMILLE REYES;
CENTER FOR URBAN COMMUNITY SERVICES
(CUCS); PHILLIP SCHREIBER; KELLNER, HERLIHY,
GETTY & FRIEDMAN, LLP; P.O. ANGEL RODRIGUEZ,
CITY OF NEW YORK POLICE DEPARTMENT/
73 PRECINCT; DR. MARTIN BRENNAN; DR.
ROBERT GREEN; LYNN VAIRO; ROBERT
O. STRANDER; NATASHA PAYSON; PROGRAM
DEVELOPMENT SERVICES INC.; CHRISTOPHER
WRAY, Federal Bureau of Investigation; MICHAEL
WEISBERG; CHERY J. GONZALES; DEBRA
KAPLAN; BRIAN M. COGAN; MONIQUE
GUIDRY; KATHY HOCHUL; ARCBISHOP
CHRISTOPHE PIERRE, APOTOLIC NUNCIO
and THE ROMAN CATHOLIC CHURCH,

Defendants.

-----X
PAMELA K. CHEN, District Judge:

Plaintiff Owen Marlon Alexander filed this *pro se* Complaint pursuant to 28 U.S.C. § 1331
and 28 U.S.C. § 1332. The Court grants Plaintiff's request to proceed *in forma pauperis* pursuant

to 28 U.S.C. § 1915 solely for the purpose of this Order. For the following reasons, the Complaint is dismissed for failure to comply with Rule 8(a) of the Federal Rules of Civil Procedure. Plaintiff is granted thirty (30) days from the date of this Memorandum & Order to file an amended complaint.

BACKGROUND

Plaintiff's Complaint is voluminous, and the gravamen of Plaintiff's claims is difficult to discern. Plaintiff names 47 defendants, and the Complaint is 130 pages with an additional 358 pages of exhibits. (*See* Compl., Dkt. 1.) Plaintiff alleges that for the past 20 years, he has been "involved in what is called an unethical human experiment designed to emasculate a male individual." (Dkt. 1, at ECF¹ 32.) Specifically, Plaintiff alleges that he was a subject of Project MK-ULTRA, an illegal human experimentation program designed by the Central Intelligence Agency. (*Id.* at ECF 33–34.) In addition, Plaintiff alleges that he was illegally evicted from his apartment in Brooklyn. He accuses the City of New York and the Department of Homeless Services of systemic racism and RICO crimes. (*Id.* at ECF 39.) Plaintiff further alleges that Judge Brian M. Cogan erroneously stated in a decision that Plaintiff was seeking \$75 billion in damages when he was merely seeking \$6 billion in damages.² (*Id.* at ECF 41.) Plaintiff also claims that police officers from the 73rd Precinct and Breaking Ground, a social services organization, were responsible for distributing narcotics into the community. (*Id.* at ECF 42.) Finally, Plaintiff avers that TuneCore failed to distribute his music properly. (*Id.* at ECF 95.) Plaintiff seeks \$90 billion in damages or tender in gold, silver, or land. (*Id.* at ECF 31.).

¹ Citations to "ECF" refer to the pagination generated by the Court's CM/ECF docketing system and not the document's internal pagination.

² *See Alexander v. Breaking Ground/CUCS et al.*, No. 20-CV-05114 (BMC) (RER) (Dkt. 4).

STANDARD OF REVIEW

It is axiomatic that *pro se* complaints are held to less stringent standards than pleadings drafted by attorneys. The Court is required to read the Plaintiff's *pro se* Complaint liberally and interpret it raising the strongest arguments it suggests. *Erickson v. Pardus*, 551 U.S. 89 (2007); *Hughes v. Rowe*, 449 U.S. 5, 9 (1980); *Sealed Plaintiff v. Sealed Defendant #1*, 537 F.3d 185, 191–93 (2d Cir. 2008). At the pleadings stage of the proceeding, the Court must assume the truth of “all well-pleaded, nonconclusory factual allegations” in the Complaint. *Kiobel v. Royal Dutch Petroleum Co.*, 621 F.3d 111, 123 (2d Cir. 2010) (citing *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)). A complaint must plead sufficient facts to “state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

Under 28 U.S.C. § 1915(e)(2)(B), a district court shall dismiss an *in forma pauperis* action where it is satisfied that the action “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” An action is “frivolous” when either: (1) “the ‘factual contentions are clearly baseless,’ such as when allegations are the product of delusion or fantasy”; or (2) “the claim is ‘based on an indisputably meritless legal theory.’” *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (internal citation omitted).

DISCUSSION

I. Rule 8 of the Federal Rules of Civil Procedure

In addition to requiring sufficient factual matter to state a plausible claim for relief, pursuant to Rule 8 of the Federal Rules of Civil Procedure, Plaintiff must provide a short, plain statement of claim against each defendant named so that they have adequate notice of the claims

against them. *Iqbal*, 556 U.S. 678 (Rule 8 “demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.”). “[U]nnecessary prolixity in a pleading places an unjustified burden on the court and the party who must respond to it because they are forced to select the relevant material from a mass of verbiage.” *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988) (citation omitted); *Komatsu v. City of New York*, No. 20-CV-7046 (ER), 2021 WL 3038498, at *5 (S.D.N.Y. July 16, 2021) (noting that “length is only one consideration under Rule 8,” and other issues include “redundancy and frequent frolics into seemingly irrelevant materials [which] inhibit the Court and Defendants’ ability to understand the nature of many of the issues he has raised.”). Dismissal of a complaint for failure to comply with Rule 8 is generally reserved for cases where the complaint is “so confused, ambiguous, vague, or otherwise unintelligible that its true substance, if any, is well disguised.” *Salahuddin*, 861 F.2d at 42. This standard is applied with special lenience to *pro se* pleadings. See *Simmons v. Abruzzo*, 49 F.3d 83, 87 (2d Cir. 1995).

Plaintiff’s Complaint, construed liberally, fails to satisfy Rule 8’s requirement of a “short and plain statement.” Plaintiff’s Complaint and exhibits are hundreds of pages in length, and he complains of a myriad of seemingly unrelated wrongs allegedly perpetrated against him by the named Defendants without offering any plausible factual or legal basis for the claims. The Complaint, as drafted, fails to “disclose sufficient information to permit the defendant to have a fair understanding of what the plaintiff is complaining about and to know whether there is a legal basis for recovery.” *Kittay v. Kornstein*, 230 F.3d 531, 541 (2d Cir. 2000) (internal quotation marks omitted); *Harnage v. Lightner*, 916 F.3d 138, 141 (2d Cir. 2019).

The Court, therefore, dismisses the Complaint without prejudice for Plaintiff to file an amended complaint. See, e.g., *Blakely v. Wells*, 209 F. App’x 18, 20 (2d Cir. 2006) (summary order) (affirming dismissal of a 57-page complaint for prolixity); *Azzarmi v. Neubauer*, No. 20-

CV-9155 (KMK), 2022 WL 4357865, at *4 (S.D.N.Y. Sept. 20, 2022) (dismissing *pro se* complaint pursuant to Rule 8 where the complaint was 204 pages in length); *Nygard v. Bacon*, No. 19-CV-1559 (LGS), 2021 WL 3721347, at *7 (S.D.N.Y. Aug. 20, 2021) (dismissing “lengthy” 144-page complaint pursuant to Rule 8(a)).

LEAVE TO AMEND

In light of Plaintiff's *pro se* status, he is granted thirty (30) days from the date of this Memorandum & Order to file an amended complaint. The Plaintiff is advised that should he file an amended complaint, he must plead sufficient facts to allege a violation of his constitutional or federal rights and comply with Rule 8(a) of the Federal Rules of Civil Procedure, which requires a short and plain statement of his claim. If Plaintiff elects to file an amended complaint, he must name as proper defendants those individuals with some personal involvement in the action he alleges in the amended complaint. *See Iqbal*, 556 U.S. at 676 (“[A] plaintiff must plead that each Government-official defendant, through the official's own individual actions, violated the Constitution.”).

Further, Plaintiff is directed to set forth his factual allegations in numbered paragraphs organized chronologically. Each paragraph should be concise, and should state (1) what is alleged to have occurred; (2) where possible, the date and location that the action is alleged to have occurred; (3) which of the Defendants is responsible for the alleged action; and (4) how the alleged action is related to a deprivation of the Plaintiff's rights. An amended complaint does not simply add to the prior complaint; once it is filed, it completely replaces the original complaint filed before it. The amended complaint must be captioned as “Amended Complaint” and bear the same docket number as this Order.

CONCLUSION

Accordingly, Plaintiff's Complaint, filed *in forma pauperis*, is dismissed for failure to comply with Rule 8(a) of the Federal Rules of Civil Procedure. Plaintiff is granted 30 days' leave from the date of this Memorandum & Order to file an amended complaint as detailed above. If Plaintiff fails to file an amended complaint within the time allowed or show good cause why he cannot comply, judgment shall enter. All further proceedings shall be stayed for 30 days.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith, and therefore, *in forma pauperis* status is denied for the purpose of any appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/Pamela K. Chen

PAMELA K. CHEN
United States District Judge

Dated: August 7, 2023
Brooklyn, New York

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
OWEN MARLON ALEXANDER.

Plaintiff.

MEMORANDUM AND ORDER

23-CV-05663 (PKC) (RER)

-against-

ANDREEA GLEESON, et al.,

Defendants.
-----X

PAMELA K. CHEN, District Judge:

By Order dated August 7, 2023, the Court granted *pro se* Plaintiff Owen Marlon Alexander's request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 and dismissed the Complaint (Dkt. 1) for failure to comply with Rule 8(a) of the Federal Rules of Civil Procedure. (Dkt. 4.) Plaintiff was granted leave to file an amended complaint. The Amended Complaint (Am. Compl., Dkt. 6), filed on September 18, 2023, is dismissed for the reasons discussed below.

BACKGROUND

Plaintiff attempts to explain the gravamen of this action as "a copyright, unethical human experimentation, civil rights lawsuit, which airside [sic] from discrimination based on organized corruption within the judicial branch of government, the entertainment industry, housing industry, the mental and the medical health industry, with deliberate intentions to humiliate, emasculate, and even unalive the plaintiff." (Dkt. 6, at ECF¹ 3.) Plaintiff asserts a panoply of wrongs allegedly committed against him by a broad array of Defendants,² such as an illegal eviction from low-

¹ Citations to "ECF" refer to the pagination generated by the Court's CM/ECF docketing system and not the document's internal pagination.

² Plaintiff names as Defendants, *inter alia*, the Honorable Brian M. Cogan, United States District Judge for the Eastern District of New York; Kathy Hochul, Governor of the State of New York; Christopher Wray, the Director of the Federal Bureau of Investigation; The Roman Catholic Church; the Vatican; the Pope; the City of New York; and various homeless services organizations and employees.

CASE 1:07-cv-00037-THOMAS
income housing (*id.* at ECF 5), the inability to upload his music to musical platforms that use Defendant TuneCore's services (*id.* at ECF 16–17), that Defendant Thomas Washington accused Plaintiff of trying to “overthrow the Roman Catholic Church” (*id.* at ECF 26), that Plaintiff was forced to perform a sex act on a named Defendant (*id.* at ECF 27), that Plaintiff was forced to read the bible by a named Defendant while he was admitted to Coney Island Hospital in 1995 (*id.* at ECF 28), that the Federal Bureau of Investigation failed to investigate Plaintiff's allegations, (*id.* at ECF 30), and that the Roman Catholic Church intercepted the Plaintiff when he entered Coney Island Hospital to receive his medical records in 2017 (*id.* at ECF 32).

For relief, the Plaintiff seeks (a) a public apology, (b) a presidential pardon, (c) background checks on all individuals the Plaintiff intends to do business with, (d) \$30 billion in the value of gold, silver, land, or housing, (e) the right to record Plaintiff's music in specific frequencies, and (f) a meeting with the President and Vice President of the United States and the Pope.

STANDARD OF REVIEW

It is axiomatic that *pro se* complaints are held to less stringent standards than pleadings drafted by attorneys. The Court is required to read the Plaintiff's *pro se* complaint liberally and interpret it as raising the strongest arguments it suggests. See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Hughes v. Rowe*, 449 U.S. 5, 9 (1980); *Sealed Plaintiff v. Sealed Defendant #1*, 537 F.3d 185, 191–93 (2d Cir. 2008). At the pleadings stage of the proceeding, the Court must assume the truth of “all well-pleaded, nonconclusory factual allegations” in the complaint. *Kiobel v. Royal Dutch Petroleum Co.*, 621 F.3d 111, 124 (2d Cir. 2010) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009)). A complaint must plead sufficient facts to “state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

Under 28 U.S.C. § 1915(e)(2)(B), a district court shall dismiss an *in forma pauperis* action where it is satisfied that the action “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such

relief.” An action is “frivolous” when either: (1) “the ‘factual contentions are clearly baseless,’ such as when allegations are the product of delusion or fantasy”; or (2) “the claim is ‘based on an indisputably meritless legal theory.’” *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (citation omitted).

DISCUSSION

I. Plaintiff’s Allegations are Frivolous

“An action is frivolous if it lacks an arguable basis in law or fact – i.e., where it is ‘based on an indisputably meritless legal theory’ or presents ‘factual contentions [which] are clearly baseless.’” *Scanlon v. Vermont*, 423 F. App’x 78, 79 (2d Cir. 2011) (summary order) (quoting *Neitzke v. Williams*, 490 U.S. 319, 327 (1989)); *see also Denton v. Hernandez*, 504 U.S. 25, 33 (1992) (“[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.”). “Even if a complaint contains sufficient factual allegations to infer a claim for relief, a court may dismiss it as frivolous ‘if the sufficiently well-pleaded facts are “clearly baseless”—that is, if they are “fanciful,” “fantastic,” or “delusional.””” *Tessema v. Env’t Prot. Agency*, No. 20-CV-9700 (MKV), 2021 WL 2666855, at *3 (S.D.N.Y. June 29, 2021) (quoting *Gallop v. Cheney*, 642 F.3d 364, 368 (2d Cir. 2011)) (additional citation omitted).

The Plaintiff fails to allege any facts suggesting that he has a plausible legal claim. Plaintiff’s factual allegations are largely irrational, incoherent, or wholly incredible. *See Denton*, 504 U.S. at 33. Accordingly, Plaintiff’s amended complaint is dismissed as frivolous because it lacks a basis in law or fact. *See, e.g., Jean-Baptiste v. Westside Donut Huntington Ventures LLC*, No. 23-CV-2308 (PKC) (LB), 2023 WL 3126192, at *2 (E.D.N.Y. Apr. 27, 2023); *Hakaniemi v. Zuckerberg*, No. 21-CV-4345 (PKC) (LB), 2021 WL 3566221, at *1 (E.D.N.Y. Aug. 12, 2021) (dismissing *pro se* Plaintiff’s action as factually frivolous).

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CONCLUSION

Accordingly, Plaintiff's Amended Complaint, filed *in forma pauperis*, is dismissed as frivolous. *See* 28 U.S.C. § 1915(e)(2)(B). The Clerk of Court is respectfully directed to enter judgment and close this case. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith, and therefore, *in forma pauperis* status is denied for the purpose of any appeal. *Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

/s/Pamela K. Chen

PAMELA K. CHEN
United States District Judge

Dated: October 4, 2023
Brooklyn, New York