

IN THE SUPREME COURT OF THE UNITED STATES

Haocheng Qian,

Petitioner,

v.

YouTube LLC and Google LLC,

Respondents.

On Petition for a Writ of Certiorari

to the United States Court of Appeals

for the Second Circuit

**MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS**

Haocheng Qian

Pro Se Petitioner

15 Carolyn Ln, North Windham, CT 06256

Email: kaiwutang20202@gmail.com

Phone: 650-410-0236

Date: July 4, 2025

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MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The Petitioner, Haocheng Qian respectfully asks leave of this Court to proceed in forma pauperis in the filing of the attached petition for a writ of certiorari.

Petitioner has previously been granted leave to proceed in forma pauperis in the following court(s):

- U.S. Court of Appeals for the Second Circuit (Case No. 25-1388)

Petitioner has not retained counsel and is proceeding pro se.

Petitioner declares that because of poverty, he/she is unable to pay the costs of this case and that he/she believes that he/she is entitled to redress.

A declaration in support of this motion is attached, using the form prescribed by the Supreme Court.

Respectfully submitted,

/s/ Haocheng Qian


15 Carolyn Ln

North Windham, CT 06256

Phone: (650)-410-0236

Email: kaiwutang2020@gmail.com

Dated: July 4, 2025

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Haocheng Qian, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Self-employment	\$ <u>2003.87</u>	\$ <u>70.00</u>	\$ <u>850.00</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Interest and dividends	\$ <u>157.00</u>	\$ <u>157.00</u>	\$ <u>116.00</u>	\$ <u>—</u>
Gifts	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Alimony	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Child Support	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Disability (such as social security, insurance payments)	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Unemployment payments	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Public-assistance (such as welfare)	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Other (specify): <u>political Asylum, Limited Freelance Work</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>	\$ <u>—</u>
Total monthly income:	\$ <u>2160.87</u>	\$ <u>227.00</u>	\$ <u>966.00</u>	\$ <u>116.00</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A			\$
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ 36,959.60
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
Bank of America: Checking	\$ 3,638.60	\$ 3,638.60
Bank of America: Saving	\$ 50,592.25	\$ 50,592.25
PayPal	\$ 300.00	\$ 300.00

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home
Value 97,710.47

☐ Other real estate
Value N/A

☐ Motor Vehicle #1
Year, make & model 2018 Nissan Rogue S
Value 17,282.18. Used Car

☐ Motor Vehicle #2
Year, make & model N/A
Value N/A

☐ Other assets
Description N/A
Value N/A

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
N/A	\$ N/A	\$ N/A
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
Xiaohong Song	Wife	60

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 549.75	\$ 549.75
Are real estate taxes included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 242.84	\$ 242.84
Home maintenance (repairs and upkeep)	\$ 65.00	\$ 65.00
Food	\$ 300.00	\$ 500.00
Clothing	\$ 25.00	\$ 25.00
Laundry and dry-cleaning	\$ 15.00	\$ 15.00
Medical and dental expenses	\$ 150.00	\$ 150.00

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 100.00	\$ 100.00
Recreation, entertainment, newspapers, magazines, etc.	\$ 50.00	\$ 50.00
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 95.00	\$ 95.00
Life	\$ —	\$ —
Health	\$ —	\$ —
Motor Vehicle	\$ 185.00	\$ 185.00
Other: _____	\$ —	\$ —
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>Federal Income Tax. Property Tax</u>	\$ 155.50	\$ 155.50
Installment payments		
Motor Vehicle	\$ 77.00	\$ 77.00
Credit card(s)	\$ —	\$ —
Department store(s)	\$ —	\$ —
Other: <u>Green Card Application Fee</u>	\$ 325.00	\$ 325.00
Alimony, maintenance, and support paid to others	\$ —	\$ —
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ —	\$ —
Other (specify): <u>Cancer nutrition Supplement</u>	\$ —	\$ 300.00
Total monthly expenses:	\$ 2,335.09	\$ 2,835.09

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☒ Yes ☐ No If yes, describe on an attached sheet.

1 Under the years of attacks by the defendant limited, monthly income to drop from over ten thousand to less than one thousand today.

2. Wife's Cancer treatment makes the Cost increasing.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? N/A

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? N/A

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

1 The Casts for Green Card Application and Attorney Fees, \$7,880;

2 Loan for Used Car, \$7,282;

3 The defendant is still constantly restricting my income, resulting in my monthly income

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: Sept 08, 2025

Haoheng Qian

(Signature)

Affidavit or Declaration in Support of Motion

I, Haocheng Qian, am the petitioner in the above-entitled case. In support of my motion to proceed in forma pauperis, I state that because of my poverty, I am unable to pay the costs of this proceeding and that I believe I am entitled to redress.

1. I am not currently employed and have no substantial income.
2. My spouse is currently undergoing treatment for breast cancer, which imposes significant medical and living expenses on our family.
3. We reside in a mobile home. While we own the home, we pay approximately \$1,100 per month in lot rent, which includes property tax and related community fees.
4. I have inherited approximately \$70,000 in savings from my parents, which is being used to support basic living expenses and medical costs.
5. I am also a political asylum seeker currently applying for a green card. Due to my immigration status, I am unable to access certain public programs and face additional legal and financial challenges.
6. I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 4, 2025.

Signature: Haocheng Qian

Printed Name: Haocheng Qian

FINANCIAL SUMMARY TABLE

(For In Forma Pauperis)

1. Monthly Income

Source	Amount (USD)
Applicant's income	\$1,000 - 1,500 (approx.)
Spouse's income	\$0 (spouse undergoing breast cancer treatment)
Government assistance	\$0
Other support (family/friends)	\$0
Total Monthly Income	\$1,000 - 1,500

2. Monthly Expenses

Category	Amount (USD)
Mobile home lot rent (incl. property tax)	\$1,100
Food and basic necessities	\$600 - &800 (Wife's illness: Cancer)
Medical costs (spouse's treatment)	$\$300 \times 2 = \600 (estimated co-pays + transport)
Utilities (electricity, water, gas, etc.)	\$320
Transportation (gasoline and maintenance)	$\$100 + \$150 = 250$
Other necessary expenses	\$100
Total Monthly Expenses (the least)	\$3,170

3. Assets

Type	Value (USD)
Bank savings (inherited funds)	\$70,000
Real estate (mobile house)	Mobile home only
Vehicles	one / low value

4. Liabilities

Type	Amount (USD)
Credit card debt	\$0
Loans or mortgages (car)	\$7,000
Other liabilities (apply for Green Card)	\$8,000 (two persons)

Notes:

- These are household costs of **two persons**.
- Applicant is a political asylum seeker.
- Spouse is undergoing long-term breast cancer treatment, which imposes a financial burden.
- Mobile home requires ongoing lot rent; the applicant does not own the land.
- No additional income sources or valuable property available to liquidate.

Executed on July 4, 2025.

Signature: Haocheng Qian

Printed Name: Haocheng Qian

CERTIFICATE OF SERVICE

I hereby certify that on July 4, 2025, as a pro se petitioner, I served one copy of the following documents:

1. Motion for Leave to Proceed In Forma Pauperis;
2. Affidavit or Declaration in Support of Motion;
3. Financial Summary Table;

by first-class mail, postage prepaid, to the following:

/s/ Jacob Taber & LaMarte Williams, Jr
1155 Avenue of the Americas, 22nd Floor
New York, NY 10036 - 2711
Email: JTaber@perkinscoie.com
LaMarteWilliams@perkinscoie.com
Tel: 212-262-6900

Executed on: July 4, 2025

/s/ Haocheng Qian



15 Carolyn Ln

North Windham, CT 06256

Phone: (650)-410-0236

Email: kaiwutang2020@gmail.com

Dated: July 4, 2025

IN THE SUPREME COURT OF THE UNITED STATES

Haocheng Qian,

Petitioner,

v.

YouTube LLC and Google LLC,

Respondents.

On Petition for a Writ of Certiorari

to the United States Court of Appeals

for the Second Circuit

PETITION FOR A WRIT OF CERTIORARI

Haocheng Qian

Pro Se Petitioner

15 Carolyn Ln, North Windham, CT 06256

Email: kaiwutang20202@gmail.com

Phone: 650-410-0236

Date: July 4, 2025

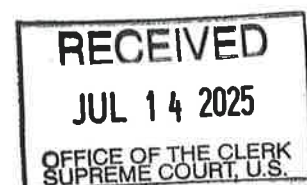


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Note: The cover defaults to the first page.

QUESTIONS PRESENTED

1. Whether it violates the Due Process Clause for lower courts to dismiss a pro se plaintiff's complaint at summary judgment without reviewing evidence of the defendant's willful concealment of key policies (EDSA) that contradict their defense.
2. Whether a private corporation's deployment of a censorship system uniquely targeting Chinese-language content—mirroring tools used by the Chinese Communist Party—and the removal of speech under vague “Community Guidelines” constitutes a violation of the First Amendment's protections of free expression.
3. Whether permitting a party to evade liability through willful concealment of material facts undermines the integrity of the judicial process and erodes public trust in the rule of law—a foundation upon which a free and democratic society depends.

PARTIES TO THE PROCEEDING

The petitioner is Haocheng Qian, who appeared pro se in the lower courts.

The respondents are YouTube LLC and Google LLC, who were represented by counsel in the proceedings below.

Table of Authorities

Cases

Qian v. YouTube, LLC, No. 24-1116-cv (2d Cir. 2025)

Qian v. YouTube, LLC, No. 25-1388 (2d Cir. pending)

Qian v. YouTube, LLC, No. 3:23-cv-513 (D. Conn. 2024–2025)

Constitutional and Statutory Provisions

U.S. Const. amend. I

28 U.S.C. § 1254(1)

Fed. R. Civ. P. 60(b)

Other Authorities

YouTube's EDSA Policy

YouTube Community Guidelines

Google Terms of Service

PETITION FOR A WRIT OF CERTIORARI

Petitioner Haocheng Qian respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Second Circuit.

This case presents critical and recurring constitutional issues concerning the right to fair judicial process, the suppression of protected speech through hidden policy enforcement, and the improper use of summary judgment to evade review of substantive evidence. The lower courts disregarded core evidence presented by Petitioner, including platform policies that were actively concealed by the Respondent and directly contradict the justifications offered for terminating Petitioner's news and educational channels. The courts below also failed to address significant procedural and jurisdictional violations that deprived Petitioner of a full and fair hearing.

The Petition involves not only the infringement of due process and the right to petition the courts for redress of grievances, but also systemic abuse of summary disposition and tolerance of material omissions in the litigation record. This undermines confidence in the integrity of the judicial process and allows powerful private entities to avoid accountability for public-facing contractual and policy obligations.

The constitutional and public importance of these issues, the conflict with existing precedent on summary judgment and evidentiary review, and the clear need to establish limits on concealed policy enforcement justify this Court's intervention.

Accordingly, the Petition for a Writ of Certiorari should be granted.

OPINIONS BELOW

The final judgment of the United States District Court for the District of Connecticut, dated March 29, 2024, is reproduced in the Appendix at App. **SA-1 — SA-16**.

The summary order of the United States Court of Appeals for the Second Circuit, dated February 24, 2025, is reproduced in the Appendix at App. **SA-160 — SA-168**.

The order denying the petition for panel rehearing and rehearing en banc, dated April 2, 2025, is reproduced in the Appendix at App. **SA-169**.

JURISDICTION

The United States Court of Appeals for the Second Circuit entered its judgment on February 24, 2025, and subsequently denied the petitioner's petition for panel rehearing and rehearing en banc on April 2, 2025.

This petition seeks review of both decisions.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

This petition is filed within ninety (90) days of the April 2, 2025 order denying rehearing, in accordance with Supreme Court Rule 13.3.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. I:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

U.S. Const. amend. XIV, § 1:

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

28 U.S.C. § 1254(1):

“Cases in the courts of appeals may be reviewed by the Supreme Court by... writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.”

STATEMENT OF THE CASE

Petitioner Haocheng Qian filed a lawsuit in the United States District Court for the District of Connecticut against YouTube and Google, asserting violations of his constitutional rights after YouTube removed his account and videos related to political commentary. Petitioner alleged that YouTube's actions were politically motivated and intended to suppress free speech.

In support of his claim, Petitioner submitted seventeen types of evidence (App. SA-34), including exhibits referencing YouTube's own policy — the “EDSA” — (App. SA-35–SA-43 & SA-144–SA-159) (**EDSA Definition and Penalty Conditions for Three Warnings**) which outlines procedural safeguards such as the requirement for three warnings (App. SA-152–SA-159) before content removal. However, YouTube deleted Petitioner's channel without such warnings and did not cite the EDSA and three warnings in its defense (**App. SA-60–SA-136**).

The district court dismissed the case in a summary judgment (**App. SA-1–SA-16**) without addressing these materials. On appeal, the United States Court of Appeals for the Second Circuit issued its summary order on **February 24, 2025** and later denied Petitioner's rehearing request on **April 2, 2025** (App. SA-160–SA-169), thereby affirming the dismissal. Petitioner then filed a Rule 60(b) motion for relief from judgment, which was also denied by the district court in 2025.

Throughout the litigation, YouTube never disclosed the existence of the **EDSA** in its legal filings (**App. SA-53–SA-136**). Petitioner later provided a live-access link and captured screenshots (**App. SA-37**) showing that the **EDSA** policy is active and publicly visible, thereby proving the existence of material that YouTube deliberately withheld. Additionally, Petitioner provided evidence showing that YouTube employed automated Chinese-language censorship systems, disproportionately impacting content in Mandarin, consistent with practices of foreign authoritarian regimes.

Having exhausted all remedies at the lower courts (**App. SA-141–SA-143**), Petitioner now seeks review by this Court to address whether a private platform engaged in government-like censorship can conceal governing policies from the court and evade accountability for infringing upon free speech guaranteed by the First Amendment.

Notably, neither the District Court nor the Second Circuit explicitly addressed Petitioner’s submitted evidence concerning the **EDSA Definition and Penalty Conditions for Three Warnings (App. SA 144 –SA159)**, referenced in exhibits **ECF 44-1 (App. SA-28–SA-43)**. Despite its centrality, no reference to the EDSA appears in the courts’ rulings. Petitioner respectfully asserts that this omission reflects a failure to engage with material facts, warranting certiorari review.

REASONS FOR GRANTING THE WRIT

I. The Lower Courts Failed to Consider Key Evidence Material to the Petitioner's Claim

YouTube, the Respondent, failed to disclose its EDSA Definition and Penalty Conditions for Three Warnings, a critical document outlining procedural protections such as a three-warning system prior to account termination **at App. SA 144 – SA 159**. The Petitioner provided multiple exhibits ECF 44-1 **at App. SA 35 - SA -43** proving the EDSA's existence and relevance to the alleged improper channel removal. However, both the District Court and the Second Circuit Court of Appeals dismissed the case without addressing this evidence, as reflected in the District Court's judgment dated March 29, 2024 (App. SA 1–SA 16) and the Second Circuit's summary order dated February 24, 2025 (App. SA 160–SA 168)."

This omission not only deprived the Petitioner of due process, but it also erodes public trust in the integrity of judicial review when one party withholds governing policies. The courts' summary judgment effectively condoned a misrepresentation of material facts, contrary to Rule 11 and basic standards of fairness.

II. The Case Presents a Vital First Amendment Issue Involving Content-Based

Censorship

Petitioner presented credible evidence **ECF 44-13 at App. SA 44 – SA 52** that YouTube employed automated censorship mechanisms specifically targeting Chinese-language content—filters that operate with criteria aligned with foreign authoritarian censorship. This content-based restriction was applied without transparency or recourse, raising serious constitutional questions.

The courts below failed to assess whether such content moderation, when coupled with concealment of governing rules, can be shielded from judicial scrutiny. The First Amendment implications are significant, especially as online platforms increasingly serve as public forums. This case presents a critical opportunity for the Court to clarify the limits of platform discretion and the responsibilities accompanying quasi-governmental power over speech.

“The Petition thus implicates fundamental principles of justice, transparency, and constitutional freedom—issues of exceptional importance that merit this Court’s review.”

CONCLUSION

For the foregoing reasons, Petitioner respectfully prays that a writ of certiorari be granted to review the judgment of the United States Court of Appeals for the Second Circuit.

Respectfully submitted,

Haocheng Qian

Pro Se Petitioner



15 Carolyn LN

North Windham, Connecticut

Tel: (650)-410-0236

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Dated: Nov 8, 2025

Certificate of Service

I, Haocheng Qian, hereby certify that on Aug 8, 2025, I served a true and correct copy of the foregoing Motion for Leave to File Petition for a Writ of Certiorari Out of Time, together with all attachments, on the following by USPS and Email:

/s/ Jacob J. Taber

LaMarte Williams, Jr.

1155 Avenue of the Americas, 22nd Floor

New York, NY 10036

Tel: 212-262-6900

Email: JTaber@perkinscoie.com

LaMarteWilliams@perkinscoie.com

Pro se: Haocheng Qian

Signature: Haocheng Qian

15 Carolyn Ln

North Windham, CT 06256

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Email: kaiwutang2020@gmail.com

Date: Aug 8, 2025

APPENDIX IV

APPENDIX — PART IV

Section 10

Second Circuit Summary Order (Feb. 24, 2025)

(This order resolved the appeal in Case No. 24-1116,
affirming the lower court's judgment.)

SA 160 – SA 168

24-1116

Haocheng Qian v. YouTube, LLC

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 TO 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 24th day of February, two thousand twenty-five.

PRESENT:

AMALYA L. KEARSE,
PIERRE N. LEVAL,
RICHARD J. SULLIVAN,
Circuit Judges.

HAOCHENG QIAN,

Plaintiff-Appellant,

v.

No. 24-1116

YOUTUBE, LLC, GOOGLE LLC,

*Defendants-Appellees.**

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

For Plaintiff-Appellant:

HAOCHENG QIAN, *pro se*, North Windham, CT.

For Defendants-Appellees:

JACOB J. TABER (LaMarte Williams, Jr., *on the brief*), Perkins Coie LLP, New York, NY.

Appeal from a judgment of the United States District Court for the District of Connecticut (Sarala V. Nagala, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the March 29, 2024 judgment of the district court is **AFFIRMED**.

Haocheng Qian, proceeding *pro se*, appeals from the district court's grant of summary judgment in favor of defendants YouTube, LLC ("YouTube") and Google LLC ("Google") on his claim for breach of contract. In his amended complaint, Qian alleged that YouTube violated its terms of service (the "Terms of Service") when, without prior notice or cause, it restricted and removed content that he had uploaded to YouTube. After YouTube and Google moved to dismiss the amended complaint for failure to state a claim, the district court treated the motion as one for summary judgment pursuant to Federal Rule of Civil Procedure 12(d) and concluded that the Terms of Service unambiguously permitted YouTube to restrict and remove Qian's content in the manner that it did. We assume the

parties' familiarity with the underlying facts, procedural history, and issues on appeal.

We review a district court's grant of summary judgment *de novo*. See *Banks v. Gen. Motors, LLC*, 81 F.4th 242, 258 (2d Cir. 2023). "Summary judgment is proper only when, construing the evidence in the light most favorable to the non-movant, 'there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.'" *Doninger v. Niehoff*, 642 F.3d 334, 344 (2d Cir. 2011) (quoting Fed. R. Civ. P. 56(a)). 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).

The parties agree that the Terms of Service, which incorporated YouTube's Community Guidelines (together with the Terms of Service, the "Agreement"), formed an enforceable contract between Qian and YouTube. The parties also do not dispute that the Agreement governed Qian's use of YouTube, including his operation of "channels" on YouTube's platform where he uploaded and displayed content. Under California law,¹ a plaintiff asserting a claim for breach of contract

¹ The Terms of Service contained a choice-of-law clause designating California law as the governing law.

must show “(1) the existence of the contract, (2) plaintiff’s performance or excuse for nonperformance, (3) defendant’s breach, and (4) the resulting damages to the plaintiff.” *Oasis W. Realty, LLC v. Goldman*, 51 Cal. 4th 811, 821 (2011). “The fundamental goal of contractual interpretation is to give effect to the mutual intention of the parties,” which “is to be inferred, if possible, solely from the written provisions of the contract.” *State of California v. Cont’l Ins. Co.*, 55 Cal. 4th 186, 195 (2012) (internal quotation marks omitted). “The clear and explicit meaning of these provisions, interpreted in their ordinary and popular sense, unless used by the parties in a technical sense or a special meaning is given to them by usage, controls judicial interpretation.” *Id.* (citation and internal quotation marks omitted).

At the outset, we note that Qian’s appellate brief does not raise any specific challenges to the district court’s summary-judgment decision. 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). Here, Qian does not identify any errors that the district court committed; he does not, for example, point to any provisions in the Agreement

that YouTube purportedly breached, much less explain how the district court erred in interpreting those provisions when it concluded that YouTube had not breached the Agreement. Instead, Qian makes a series of conclusory statements regarding YouTube's conduct that either largely repeat the factual recitation in his amended complaint or attempt to advance new claims for the first time on appeal. By failing to meaningfully assert any arguments in his brief, Qian has forfeited any challenge to the district court's reasoning. *See, e.g., 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 argument that the district court erred because he mentioned its ruling only "obliquely and in passing"); *see also Green v. Dep't of Educ. of City of N.Y.*, 16 F.4th 1070, 1078 (2d Cir. 2021) ("It is a well-established general rule that an appellate court will not consider an issue raised for the first time on appeal." (internal quotation marks omitted)).

In any event, we agree with the district court that Qian's claim for breach of contract "fails as a matter of law under the clear and unambiguous terms" of the parties' Agreement. Sp. App'x at 12. As expressly provided in the Terms of Service, YouTube "reserve[d] the right" – "in [its] discretion" – "to remove or take down some or all" of a user's content that was "in breach of th[e] Agreement" or

“may cause harm to YouTube, [its] users, or third parties.” Suppl. App’x at 141. The Terms of Service then stated that, after removal, YouTube “w[ould] notify [the user] with the reason for [its] action.” *Id.* Similarly, the Community Guidelines explained that “[i]f [YouTube’s] reviewers determine[d] that content violate[d] [its] Community Guidelines, [YouTube] [would] remove the content and send a notice to the [content] [c]reator.” *Id.* at 151. Those Guidelines further provided that YouTube would issue “strike[s] to [a user’s] channel” and place “temporary restrictions” on an account that violated its Guidelines, with “three strikes within a [ninety]-day period” resulting in a channel’s termination. *Id.* Even then, YouTube reserved the right to “bypass [its] strikes system” and “terminat[e]” channels “dedicated to violating [its] policies or that ha[d] a single case of severe abuse of the platform.” *Id.*

In short, the Agreement did not require YouTube to give advance notice or provide a specific cause to Qian before removing his content. Qian acknowledges that after YouTube removed one of his channels, he received an email notice explaining that YouTube took down his content because it was “serious[ly] or repeatedly in violation of [its] Community Guidelines.” *Id.* at 213–14. Given the above provisions, YouTube was not obligated to do anything more. Qian also

fails to identify any provisions in the Terms of Service or Community Guidelines that granted him the right to alter his violative content to bring it into compliance, or to download content that had been or was going to be removed. For these reasons, we agree with the district court that YouTube's removal of Qian's content did not constitute a breach of the Agreement. *See, e.g., Prager Univ. v. Google LLC*, 301 Cal. Rptr. 3d 836, 850 (Ct. App. 2022) (concluding that YouTube's Terms of Service "expressly reserved the right[] to remove [c]ontent without prior notice" (internal quotation marks omitted)).

Qian further contends on appeal that YouTube violated the terms of its "Partner Program," which allowed users to profit from content posted on the platform. But under the "Right to Monetize" provision in the Terms of Service, Qian "grant[ed] to YouTube the right to monetize [his] Content on the Service" but was "not entitle[d] . . . to any payments" under that Agreement. Suppl. App'x at 140. And Qian did not specify to the district court what provisions of the Partner Program were purportedly breached, much less offer evidence in support of that breach.²

² We likewise see no error in the district court's conclusion, which Qian has not challenged on appeal, that any claim for a breach of the implied covenant of good faith and fair dealing fails as a matter of law. *See Carmia Devs. (Cal.), Inc. v. Marathon Dev. Cal., Inc.*, 2 Cal. 4th 342, 374 (1992)

Finally, in his appellate brief and various submissions to this Court, Qian asserts that YouTube, among other things, “violated [his] intellectual property rights” and restricted his “right to freedom of speech,” “thought,” and “expression.” Qian Br. at 6–7, 10. But Qian brought a single cause of action for breach of contract in his amended complaint, and as noted above, we need not consider new claims or allegations raised for the first time on appeal. *See, e.g., Green*, 16 F.4th at 1078.

* * *

(“[I]f defendants were given the right to do what they did by the express provisions of the contract[,] there can be no breach [of the implied covenant].” (internal quotation marks omitted)).

We have considered Qian's remaining arguments and find them to be without merit. Accordingly, we **AFFIRM** the judgment of the district court. All pending motions are **DENIED**.³

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

The image shows a handwritten signature, "Catherine O'Hagan Wolfe", written in cursive. The signature is written over a circular official seal. The seal contains the text "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom.

³ See Doc. No. 15 (Qian's motion for "public rehearing," seeking as relief "[r]escission of summary judgment," a jury trial, "[t]he right to make public representations," and the "[e]limination of fear"); Doc. No. 24 (Qian's motion "on Contract Fraud and Discrimination"); Doc. No. 34 (Qian's "Motion for Summary Judgment Denied and Open Jury Trial," which includes what appears to be a thirty-nine page supplemental brief); Doc. No. 36 (Defendants' motion to strike Doc. No. 34 as an unauthorized supplemental brief and to dismiss the appeal for repeated rule violations); Doc. No. 52 (Qian's "Motion to Commence Jury Trial"); Doc. No. 54 (Qian's motion to strike Defendants' motion to strike and dismiss the appeal).

To begin, Rule 60(a) allows courts to grant relief when there has been a "clerical mistake or a mistake arising from oversight or omission." See also 12 James W. Moore, et al., *Moore's Federal Practice* § 60.11 1 [a] (3d ed. 2024) (stating that Rule 60(a) applies to situations where "the court intended to do one thing but, by virtue of a clerical mistake or oversight, did another" and not to "substantive errors in judgment"). Although Plaintiff invokes Rule 60(a), see ECF No. 56 at 1, 8, there was no clerical error here. Therefore, to the extent the motions are brought under Rule 60(a), it is denied.

The Rule 60(b) motion is likewise denied. Rule 60(b) motions "must be made in a reasonable time" and, when, as here, the motion is made based on subdivisions (1), (2), or (3), "no more than one year after the entry of the judgment." Fed R. Civ. P. 60(c)(1). The one-year deadline is "absolute." *Warren v. Garvin*, 219 F.3d 111, 114 (2000). An appeal does not toll the one-year limitation. See *Wyche v. Advanced Drainage Sys., Inc.*, 332 F.R.D. 109, 113 (S.D.N.Y. 2019) (citing *King v. First Am. Investigations, Inc.*, 287 F.3d 91, 94 (2d Cir. 2002)). Although the Court explicitly apprised Plaintiff of the time-sensitive nature of Rule 60 motions when judgment was entered and recommended resources for *pro se* litigants, see ECF No. 47, Plaintiff now seeks relief more than thirteen months after judgment, rendering the motion untimely. See *Scholastic Inc. v. Stouffer*, 217 F. App'x 15, 16 (2d Cir. 2007) (summary order) (affirming holding that Rule 60(b) motion filed within one year of appellate court's denial of motion for rehearing en banc and three years of district court judgment was untimely).

Even considering the Rule 60(b) motion on its merits, however, it fails. Under that rule, as relevant here, a party may seek relief from a final judgment or order based on (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b), and (3) fraud, misrepresentation, or misconduct by an opposing party. Fed. R. Civ. P. 60(b)(1)-(3). Such relief is reserved for "extraordinary circumstances." *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 864 (1988). The movant must provide "highly convincing material" in support of the request for relief, and relief under the rule is discretionary. *Leeber Realty LLC v. Trustco Bank*, No. 17-CV-2934 (KMK), 2019 WL 498253, at *3 (S.D.N.Y. Feb. 8, 2019) (quoting *United States v. Cirami*, 563 F.2d 26, 33) (2d Cir. 1977)).

Plaintiff has not adequately shown grounds for relief. With respect to Rule 60(b)(1), Plaintiff argues the Court failed to examine information relating to YouTube's Community Guidelines, highlighting certain excerpts of those Guidelines that were attached to his brief opposing the motion to dismiss. To the extent that Plaintiff is arguing that the Court made a "mistake" in the sense that Rule 60(b)(1) contemplates, the Court notes that it thoroughly addressed the relevant Community Guidelines and the Terms of Service in its ruling. See ECF No. 47 at 10-13. Plaintiff also claims the Court overlooked "the applicable EDSA policy standards" and "Strike Policy," but in support he offers only a series of screenshots of policies on YouTube's website that appear to have been taken in April 2025, and therefore may not have been applicable at the time of the underlying events at issue here, or at the time of the Court's ruling. See ECF No. 56 at 3, 14-31. Plaintiff also argues these screenshots constitute newly discovered evidence within the meaning of Rule 60(b)(2) and evidence that Defendants "conceal[ed] key provisions" regarding its Community Guidelines, "constitut[ing] a material misrepresentation by omission under Rule 60(b)(3)." ECF No. 56 at 4. Again, because of the date these screenshots were taken, they are not material to the dispute, nor could they indicate Defendants engaged in misconduct at the relevant time. For these reasons, Plaintiff's motions are denied. Signed by Judge Sarala V. Nagala on May 22, 2025. (Bergeson, S) (Entered: 05/22/2025)

APPENDIX — PART IV

Section 11

Order Denying Rehearing (Apr. 2, 2025)

(This order denied Appellant's petition for panel rehearing and
rehearing en banc.)

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 2nd day of April, two thousand twenty-five.

Haocheng Qian,

Plaintiff - Appellant,

v.

YouTube LLC., Google LLC.,

Defendants - Appellees.

ORDER

Docket No: 24-1116

Appellant, Haocheng Qian, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

Catherine O'Hagan Wolfe

The seal of the United States Court of Appeals for the Second Circuit is circular. It features the words "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom, separated by small stars.

**Additional material
from this filing is
available in the
Clerk's Office.**