

ORIGINAL

FILED

JUL 22 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

26 - 126

No. _____

In the Supreme Court of the United States

NELDA FINK,

Petitioner,

v.

PEVCO SYSTEMS INTERNATIONAL, INC., ET AL.,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE APPELLATE COURT OF MARYLAND

PETITION FOR WRIT OF CERTIORARI

Nelda Fink

PO Box 64
Millersville, MD 21108
(530) 325-3111
nfink@litebiz.net

Pro Se Petitioner

JULY MMXXVI

United States Commercial Printing Company • www.uscpc.us • (202) 866-8558

QUESTION PRESENTED

What adjudicative safeguards are required by the Due Process Clause before a state court may permanently extinguish protected state-law causes of action at the pleading stage after proposed amendments directed at curing the identified deficiencies have been submitted?

PARTIES TO THE PROCEEDINGS

Petitioner, and plaintiff-appellant below is Nelda Fink.

Respondents, and defendants-appellees below are Pevco Systems International, Inc. and Lauren Upton.

RELATED PROCEEDINGS

Circuit Court of Maryland, Baltimore County:

Nelda Fink v. Pevco Systems International, Inc., et al., No. C-03-CV-24-001408 (Dec. 31, 2024) (dismissal with prejudice)

Appellate Court of Maryland:

Nelda Fink v. Pevco Systems International, Inc., et al., No. 28 (Jan. 2, 2026) (*per curiam* opinion affirming circuit court)

Supreme Court of Maryland:

Nelda Fink v. Pevco Systems International, Inc., et al., No. 468 (May 26, 2026) (discretionary review denied)

TABLE OF CONTENTS

Question Presented	i
Parties to the Proceedings	ii
Related Proceedings	ii
Table of Authorities.....	vi
Opinions Below	1
Jurisdiction	1
Constitutional and Statutory Provisions Involved	1
Statement of the Case	1
Reasons for Granting the Petition.....	5
I. The Decisions Below Violated Fink's Due Process Right to Meaningful Process Before Permanent Deprivation of a Property Interest.....	6
A. State-Created Causes of Action Receive Independent Protection Under the Due Process Clause	6
B. The Due Process Clause Requires Adjudicative Safeguard Sufficient to Reduce the Risk of Erroneous Deprivation	9
C. Denial of Leave to Amend Before Dismissal with Prejudice Raises a Distinct Due Process Concern.....	12
II. The Courts Did Not Apply Constitutionally Adequate Procedures	14
A. The Circuit Court Never Addressed Whether the Proposed Third Amended	

	Complaint Remedied the Specific Deficiencies	14
B.	The Appellate Court Relied on Procedural History Rather Than Evaluating the Proposed Amendments	16
C.	The Record Demonstrates the Absence of Traceability and Reviewability	17
D.	<i>Mathews</i> Requires Adjudicative Safeguards Sufficient to Reduce the Risk of Erroneous Deprivation	19
III.	The Question Presented is Capable of Recurring in Pleadings-Stage Dismissals..	22
A.	Pleadings-Stage Dismissals Commonly End Before Merits Review	22
B.	Existing Pleadings Rules Do Not Resolve the Constitutional Question Presented	24
IV.	This Case is an Ideal Vehicle for Resolving the Question Presented	26
A.	The Procedural Posture is Clean	26
B.	The Issue was Preserved and Fully Developed Below.....	27
	Conclusion	29

Appendix

Appendix A

Per Curiam Opinion [not precedential], Appellate Court of Maryland, *Nelda Fink v. Pevco Systems International, Inc., et al.*,
 No. 28 (Jan. 2, 2026) App-1

Appendix B

Order [second amended complaint dismissed with prejudice], Circuit Court of Maryland, Baltimore County, *Nelda Fink v. Pevco Systems International, Inc., et al.*,
 No. C-03-CV-24-001408 (Dec. 31, 2024) App-9

Appendix C

Order [leave to amend/alter denied], Circuit Court of Maryland, Baltimore County, *Nelda Fink v. Pevco Systems International, Inc., et al.*,
 No. C-03-CV-24-001408 (Mar. 5, 2025) App-11

Appendix D

Notice of Order [discretionary review denied], Supreme Court of Maryland, *Nelda Fink v. Pevco Systems International, Inc., et al.*,
 No. 468 (May 26, 2026) App-16

Appendix E

Motion for Leave to Amend the Complaint and Denial Order, Circuit Court of Maryland, Baltimore County, *Nelda Fink v. Pevco Systems International, Inc., et al.*,
 No. C-03-CV-24-001408 (Nov. 26, 2024) ... App-17

TABLE OF AUTHORITIES

Cases

<i>Ashcroft v. Iqbal</i> , 556 U. S. 662 (2009)	6, 22–23
<i>Bell Atlantic Corp. v. Twombly</i> , 550 U. S. 544 (2007)	6, 22
<i>Board of Regents of State Colleges v. Roth</i> , 408 U. S. 564 (1972)	7
<i>Foman v. Davis</i> , 371 U. S. 178 (1962)	12–13, 24
<i>Logan v. Zimmerman Brush Co.</i> , 455 U. S. 422 (1982)	7–8, 13
<i>Lott v. Governors State University</i> , 106 Ill. App. 3d 851 (1982)	7
<i>Mathews v. Eldridge</i> , 424 U. S. 319 (1976)	7–9, 11, 19–20, 24
<i>Reynoldson v. Shillinger</i> , 907 F. 2d 124 (CA10 1990)	19
<i>RRC Northeast, LLC v. BAA Maryland, Inc.</i> , 413 Md. 638 (2010)	4, 16–17, 21, 24
<i>Vail v. Board of Education of Paris Union School District No. 95</i> , 706 F. 2d 1435 (CA7 1983)	10

Constitutional Provisions, Statutes, and Rules

U. S. Const., Amdt. XIV, §1	1, 8
28 U. S. C. §1257(a)	1, 11
S. Ct. R. 10(c)	5

Fed. R. Civ. P. 15(a)	24
Maryland Rule 2-341	24

OPINIONS BELOW

The Appellate Court's opinion is reproduced in the Appendix at App.1-8. The decisions of Baltimore County are reproduced in the Appendix at App. 9-15. The Supreme Court of Maryland's order is reproduced in the Appendix at App. 16.

JURISDICTION

The Appellate Court of Maryland's decision was entered on January 2, 2026. The Supreme Court of Maryland denied discretionary review on May 26, 2026. This Court has jurisdiction under 28 U. S. C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U. S. Const., Amdt. XIV, §1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.

STATEMENT OF THE CASE

This case presents a fundamental question of procedural due process:

1. On April 17, 2024, Petitioner Nelda Fink, a *pro se* litigant, filed a five-count complaint in the Circuit Court for Baltimore County, Maryland, against her

former employer, Respondent Pevco Systems International, Inc., and its counsel, Respondent Lauren Upton. App. 2. The claims arose from the termination of her employment and related conduct, and included counts for wrongful termination in violation of public policy and abuse of process.

2. After initial motions to dismiss, the circuit court granted Fink leave to amend. In July 2024, Fink filed a First Amended Complaint correcting one count. App. 3. After Respondents challenged that amendment on technical procedural grounds, the court again granted leave to amend. On October 3, 2024, Fink filed her Second Amended Complaint (App. 3), which was her first complete, substantive revision of all claims against all parties.

3. Respondents moved to dismiss the Second Amended Complaint, arguing primarily that its allegations were “conclusory” and failed to state a claim.

4. In direct response, on October 21, 2024, Fink moved for leave to file a Third Amended Complaint. App. 17. The proposed amendments were specifically targeted at curing the asserted deficiencies identified by Respondents. That motion was denied without a hearing on November 26, 2024 (App. 20), the order stating “The Motion to Amend the Second Amended Complaint is Denied. The proposed Amendment will cause a further delay without addressing the substantive grounds in support of the Motion to Dismiss.”

5. The circuit court held a hearing on the motions to dismiss on December 27, 2024. App. 9. At the hearing, Fink orally renewed her request to amend, representing that she had prepared a proposed Third Amended Complaint that differed from the version previously denied (App. 9) and was specifically

directed at curing the conclusory deficiencies identified by Respondents.

6. Fink also presented orally point-by-point references identifying the essential elements of each claim, the allegations supporting those elements, and the proposed amendments directed at the asserted pleading deficiencies, and offered that structured analytical reference to the court in hard copy as supporting documentation. The court declined to accept the hard-copy reference.

7. On December 31, 2024, the circuit court issued an order dismissing the Second Amended Complaint with prejudice (App. 10) and denying Fink's oral renewal of the motion for leave to amend. The court's reasoning for denying further amendment was that this was Fink's "fifth occasion" to amend and that "[t]his process of continuing to amend the complaint would never permit this matter to proceed, much less come to a conclusion." *Ibid.* The order is silent on whether the newly proposed amendments remedied the pleading deficiencies on which dismissal was based and fails to address any legal authority for denying Fink's oral request for leave to amend.

8. Fink timely filed a Motion to Alter or Amend Judgment (MTAA), requesting that the court provide findings of fact and conclusions of law for its dismissal. On March 5, 2025, the court denied the MTAA but, for the first time, provided a count-by-count analysis of the claims. App. 11. That analysis confirmed that the court had based its dismissal entirely on its assessment of the Second Amended Complaint. The court's order made no mention of the proposed revised Third Amended Complaint and did not evaluate whether the specific cures offered by Fink would have remedied

the deficiencies it identified. The court simply repeated that further amendment was denied because Fink had “three attempts at addressing the deficiencies” and was seeking “to delay the proceedings.” App. 14.

9. The Appellate Court of Maryland affirmed in an unreported per curiam opinion. App. 1. The court acknowledged that “leave to amend complaints should be granted freely” and that “it is the rare situation in which a court should not grant leave to amend.” (quoting *RRC Northeast, LLC v. BAA Md., Inc.*, 413 Md. 638, 673 (2010)), App. 8. Nevertheless, the court affirmed the dismissal because the Second Amended Complaint “alleged fewer facts than either of the previous versions of her complaint,” and because “allowing Fink to keep trying to fix the pleading defects would prejudice Upton and Pevco and cause undue delay.” App. 8. Like the circuit court, the Appellate Court never addressed Fink’s preserved contention that the proposed revised Third Amended Complaint—which was specifically represented at the December 27, 2024 oral hearing as curing the identified deficiencies—would have remedied the very insufficiencies the courts relied upon to justify permanent dismissal.

10. The Supreme Court of Maryland denied Fink’s timely petition for a writ of certiorari on May 26, 2026. App. 16.

REASONS FOR GRANTING THE PETITION

This case presents an important and recurring question regarding the minimum procedural safeguards required by the Due Process Clause before a litigant is permanently deprived of a state-created cause of action. The courts below permanently extinguished Petitioner's state-created causes of action, without ever evaluating whether the specific amendments she offered would have cured the very deficiencies they relied on to justify dismissal. Instead, they relied on procedural history—the number of prior amendments—and generalized concerns about delay to deny any further opportunity to be heard on the merits.

The question presented extends beyond Maryland. Pleading-stage dismissals increasingly determine the outcome of civil litigation in both state and federal courts before discovery. When proposed amendments are submitted to cure identified deficiencies, the absence of a *reasoned adjudicative* evaluation leaves reviewing courts unable to determine whether dismissal rests on legal insufficiency or on an unexplained rejection of the proposed cure. Without a reasoned and traceable analytical path connecting the identified deficiency, the proposed cure, and the ultimate dismissal, the risk of erroneous deprivation is substantially increased.

This petition is brought under S. Ct. R. 10(c). No court has yet addressed whether the Due Process Clause imposes minimum adjudicative safeguards before a State permanently extinguishes a protected state-law cause of action at the pleading stage after proposed amendments have been submitted. The

question is not one of circuit conflict but one of first impression of an important federal constitutional question that should be settled by this Court. The importance of the question is magnified by the post-*Twombly* and *Iqbal* landscape, in which pleading-stage dismissals have become a primary dispositive motion in civil litigation nationwide. Every jurisdiction that confronts a motion to dismiss with proposed amendments must determine whether the procedures employed before permanent dismissal satisfy the Due Process Clause, yet no court has articulated the constitutional minimum.

This Court's review is warranted to provide that guidance; to clarify the minimum adjudicative safeguards required before a State permanently extinguishes a protected cause of action at the pleading stage. The Due Process Clause should require procedures sufficient to permit meaningful appellate review by preserving a traceable analytical path from the identified pleading deficiencies, through the proposed cures, to the court's determination that the claims remain legally insufficient.

I. The Decisions Below Violated Fink's Due Process Right to Meaningful Process Before Permanent Deprivation of a Property Interest

A. State-Created Causes of Action Receive Independent Protection Under the Due Process Clause

The Due Process Clause of the Fourteenth Amendment protects liberty and property interests that constitute more than an "abstract need or desire"; they must amount to a "legitimate claim of entitlement."

Board of Regents of State Colleges v. Roth, 408 U. S. 564, 577 (1972). This Court has further held that state-created causes of action may constitute protected property interests within the meaning of the Due Process Clause.

In *Logan v. Zimmerman Brush Co.*, this Court held that a plaintiff's state-created cause of action and the right to invoke the State's adjudicatory procedures constituted "a species of property protected by the Due Process Clause." 455 U. S. 422, 428 (1982). The Court explained that "[t]he State may not finally destroy a property interest without first giving the putative owner an opportunity to present his claim of entitlement." *Id.*, at 434.

Once state law creates a legitimate claim of entitlement, the resulting property interest receives independent protection under the Due Process Clause and may not be arbitrarily deprived by the State. Courts applying *Logan* have consistently recognized the due process protection afforded to state-created adjudicatory rights. See, e. g., *Lott v. Governors State University*, 106 Ill. App. 3d 851, 855 (1982).

Logan arose in the context of an administrative proceeding, but the principle it recognized is not limited to that context. The Court's holding rested on the recognition that the state-created cause of action itself—not merely the particular administrative mechanism used to adjudicate it—constituted a protected property interest. *Logan*, 455 U. S. 428–29. Once a property interest is identified, the procedural due process question is governed by the Mathews framework regardless of whether the forum is administrative or judicial. The forum may differ, but the constitutional protection does not. When a state court permanently

extinguishes an accrued state-law cause of action, the Due Process Clause requires the same protection against arbitrary deprivation that *Logan* recognized.

The decision below is in direct tension with *Logan*. When Fink filed her complaint, Maryland law afforded her accrued causes of action together with the right to invoke Maryland's adjudicatory procedures. The courts nevertheless permanently dismissed those claims before adjudication on the merits through procedures that Fink contends were constitutionally inadequate.

By permanently extinguishing Fink's state-created causes of action without constitutionally adequate process, the decision below effected the very type of final deprivation of property that *Logan* held the Fourteenth Amendment forbids. If left undisturbed, the decision below narrows the constitutional protection recognized in *Logan* by permitting a State to permanently extinguish accrued causes of action through procedures inconsistent with the Due Process Clause.

Because Fink's accrued causes of action constitute protected property interests under *Logan*, the remaining constitutional question is whether the procedures employed before those interests were permanently extinguished satisfied the requirements of the Due Process Clause. That question is answered through the balancing framework established in *Mathews v. Eldridge*, 424 U. S. 319 (1976).

**B. The Due Process Clause Requires
Adjudicative Safeguard Sufficient to
Reduce the Risk of Erroneous
Deprivation**

Because Petitioner's accrued causes of action constitute protected property interests, the adequacy of the procedures employed before those interests were permanently extinguished is governed by the balancing framework established in *Mathews*. The fundamental requirement of due process is "the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews*, 424 U. S. 333 (citations and internal quotation marks omitted).

Determining what process is due requires consideration of three factors:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Id., at 335.

Application of the *Mathews* factors here demonstrates that the procedure employed by the Maryland courts was constitutionally deficient. First, the private interest is substantial because dismissal with prejudice permanently and irrevocably extinguishes an accrued state-law cause of action. Such a dismissal has been described as the *death penalty of litigation* because it forever forecloses judicial redress.

Second, the risk of erroneous deprivation is exceptionally high when a court permanently dismisses an action without evaluating a proposed cure. Without considering whether the proposed amendments remedy the identified deficiencies, the court necessarily decides legal sufficiency without evaluating all of the allegations the litigant seeks to place before it.

The value of the additional safeguard is significant. Requiring the court to evaluate the proposed amendments before permanently dismissing the action materially reduces the risk of erroneous deprivation by ensuring that dismissal rests upon the legal insufficiency of the amended allegations rather than upon the procedural history of the litigation. Such a requirement ensures that a dismissal for insufficiency rests on a determination that the claim is *actually* incurable, not on a court's impatience with the litigant or the procedural history. It provides "a meaningful opportunity to guard against the risk of a wrongful or erroneous decision." *Jesse A. Vail v. Board of Education of Paris Union School District No. 95, Terrance C. Parks, Charles R. Fox and Bernie Rinehart*, 706 F.2d 1435, 1441 (CA7 1983).

Finally, the government's interest in efficiency and avoiding delay does not outweigh the first two factors. The additional procedural safeguard at issue imposes only a minimal burden: it requires a court to read a proposed amended complaint and articulate why, even with the new allegations, the claims remain legally insufficient. This is a core judicial function, not a burdensome addition. Judicial efficiency is not measured solely by the speed with which cases are terminated, but also by the accuracy and fairness of the procedures leading to final judgment. The additional

safeguard therefore imposes only a minimal burden while materially reducing the risk of erroneous deprivation.

The *Mathews* balancing test therefore demonstrates that due process is not satisfied merely because a litigant receives notice and an opportunity to submit papers. When the State permanently extinguishes a protected property interest, the procedures employed must also culminate in a decision sufficiently reasoned to provide constitutionally adequate safeguards against the risk of erroneous deprivation and to permit meaningful appellate review.

Fink was afforded notice and an opportunity to be heard. The constitutional question, however, is not whether a hearing occurred, but whether the adjudicative procedures employed were sufficient to provide constitutionally adequate safeguards against the risk of erroneous deprivation before Petitioner's protected property interest was permanently extinguished. As Part II, *infra*, demonstrates, the record below permits that question to be answered directly because the relevant procedural decisions were preserved at every stage of the litigation. This petition does not challenge the Maryland courts' authority to exercise discretion in denying leave to amend. It challenges the adequacy of the procedures employed before Petitioner's protected property interest was permanently extinguished. The distinction is between an *incorrect exercise of discretion*—a matter of state law—and the employment of constitutionally inadequate procedures before final deprivation—a matter of federal constitutional law cognizable under 28 U.S.C. § 1257(a).

**C. Denial of Leave to Amend Before
Dismissal with Prejudice Raises a
Distinct Due Process Concern**

The principle that leave to amend should be freely given reflects the longstanding preference that cases be resolved on their merits rather than on pleading technicalities. In *Foman v. Davis*, this Court held that leave to amend should be "freely given" and that an "outright refusal to grant the leave without any justifying reason appearing for the denial is not an exercise of discretion; it is merely abuse of that discretion." 371 U. S. 178, 182 (1962). Although *Foman* recognizes that leave to amend may properly be denied for legitimate reasons, those reasons must be applied to the amendment actually before the court.

That principle takes on constitutional significance when, as here, denial of amendment results in the permanent extinguishment of state-created causes of action protected by the Due Process Clause. Under *Logan*, the State may not finally destroy such a property interest without constitutionally adequate procedures. Those procedures should require detailed reasoned evaluation of proposed amendments offered to cure the identified deficiencies before the State permanently extinguishes the protected property interest. Without such an evaluation, there is no principled basis for determining whether the identified deficiencies remain or have been cured.

That analytical evaluation path need not be lengthy. Due process does not require an extensive opinion. It requires only enough explanation to permit a reviewing court to trace the court's reasoning from the identified pleading deficiency, through the proposed

amendment, to the conclusion that the amendment remains legally insufficient. A court cannot rationally conclude proposed amendments do *not* cure the deficiencies without evaluating them. Without that minimal evaluation and explanation, meaningful appellate review becomes impossible, and the permanent dismissal rests on assertion rather than analysis.

Petitioner's interest in preserving her state-created causes of action is substantial. The risk of erroneous deprivation is significant where a court permanently dismisses claims without evaluating proposed amendments directed at the identified deficiencies.

The record below also demonstrates why that analytical path matters. It shows that Petitioner's proposed amendments were submitted to cure the identified pleading deficiencies, yet neither court evaluated whether those proposed amendments accomplished that objective before permanently dismissing Fink's claims.

Instead, the courts relied upon the number of prior amendment attempts together with generalized concerns regarding delay and prejudice, without explaining why the proposed amendments failed to cure the identified pleading deficiencies. The resulting dismissal permanently extinguished Fink's state-created causes of action without the constitutionally adequate procedures required by *Logan* and without the reasoned exercise of discretion contemplated by *Foman*.

II. The Courts Did Not Apply Constitutionally Adequate Procedures

The constitutional principles discussed above are tested against the record developed below. The following sections examine whether the procedures employed before Fink's claims were permanently dismissed provided constitutionally adequate adjudicative safeguards against the risk of erroneous deprivation.

A. The Circuit Court Never Addressed Whether the Proposed Third Amended Complaint Remedied the Specific Deficiencies

On November 26, 2024, the circuit court denied Fink's motion to amend the Second Amended Complaint without identifying any recognized legal basis for denying leave to amend. Instead, it simply stated: "The Motion to Amend the Second Amended Complaint is Denied. The proposed amendment will cause a further delay without addressing the substantive grounds in support of the Motion to Dismiss." App. 20. The order identified no pleading deficiency, addressed none of Fink's proposed amendments, and did not explain why the proposed amendments failed to remedy the deficiencies relied upon to justify dismissal. Consequently, the order provided no traceable analytical path from the identified deficiencies to the denial of amendment, impairing meaningful appellate review.

The circuit court acknowledged the existence of the proposed revised Third Amended Complaint and that it differed from the version previously denied when in its orders to dismiss it stated "[Fink] advised the Court that the third amended complaint that she now

wished to provide would not be the same amended complaint which was previously denied.” App. 9. Fink informed the court that the revised proposed amendment differed from the version previously denied and was submitted to cure the identified pleading deficiencies.

Nevertheless, the circuit court’s December 31, 2024 order dismissed Fink’s claims with prejudice but did not engage with the substance of the proposed revised Third Amended Complaint. App. 9–10. Rather than evaluating the legal sufficiency of the revised proposed amendments, the court treated the *number of prior amendments* as dispositive (“fifth occasion” App. 10), not the legal sufficiency of the proposed amendments. The order cited no recognized legal basis for denying leave to amend, and did not identify which deficiencies remained uncured or explain why the newly proposed allegations remained legally insufficient.

Even in its subsequent order of March 5, 2025, denying the Motion to Alter or Amend, the circuit court continued to rely on the number of prior amendment attempts (“...three attempts...” App. 14), rather than evaluating the revised proposed amendments. That rationale does not correspond to the recognized grounds governing leave to amend under Maryland procedure and confirms that the court’s analysis remained limited to the sufficiency of the Second Amended Complaint. App. 14. At no point did the circuit court evaluate whether the proposed cures in the proposed revised Third Amended Complaint would state a legally sufficient claim. Accordingly, the record contains no traceable analytical evaluation of whether the revised proposed amendments remedied the

identified pleading deficiencies before Petitioner's claims were permanently dismissed.

**B. The Appellate Court Relied on
Procedural History Rather Than
Evaluating the Proposed Amendments**

The Appellate Court of Maryland acknowledged Maryland's liberal amendment policy, citing *RRC Northeast, LLC v. BAA Maryland, Inc.*, 413 Md. 638, 673 (2010), for the proposition that "it is the rare situation in which a court should not grant leave to amend." App. 8. The Appellate Court also recognized Fink's request for leave to amend, stating "[w]e review the denial of a request for leave to amend for abuse of discretion..." *Ibid.* Nevertheless, the Appellate Court affirmed based upon the procedural history—Petitioner's "multiple opportunities" to amend, its observation that the Second Amended Complaint "alleged fewer facts than either of the previous versions," and its conclusion that "allowing Fink to keep trying to fix the pleading defects would prejudice Upton and Pevco and cause undue delay." *Ibid.*

At no point did the appellate court evaluate whether either the proposed Third Amended Complaint or the proposed revised Third Amended Complaint remedied those deficiencies. Fink consistently maintained that her proposed amendments remedied the pleading deficiencies identified by Respondents and repeatedly requested that the courts evaluate those proposed cures before permanently dismissing her claims.

Accordingly, the Appellate Court affirmed without supplying the reasoned evaluation necessary to permit meaningful review of whether the proposed

amendments remedied the deficiencies relied upon to justify dismissal. That omission is reflected throughout the record and demonstrates the absence of both traceability and reviewability.

C. The Record Demonstrates the Absence of Traceability and Reviewability

As used in this Petition, “traceability” means the ability to trace the court’s reasoning from the identified pleading deficiency, to the proposed amendment directed at that deficiency (proposed cure), and finally to the court’s conclusion that the proposed amendment remains legally insufficient.

Under Maryland law, the only recognized grounds for denying leave to amend are prejudice, undue delay, and futility—where the claim is “flawed irreparably.” *RRC Northeast*, 413 Md., at 673–74. The constitutional deficiency revealed by the record is that neither court’s orders disclose an evaluation of the proposed cures under any of these recognized grounds before Fink’s protected property interest was permanently extinguished. The orders do not identify which substantive grounds remained unaddressed, explain why any delay was undue, or evaluate whether the proposed amendments remedied the identified deficiencies.

The November 26, 2024 order of the circuit court denying leave to amend stated only “[t]he proposed Amendment will cause a further delay without addressing the substantive grounds in support of the Motion to Dismiss.” App. 20. The order identified no pleading deficiency, evaluated none of Fink’s proposed amendments, and did not explain why the proposed amendments failed to remedy the deficiencies relied

upon to justify dismissal. The order therefore provided no traceable analytical path connecting the identified deficiencies to the denial of amendment.

The circuit court's dismissal orders were likewise silent as to whether the proposed amendments remedied the identified pleading deficiencies. Instead, they relied upon the number of amendment attempts and delay—considerations not recognized by Maryland law as independent grounds for denying leave to amend. Nor did the circuit court address the Petitioner's point-by-point analysis (structured analytical reference) specifically identifying how the proposed amendment addressed each and every one of the asserted deficiencies (Statement of the Case ¶ 6) which was presented at the oral hearing, the very structured analytical reference that would have provided the traceability.

The Appellate Court likewise performed none of the evaluations contemplated by the recognized Maryland grounds governing denial of leave to amend. Instead, it again relied upon the number of amendment attempts and the number of factual allegations ("which was Fink's third pleading attempt, alleged fewer facts than either of the previous versions." App. 8), considerations that neither satisfy the Maryland framework nor supply the adjudicative safeguards Petitioner contends the Due Process Clause requires.

Neither court identified specific prejudice to Respondents, analyzed whether any delay was undue, or determined whether the proposed amendments remained "flawed irreparably" after Fink's proposed cures. The statement that the amendment did not "address[] the substantive grounds" in support of the Motion to Dismiss (App. 3) was a conclusory

characterization, not an evaluation of whether the proposed cure remedied the identified deficiencies. Thus, neither court supplied either the analysis contemplated by Maryland's amendment framework or the adjudicative safeguard Fink contends the Due Process Clause requires before permanently extinguishing a protected property interest.

The absence of a reasoned evaluation path deprived the proceedings of traceability and rendered meaningful appellate review impossible. As a result, Fink's protected property interest was permanently extinguished through procedures that rested upon assertion rather than analysis.

D. *Mathews* Requires Adjudicative Safeguards Sufficient to Reduce the Risk of Erroneous Deprivation

The *Mathews* framework requires more than notice and an opportunity to be heard. It requires procedures sufficient to reduce the risk of erroneous deprivation before a protected property interest is permanently extinguished. Fink was afforded a hearing on the motions to dismiss, but due process is not satisfied merely because a litigant is permitted to speak or submit papers. The relevant inquiry is whether the procedures employed adequately protected against the risk of erroneous deprivation.

The record demonstrates that neither court evaluated whether Fink's proposed amendments remedied the identified pleading deficiencies before permanently dismissing her claims. This failure to evaluate the proposed cures is precisely the procedural defect that creates the risk of erroneous deprivation against which *Mathews* is directed. See *Reynoldson v.*

Shillinger, 907 F.2d 124, 126 (CA10 1990) (where a defect can be cured, dismissal with prejudice without considering amendment is an abuse of discretion).

In the instant case, the hearing did not serve that constitutional function because neither court evaluated Fink's proposed amendments, which were offered specifically to cure the pleading deficiencies identified by Respondents. A hearing that culminates in the permanent extinguishment of a protected property interest without consideration of the proposed cure does not meaningfully reduce the risk of erroneous deprivation.

The Due Process Clause is not satisfied when a court permanently extinguishes a protected property interest based solely upon the sufficiency of the dismissed pleading without evaluating the proposed amendments submitted before dismissal became final. Under *Mathews*, the relevant constitutional inquiry is whether the procedures employed created an unacceptable risk of erroneous deprivation. The procedural safeguard at issue is a reasoned evaluative process that permits a reviewing court to trace the court's reasoning from the identified pleading deficiency, through the proposed amendment directed at that deficiency, to the conclusion that the proposed cure remains legally insufficient.

The traceability described above provides precisely the type of procedural safeguard contemplated by *Mathews*. Without a traceable analytical path from the identified pleading deficiencies, through the proposed cures, to the court's determination that the amended allegations remain legally insufficient, a reviewing court cannot determine whether the risk of erroneous deprivation has been adequately reduced.

When a court permanently dismisses state-created causes of action after proposed amendments have been submitted, due process requires a procedure sufficient to permit meaningful review of whether the proposed amendments cured the identified deficiencies. Maryland law supplies the *procedural* framework by requiring courts to determine whether amendment would result in undue prejudice, undue delay, or futility. *RRC Northeast*, 413 Md., at 673-74. That determination necessarily requires the court to evaluate the proposed amended allegations against the asserted pleading deficiencies. Here, neither court performed that analysis.

Instead, the circuit court denied amendment based principally on the number of prior amendment attempts and a conclusory assertion that the proposed amendment failed to address the motion to dismiss, while the appellate court affirmed without evaluating whether the proposed amendments cured the identified deficiencies under Maryland's governing standard. The courts also declined to consider Fink's structured analytical reference, which was offered to facilitate evaluation of the proposed cures before permanent dismissal (Statement of the Case ¶ 6).

The absence of any analysis under a recognized Maryland ground is itself the due process violation. The courts permanently terminated Fink's claims without employing the very procedure that would have ensured the dismissal rested on legal insufficiency rather than procedural fatigue. Without either the structured analytical reference or a reasoned evaluation path of the proposed cures, it is impossible to determine whether dismissal rests on the legal insufficiency of allegations accepted as true, or on an

unexplained rejection of proposed cures before factual development.

The lower courts' failure to provide this minimal procedural safeguard rendered the dismissal arbitrary and violated Fink's due process rights. The adjudicative safeguard Fink proposes is therefore not an innovation, but the minimal procedural mechanism necessary to ensure that permanent dismissal rests upon legal insufficiency rather than an unreviewable rejection of proposed cures. Because that safeguard was absent here, the lower courts permanently extinguished Fink's protected property interest through procedures that created an unacceptable risk of erroneous deprivation in violation of the Due Process Clause.

III. The Question Presented is Capable of Recurring in Pleadings-Stage Dismissals

The question presented is not confined to this case. Motions to dismiss, requests for leave to amend, and pleading-stage dismissals are routine features of civil litigation in both state and federal courts. The constitutional question therefore recurs whenever courts permanently dismiss claims after proposed amendments have been submitted to cure identified pleading deficiencies, making this an issue of recurring importance in the ordinary administration of civil justice.

A. Pleadings-Stage Dismissals Commonly End Before Merits Review

In the wake of this Court's decisions in *Bell Atlantic Corp. v. Twombly*, 550 U. S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U. S. 662 (2009), the motion to dismiss has become a routine feature in civil litigation. Courts

are regularly required to determine whether pleadings contain sufficient factual matter to state a plausible claim for relief. The "plausibility standard" requires plaintiffs to plead factual content that allows a court "to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U. S., at 678.

Requests for leave to amend have therefore become a routine consequence of pleading-stage dismissals. The increased use of pleading-stage dismissals has correspondingly heightened the significance of decisions denying leave to amend. For many plaintiffs, the denial of leave to amend following a successful motion to dismiss marks the end of their case. When permanent dismissal occurs before discovery, the constitutional adequacy of the procedures employed becomes especially important because those procedures determine whether the litigant will ever receive an adjudication on the merits.

Although jurisdictions employ different pleading and amendment rules, every jurisdiction must determine whether a complaint states a legally sufficient claim under its governing pleading standard when proposed amendments are submitted to cure identified deficiencies. Those rules identify the substantive standards governing dismissal and amendment, but they do not answer the constitutional question presented here concerning the adjudicative safeguards required before a protected property interest may be permanently extinguished.

The constitutional question presented arises when a court must determine whether proposed amendments remedy identified pleading deficiencies before permanently dismissing an action with prejudice.

Because that determination may permanently extinguish a protected property interest before any adjudication on the merits, the Due Process Clause requires procedures sufficient to reduce the risk of erroneous deprivation. *Mathews*, 424 U. S., at 335. The question presented is whether those procedures must include a reasoned evaluation of the proposed amendments before the action may be permanently terminated.

**B. Existing Pleadings Rules Do Not
Resolve the Constitutional Question
Presented**

The constitutional question presented does not arise because jurisdictions lack pleading and amendment rules. It arises because those rules govern *when* amendment may be denied, while the Due Process Clause governs the minimum adjudicative safeguards required before a protected property interest may be permanently extinguished. The existence of procedural rules identifying recognized grounds for denying amendment therefore does not answer the constitutional question presented here.

Both the federal and Maryland systems illustrate that distinction. Fed. R. Civ. P. 15(a), as interpreted in *Foman*, identifies recognized grounds for denying leave to amend, including undue delay, prejudice, bad faith, repeated failure to cure deficiencies, and futility. Likewise, Maryland Rule 2-341, as interpreted in *RRC Northeast*, recognizes undue prejudice, undue delay, and futility as the governing considerations. These authorities define the circumstances under which amendment may properly be denied. They do not define the adjudicative safeguards required by the Due Process Clause before a court permanently

extinguishes a protected property interest through a pleading-stage dismissal.

The adjudicative safeguard proposed here does not require lengthy opinions or exhaustive discussion of every allegation. It requires only enough analysis to demonstrate that the court evaluated the *proposed amendments in relation to* the identified *pleading deficiencies* before permanently dismissing the claims. That evaluation should permit the analytical path to be traced from the identified deficiency, through the proposed amendment offered to remedy it, to the court's determination that the claims in the amendment remain legally insufficient. Only then can it be determined whether the procedures employed adequately reduced the risk of erroneous deprivation before the protected property interest was permanently extinguished.

Accordingly, the question presented remains unresolved despite the existence of established pleading and amendment rules. Whether the recognized grounds for denying amendment are labeled prejudice, delay, futility, or otherwise, the constitutional question is the same: *What adjudicative safeguards are required before a court may permanently dismiss claims after proposed amendments have been submitted to cure the identified pleading deficiencies?* Resolution of that question would provide constitutional guidance applicable regardless of the particular pleading or amendment rules employed by an individual jurisdiction.

The existence of these procedural rules does not foreclose the constitutional question. To the contrary, the persistence of the practice challenged here—courts denying amendment and dismissing with

prejudice without evaluating proposed cures—demonstrates that existing procedural rules, however well-crafted, do not by themselves ensure the adjudicative safeguards the Due Process Clause may require. The question presented is whether the Constitution imposes a minimum procedural floor below which no court may go before permanently extinguishing a protected property interest, regardless of the procedural rules the jurisdiction otherwise provides. That question is distinct from whether a court correctly applied its own procedural rules and is therefore a question of federal constitutional law appropriate for this Court's review.

IV. This Case is an Ideal Vehicle for Resolving the Question Presented

A. The Procedural Posture is Clean

This case presents the question in a clean procedural posture. The action was terminated at the pleading stage, before any answer was filed, before discovery, and before summary judgment or trial. The record is not complicated by factual disputes, evidentiary rulings, or other matters that might obscure the central constitutional issue and therefore presents the constitutional question in isolation. The constitutional question was preserved at each stage of the proceedings and may therefore be resolved on the existing record without addressing collateral procedural or factual issues.

Significantly, Fink did not merely request another opportunity to amend. She presented the courts with a structured analytical reference identifying the pleading deficiencies asserted by Respondents, the allegations supporting each challenged claim, and the

proposed amendments directed at curing each asserted deficiency. (See Statement of the Case ¶ 6.) The courts nevertheless permanently dismissed the action without engaging that analytical reference. Accordingly, this case presents the constitutional question on a record that demonstrates both the procedural safeguard Fink's proposed and the absence of its application.

The record therefore permits this Court to determine whether the Due Process Clause requires the type of reasoned evaluation and traceable analytical path Fink contends were constitutionally absent here. Resolution of the question presented does not depend upon disputed facts, but upon the constitutional adequacy of the procedures reflected in the existing record.

B. The Issue was Preserved and Fully Developed Below

Fink squarely presented the due process issue to the state courts. In her Motion to Alter or Amend Judgment, she argued that permanently dismissing her claims with prejudice, without evaluating the proposed amendments and without providing a reasoned basis for doing so violated her right to a meaningful hearing and meaningful process. She renewed those arguments in the Appellate Court of Maryland. The state courts therefore had a full opportunity to consider and resolve the constitutional question presented here.

The omission identified here cannot be attributed to an undeveloped record, lack of preservation, or uncertainty regarding the proposed amendments. Fink supplied the court with a structured analytical

reference specifically designed to facilitate a reasoned evaluation of the proposed amendments. It identified each asserted pleading deficiency, the allegations supporting the challenged claim, and the proposed amendment directed at curing that deficiency, thereby providing a straightforward analytical framework from which a traceable analytical path could have been developed. The courts nevertheless declined to engage that framework before permanently dismissing the action with prejudice.

This case is therefore an unusually suitable vehicle for resolving the question presented. The constitutional safeguard Fink proposes was not conceived after judgment to challenge the dismissal. It was presented to the lower courts before the action was permanently dismissed, yet the record demonstrates that it was never employed. The question presented is therefore resolved on an existing record that squarely reflects both the proposed safeguard and its omission.

CONCLUSION

This Court should grant certiorari to resolve the important constitutional question presented concerning the adjudicative safeguards required by the Due Process Clause before a State permanently extinguishes protected property interests through pleading-stage dismissal.

Respectfully submitted.

Nelda Fink
PO Box 64
Millersville, MD 21108
(530) 325-3111
nfink@litebiz.net

Pro Se Petitioner

JULY 2026