

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

SHYAMAL GHOSH,
Petitioner,

v.

NEW YORK CITY HOUSING AUTHORITY,
Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

APPENDIX

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MANDATE

23-822

Ghosh v. N.Y.C. Hous. Auth.

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 27th day of May, two thousand twenty-six:

PRESENT:

RICHARD C. WESLEY,
RICHARD J. SULLIVAN,
JOSEPH F. BIANCO,
Circuit Judges.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/18/2026

Shyamal Ghosh,

Plaintiff-Appellant,

v.

No. 23-822

New York City Housing Authority,

Defendant-Appellee.

App. 1

MANDATE ISSUED ON 06/18/2026

For Plaintiff-Appellant:

SHYAMAL GHOSH, *pro se*, Elmhurst,
NY.

For Defendant-Appellee:

ANDREW M. LUPIN, Of Counsel, *for*
David Rohde, General Counsel, New
York City Housing Authority, New
York, NY.

Appeal from a judgment of the United States District Court for the Southern
District of New York (Analisa Torres, *Judge*).

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

Shyamal Ghosh, proceeding *pro se*, appeals from the district court's
dismissal of his employment-discrimination action against his employer, the New
York City Housing Authority ("NYCHA"). We assume the parties' familiarity
with the underlying facts, the procedural history of the case, and the issues on
appeal, to which we refer only as necessary to explain our decision.

In broad strokes, Ghosh alleged that NYCHA violated federal and state law
when it refused to promote him on the basis of his race, age, ethnicity, and national
origin and then retaliated against him when he complained of that discrimination.

After the district court twice granted Ghosh leave to amend his complaint to comply with Federal Rule of Civil Procedure 8(a)'s "short and plain statement" requirement, NYCHA moved to dismiss his revised second amended complaint for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). The motion was referred to a magistrate judge, who recommended granting NYCHA's motion and dismissing the complaint for failure to state a claim and failure to comply with Rule 8(a). *Ghosh v. N.Y.C. Hous. Auth.*, No. 21-cv-6139, 2023 WL 3612553 (S.D.N.Y. Feb. 27, 2023). When Ghosh did not object to the magistrate judge's report and recommendation ("R&R"), the district court adopted the R&R in its entirety and dismissed Ghosh's claims. *Ghosh v. N.Y.C. Hous. Auth.*, No. 21-cv-6139, 2023 WL 3746617 (S.D.N.Y. Mar. 20, 2023).

When a litigant has received "clear notice of the consequences" of his failure to timely object to an R&R and still does not object, he forfeits "further judicial review of the magistrate's decision." *Mario v. P&C Food Mkts.*, 313 F.3d 758, 766 (2d Cir. 2002); *see also Nambiar v. Cent. Orthopedic Grp.*, 158 F.4th 349, 359 & n.2 (2d Cir. 2025) ("We use the term forfeiture to describe a party's failure to raise an argument rather than waiver, which is reserved for a party's intentional

relinquishment of a known right.” (internal quotation marks omitted)). This rule applies to *pro se* litigants when they receive proper notice. See *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (describing notice that must be afforded to *pro se* litigants in an R&R before they may be deemed to have forfeited objections). And a *pro se* litigant will be deemed to have received such notice when the R&R contains a warning “explicitly stat[ing] that failure to object to the report within ten (10) days will preclude appellate review and specifically cit[ing] 28 U.S.C. § 636(b)(1) and rules 72, 6(a) and 6(e) of the Federal Rules of Civil Procedure.” *Roldan v. Racette*, 984 F.2d 85, 89 (2d Cir. 1993) (quoting *Small*, 892 F.2d at 16)).

Here, the magistrate judge provided that explicit notice: The R&R emphatically stated that failure to file objections within fourteen days would preclude appellate review and cited 28 U.S.C. § 636(b)(1) and Federal Rules of Civil Procedure 6(a), 6(d), and 72. Compare *Ghosh*, 2023 WL 3612553 at *14, with *Small*, 892 F.2d at 16. By failing to object to the R&R’s legal conclusions, Ghosh has

forfeited appellate review.¹

* * *

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

FOR THE COURT:

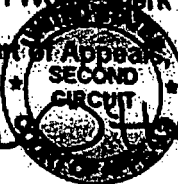
Catherine O'Hagan Wolfe, Clerk of Court

Catherine O'Hagan Wolfe


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Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

Catherine O'Hagan Wolfe


¹ Although we may excuse a failure to object "in the interests of justice," *Roldan*, 984 F.2d at 89, we decline to do so here because Ghosh makes no argument why his case meets that high bar, see generally Ghosh Br. at 5–8; Reply Br. at 2–9.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
SHYAMAL GHOSH,

Plaintiff,

-against-

NEW YORK CITY HOUSING AUTHORITY,

Defendant.

ANALISA TORRES, District Judge:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/20/2023

21 Civ. 6139 (AT) (BCM)

ORDER

On June 16, 2021, Plaintiff *pro se*, Shyamal Ghosh, filed a complaint against Defendant, New York City Housing Authority ("NYCHA"), alleging employment discrimination and retaliation, in Supreme Court, New York County. ECF No. 1-1. On July 19, 2021, NYCHA removed this action to the Southern District of New York. ECF No. 1. Ghosh amended his complaint several times: on October 29, 2021, ECF No. 14, on November 12, 2021, ECF No. 18, on December 30, 2021, ECF No. 22, and on January 3, 2022, ECF No. 23. On April 29, 2022, NYCHA filed a motion to dismiss the operative complaint under Federal Rule of Civil Procedure 12(b)(6). ECF No. 41. On May 2, 2022, the Court referred the motion to the Honorable Barbara C. Moses for a Report and Recommendation ("R&R"). ECF No. 44. Ghosh filed his opposition on May 31, 2022. ECF Nos. 46, 48. On July 9, 2022, Ghosh filed an unauthorized sur-reply to NYCHA's reply, dated June 24, 2022, ECF No. 51. ECF No. 52.

On February 27, 2023, Judge Moses issued an R&R recommending that NYCHA's motion to dismiss be granted, that Ghosh's federal claims be dismissed with prejudice for failure to comply with Rule 8(a)(2), or, in the alternative, for failure to state a claim under Rule 12(b)(6), and that Ghosh's state claims be dismissed without prejudice for lack of subject matter jurisdiction. R&R at 1, ECF No. 55. Despite notification of the right to object to the R&R, no objections were filed, and the time to do so has passed. *See* Fed. R. Civ. P. 72(b)(2). Having received no objections to the R&R, the Court reviewed the R&R for clear error and found none. *Oquendo v. Colvin*, No. 12 Civ. 4527, 2014 WL 4160222, at *2 (S.D.N.Y. Aug. 19, 2014).

The Court, therefore, ADOPTS the R&R in its entirety. Accordingly, Defendants' motion to dismiss is GRANTED. Ghosh's federal claims are DISMISSED with prejudice, his state claims are DISMISSED without prejudice, and the Court declines to grant leave to amend.

The Clerk of Court is directed to terminate the motion at ECF No. 41, mail a copy of this order to Plaintiff *pro se*, and close the case.

SO ORDERED.

Dated: March 20, 2023
New York, New York


ANALISA TORRES
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

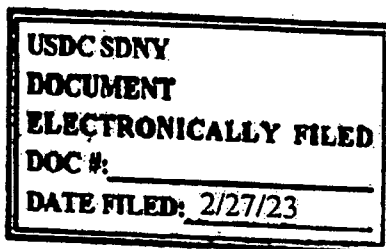
SHYAMAL GHOSH,

Plaintiff,

-against-

NEW YORK CITY HOUSING
AUTHORITY,

Defendant.



21-CV-06139 (AT) (BCM)

REPORT AND RECOMMENDATION
TO THE HON. ANALISA TORRES

BARBARA MOSES, United States Magistrate Judge.

Plaintiff Shyamal Ghosh, proceeding *pro se*, brought this action against his employer, the New York City Housing Authority (NYCHA), for what he characterizes as a lengthy campaign of employment discrimination and retaliation. After twice amending and then further revising his pleading, plaintiff filed a 400-page Revised Amended Complaint with Attachments (RAC) (Dkt. 23), which remains his operative pleading. Now before me for report and recommendation is NYCHA's motion (Dkt. 41) to dismiss the RAC pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. For the reasons that follow, I respectfully recommend that the RAC be dismissed pursuant to Fed. R. Civ. P. 8(a)(2) for failure to plead a short and plain statement. In the alternative, I recommend that plaintiff's federal claims be dismissed pursuant to Rule 12(b)(6), and that his state claims be dismissed without prejudice for want of subject matter jurisdiction.

I. BACKGROUND

A. Facts Alleged by Plaintiff

As discussed in more detail below, the RAC is extremely difficult to follow. Plaintiff's allegations are disorganized, rambling, convoluted, and discursive, with many side trips into issues that do not appear to be related to his discrimination and retaliation claims. The lack of any semblance of a chronological structure makes it nearly impossible to understand the sequence of

events, and plaintiff's idiosyncratic approach to grammar and sentence structure makes it challenging for the reader to decipher even relatively short paragraphs.¹ The following summary represents the Court's best effort to marshal the facts upon which plaintiff's claims are based.²

Plaintiff is a 57-year-old resident of Queens, New York, of "Bangladeshi national origin." RAC ¶¶ 1, 66. Before moving to the United States, he was a "registered health practitioner" in Bangladesh. *Id.* ¶ 48. Since 2002, he has been employed by NYCHA, *id.* ¶ 1, serving as a Housing Assistant in the Marcy Houses complex. *See, e.g.*, Dkt. 23-1 at ECF pp. 69.³ While employed in that capacity, plaintiff applied for more than 300 open job positions within NYCHA. RAC ¶ 20. These positions included "level one Research Scientist," "level two Research Scientist,"

¹ As an example: plaintiff alleges that he has been subject to a campaign of retaliation and harassment ever since he complained about discriminatory hiring practices in 2006. He writes: "NYCHA did not inspire for a good job either since complaining about discriminatory hiring practices rather intimidated retaliation against the plaintiff (Attachment-3, 15). Paragraph 29, 55 are some instances. One-way NYCHA accepts plaintiff suggestions (paragraph-56) on the other ways use supervisor to dominate plaintiff from his creativity. As a result of a complaint on research scientist hiring discrimination in 2006 NYCHA never again call the plaintiff for a research scientist position plaintiff applied for all those after." RAC ¶ 59.

² As required by well-established precedent, I have construed the RAC "liberally, reading it with special solicitude" in light of plaintiff's *pro se* status. *J.S. v. TKach*, 714 F.3d 99, 103 (2d Cir. 2013) (quoting *Harris v. City of New York*, 607 F.3d 18, 24 (2d Cir. 2010)). Additionally, for purposes of defendant's Rule 12(b)(6) motion, I accept plaintiff's well-pleaded factual allegations as true, *see McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 191 (2d Cir. 2007), and take judicial notice of relevant documents filed in related legal actions "to establish the fact of such litigation and related filings." *Kramer v. Time Warner Inc.*, 937 F.2d 767, 774 (2d Cir. 1991).

³ In the body of the RAC (consisting of 76 consecutively numbered paragraphs over 26 pages), plaintiff refers to its voluminous attachments by number. However, the attachments themselves (most of which consist of multiple subsidiary documents) are not numbered, slip-sheeted, or otherwise demarcated, and the "filing index" that plaintiff provides (*see* Dkt. 23 at ECF pp. 28-32) is of no assistance. Moreover, because plaintiff has submitted a total of 372 pages of attachments, the Court's electronic case filing (ECF) system split them into two separate docket entries (Dkts. 23 and 23-1). Consequently, in this Report and Recommendation, citations to the attachments appear as "Dkt. __ at ECF p. __." Citations to the voluminous exhibits attached to plaintiff's motion papers follow the same format.

"Environmental Health and Safety Officer," "Health Initiatives Senior Manager," "RED Director," and "many other vacancies" in NYCHA's health office. *Id.* ¶¶ 11, 22, 27, 31. Although plaintiff was interviewed for some of these positions in 2005 and 2006, including level two Research Scientist, *id.* ¶¶ 47, 57, he was not selected for promotion. *Id.* ¶ 57.

With respect to the level two Research Scientist position, Linda Young, NYCHA's Deputy Director for Employment Hiring, promoted another employee, Ying Meng Lui, over plaintiff. RAC ¶ 22. Mr. Lui, who had been hired into the level one Research Scientist post the year before, was less well qualified for the level two job than plaintiff, but had "racial ties" with Ms. Young. *Id.* ¶¶ 22, 68.⁴ "Right after" his 2006 interview for the level two position, plaintiff complained about this alleged discrimination to NYCHA's human resources (HR) department, RAC ¶ 47, but was never again considered for a research scientist position. *Id.* ¶ 22. This was the beginning of a "chronology of retaliation," *id.*, which has persisted ever since, subjecting plaintiff to harassment by multiple NYCHA managers over many years. *Id.* ¶¶ 4, 57.

As part of the campaign of retaliation, NYCHA's HR department deemed plaintiff "unqualified" for many of the positions to which he applied, RAC ¶ 21, resulting in HR not forwarding those applications to the relevant hiring managers, *id.* ¶ 22; *see also* Dkt. 23 at ECF pp. 121-30 (job applications submitted by plaintiff and marked "not qualified"),⁵ and by asking him to interview for positions for which he was not qualified or in which he was not interested. RAC ¶ 31. According to plaintiff, NYCHA managers Brenda Allen and Leroy Scotland further

⁴ Plaintiff does not explain why he believed that he was better-qualified than Mr. Lui for the 2006 promotion to level two Research Scientist at NYCHA.

⁵ Plaintiff was interviewed for other positions, but did not get them. *See, e.g.*, Dkt. 23 at ECF p. 132 (July 25, 2016 email from plaintiff to NYCHA Executive Vice President Kerri Jew, asking why he was not promoted to Community Service Specialist in 2015 or Resident Engagement Director in 2014 after interviewing for those positions).

discriminated against him (and "stressed out him") by changing his assignments at work, including changing his building assignment twice (on unspecified dates), despite his good record of rent collections. *Id.* ¶ 58.

Plaintiff also claims that NYCHA personnel placed "negative information in [his] personal record folder," including a 2011 memo unjustly accusing him of using the internet for a Facebook friend invitation at work, a "false lateness report" (on an unspecified date), and other "memos," all of which were "biased." RAC ¶¶ 23-28. The last two "retaliatory memos" were issued in 2018 and 2020.⁶ The 2018 memo was removed from his file with the assistance of his union, *id.* ¶¶ 24, 56, but the other memos were not removed, even though the "retaliatory memo issuing managers" were "either transferred (disciplinary action) or demoted or forced to resign . . . or already left NYCHA." *Id.* ¶ 25. Some of the negative memos "came from Marcy Houses Assistant Manager Ms. Allison McLean," *id.* ¶ 27, who was hired into that position over plaintiff in 2004, has never liked him, and "never appreciate [sic] the plaintiff's good job performance." *Id.* Plaintiff alleges that on "many occasions" Ms. McLean has publicly announced her intention to "treat[] plaintiff differently," *id.*, but does not describe any of those occasions. He further alleges that Ms. McLean shows "favoritism to others" and creates "obstacles to the plaintiff's creative work and better performance." *Id.* Here, plaintiff gives an example: once in 2009, when new NYCHA Chair John Rhea visited Marcy Houses, Ms. McLean allowed housing assistant Stephanie Alonso to meet Mr.

⁶ On January 11, 2018, plaintiff was issued a Counseling Memorandum that reprimanded him for taking original tenant folders home with him before or after attending Landlord & Tenant Court on NYCHA's behalf, and advised him that "future instances" of similar conduct "may be the subject of disciplinary action." Dkt. 23-1 at ECF pp. 125-26. On November 2, 2020, plaintiff was issued a memo noting that he failed to complete "required annual reviews" on certain dates, and advising him that "repeated instances" of that conduct "may be subject to future disciplinary action." Dkt. 23 at ECF p. 140. Plaintiff does not allege that any formal disciplinary action was ever taken against him.

Rhea, even though it was Ms. Alonso's "court date," and instead sent plaintiff to "attend court" that day, depriving him of the "privilege" of meeting Mr. Rhea. *Id.* ¶ 27.⁷

Plaintiff's complaints extend far beyond the alleged retaliation and harassment he claims to have experienced. Much of the RAC, and many of its attachments, are devoted to plaintiff's claim that that NYCHA's COVID policies were misguided and poorly executed and his strongly-held view that NYCHA is rife with "nepotism," favoritism, and managerial incompetence. *See, e.g.,* RAC ¶¶ 5, 7-8, 11-14, 18, 31, 34, 36-40, 54, 61. Plaintiff also recites statements by public figures who have been similarly critical of NYCHA. *Id.* ¶¶ 41-42. Although these allegations make up a significant portion of plaintiff's pleading, it is difficult to connect them to his legal claims, which – as described in more detail below – are brought under Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. § 2000e *et seq.*, the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 *et seq.*, the New York State Human Rights Law (NYSHRL), N.Y. Exec. L. § 290 *et seq.*, and the New York City Human Rights Law (NYCHRL), N.Y.C. Admin. Code § 8-107 *et seq.*, seeking redress for employment discrimination (specifically, failure to promote) based on age, race, and/or national origin, and retaliation arising from the complaints of discrimination that plaintiff made to NYCHA's HR department in 2006, to NYCHA's Department of Equal Opportunity (DEO) in 2011 (and "on several occasions" thereafter), and to the New York City Commission on Human Rights (CHR) in 2017. *See* RAC ¶¶ 47, 58, 65-76; Plaintiff's Response to Defendant's Motion to Dismiss (Pl. Mem.) (Dkt. 48) at 5.⁸

⁷ Other managers, however, appreciated plaintiff's work and wrote complimentary notes and memos, RAC ¶¶ 32-34, including one in 2009 praising his "dedication and commitment to NYCHA's rent collection process[.]" *Id.* ¶ 33.

⁸ Because plaintiff's brief is not internally paginated, all page citations are to the page numbers assigned by the ECF system. I note here that plaintiff's operative pleading also includes a brief reference to the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101-213. *See* RAC ¶ 73. However, plaintiff does not allege any disability, actual or perceived, and does not mention the

Plaintiff also complains that he was "mistreated" by the Commission on Human Rights. RAC ¶ 46. After corresponding with the agency for more than two years, plaintiff filed a Verified Complaint with the CHR on or about February 2, 2017, alleging that NYCHA "discriminated against him in the terms, conditions, and/or privileges of his employment by declining to hire or promote him because of his race, color, and age," and by retaliating against him after he opposed "race, color, and age discrimination," in violation of the NCHRL, Title VII, and the ADEA. *Id.* ¶¶ 4, 45; *see also* Dkt. 23 at ECF pp. 156-57 (CHR Compl.) ¶¶ 10-13. However, CHR staff attorney Ya Li "did not submit the complaint as per one plaintiff requested." RAC ¶ 16. Instead, Ms. Li "created intimidation and verbal fear for not accepting a complaint for filing which created enormous negative influence to plaintiff moving with case filing at [CHR]." *Id.*

On May 1, 2017, the Law Enforcement Bureau of the CHR dismissed plaintiff's Verified Complaint, without reaching the merits, pursuant to N.Y.C. Admin. Code § 8-113(a)(5) (permitting dismissal where "[p]rosecution of the complaint will not serve the public interest"). Dkt. 48-2, at ECF p. 34. On May 5, 2017, plaintiff appealed to the full Commission, complaining that Ms. Li had "forbidden me to add many other issues in the complaint" and had done so "on purpose," to "reduce the public interest in the case." *Id.* at ECF p. 27.

On October 5, 2017, the CHR affirmed the dismissal. Dkt. 23 at ECF p. 154. This left plaintiff free to file his NYSHRL and NYCHRL claims in state court. *See* N.Y.C. Admin. Code § 8-502(f); Affirmation of Zoey Chenitz (Chenitz Aff.) (Dkt. 48-5, at ECF p. 4) ¶ 9. Instead, plaintiff filed a petition under N.Y. C.P.L.R. Art. 78, challenging the CHR dismissal. Dkt. 23 at

ADA anywhere else in the RAC, or anywhere in his opposition memorandum. I therefore conclude that, to the extent he intended to plead a claim under the ADA, he has abandoned it. In any event, "[w]hen an ADA claim fails to allege that plaintiff was a 'qualified individual with a disability,' it must be dismissed." *Ramrattan v. Fischer*, 2015 WL 3604242, at *5 (S.D.N.Y. June 9, 2015).

ECF pp. 142-153. In its opposition to the Art. 78 petition, CHR explained that it dismissed plaintiff's claims because "it was unlikely that further investigation would result in a finding of probable cause." *Chenitz Aff.* ¶ 14. In particular, "it appeared Mr. Ghosh was not qualified for the jobs he sought[.]" *Id.* ¶ 20. In addition, plaintiff's pre-filing correspondence with NYCHA showed that "he blamed nepotism and favoritism for his failure to advance at NYCHA, not discrimination based on age, color, race, or religion or retaliation based on opposing discrimination." *Id.* ¶ 21. Thus, the Commission determined "that it was unlikely that further investigation would uncover evidence that NYCHA discriminated or retaliated against Mr. Ghosh and that the Commission's limited public resources would be better deployed elsewhere." *Id.* ¶ 22.

Plaintiff's Art. 78 petition was dismissed by means of an order issued from the bench on July 30, 2018 and entered on September 5, 2018. Dkt. 23 at ECF pp. 143-151. More than two years later, on March 23, 2021, the U.S. Equal Employment Opportunity Commission (EEOC) issued a Dismissal and Notice of Rights letter, stating that it adopted the local agency's findings and informing plaintiff of his right to initiate a lawsuit under Title VII, the ADEA, or other federal statutes within 90 days. *Id.* at ECF p. 141.

B. Procedural Background

Plaintiff filed his original Complaint (Dkt. 1-1) on June 17, 2021 in New York Supreme Court, New York County. The Complaint was nine pages long, difficult to follow, and referred to numerous attachments and exhibits. However, only one document was actually attached: the EEOC's right-to-sue notice. *Id.* NYCHA removed the case to this Court on July 19, 2023 (Dkt. 1), and filed its Answer on July 27, 2021. (Dkt. 6.) The Hon. Analisa Torres, United States District Judge, referred the case to me for general pretrial management. (Dkt. 4.)

On September 29, 2021, following an initial case management conference, I gave plaintiff leave to amend his pleading and explained the federal pleading standard to him:

[P]laintiff must, in accordance with Fed. R. Civ. P. 8, provide a short and plain statement of the relevant *facts* supporting each claim he asserts. His amended complaint should tell the Court, to the extent possible: *which* statutes or laws he is suing under; *what* NYCHA did to violate each of those statutes or laws; *who* committed those violations on its behalf; *when* such violations occurred; *how* plaintiff was injured thereby; and *what* relief he seeks.

Order dated September 29, 2021 (9/29/21 Order) (Dkt. 13) at 1 (emphases in the original). On October 29, 2021, plaintiff filed his Amended Complaint (Am. Compl.) (Dkt. 14), which was ten pages long, difficult to follow, and referred to numerous attachments and exhibits. However, no documents were actually attached.

By letter dated November 9, 2021 (Def. 11/9/21 Ltr.) (Dkt. 16), NYCHA sought "clarification and guidance" from the Court in light of plaintiff's failure to "follow the Court's instructions." Def. 11/9/21 Ltr. at 1. NYCHA noted that the Amended Complaint invoked two federal statutes – Title VII and 42 U.S.C. § 1983 – but failed to "clearly set forth what actions NYCHA specifically took (or failed to take) that violated these two statutes," or when. *Id.* Defendant was also confused by plaintiff's reference to "dozens of different documents or related exhibits" that were referenced in but not attached to his filing. *Id.* at 2. NYCHA asserted that the Amended Complaint was too vague for it to answer, and that it could not even determine the "scope of potentially relevant facts and witnesses," *id.*, which made it difficult to respond to plaintiff's first set of written discovery responses (served the day before, although I had not yet set a discovery schedule). *Id.* NYCHA requested an adjournment of the next case management conference until these issues could be addressed. *Id.*

On November 12, 2021, I adjourned the upcoming conference, extended NYCHA's answer deadline, and directed plaintiff to "revise and refile his Amended Complaint, so as to comply with

this Court's [9/29/21 Order] no later than November 24, 2021." Order dated November 12, 2021 (11/12/21 Order) (Dkt. 17) at 1. For plaintiff's benefit, I reviewed the federal pleading standards once again, and explained that the Amended Complaint did not meet those standards because, although it appeared to allege unlawful retaliation, it "does not clearly identify either the conduct that led to the alleged retaliation . . . or the conduct that constituted the alleged retaliation," and did not "state when either the protected activity or the alleged retaliation occurred." 11/12/21 Order at 1-2. I also directed plaintiff to include any documents he referenced as "attachments" in the pleading. *Id.* at 2. After requesting and receiving an extension of time (Dkts. 20, 21), plaintiff filed his Revised Amended Complaint (without attachments) on December 30, 2021 (Dkt. 22), followed by his present pleading on January 3, 2022, and an errata list on January 14, 2022 (Dkt. 24).

In the RAC, plaintiff expressly invokes Title VII, the ADEA, the NYSHRL, the NYCHRL and – fleetingly – the ADA. RAC *Id.* ¶¶ 68-73. He adds that the retaliation and harassment against him "reached extreme level and it might be considered as intentional infliction of emotional distress (IIED)." *Id.* ¶ 75. However, he no longer cites or seeks any relief under § 1983. Plaintiff requests relief in the form of placement "in an appropriate position that fit his education and experience (such as NYCHA Health Officer, Health Initiatives Director, Healthy Home Vice President) from where the plaintiff could make the best contribution for NYCHA residents," *id.*, as well as compensatory and punitive damages. RAC ¶ 76.

By letter dated January 18, 2022 (Def. 1/18/22 Ltr.) (Dkt. 25), NYCHA asked again for "guidance," arguing that although plaintiff had multiple opportunities to clarify his claims, the RAC "has gotten no more clear as to which statutory or common law causes of action [plaintiff] wishes to assert against NYCHA, or which specific facts [he] is alleging in support of each individual cause of action he wishes to raise." Def. 1/18/22 Ltr. at 1. Asserting that it still could

not "adequately respond" to the RAC without relying on "speculation" and "guesswork" to tease plaintiff's "potential legal theories" out of his "disjoint narrative," NYCHA asked the Court to (i) instruct plaintiff again on "how to file a more definite statement," (ii) dismiss the RAC *sua sponte*, (iii) strike portions of the RAC pursuant to Fed. R. Civ. P. 12(e), leaving only the allegations that "might reasonably support" one or more cognizable claims, or (iv) grant NYCHA leave to file a motion to dismiss. *Id.* at 2-3. I agreed with defendant that "plaintiff's pleadings have grown lengthier and more convoluted over time," but concluded that he was "unlikely to benefit from yet another opportunity to replead, and yet another gentle reminder that Rule 8(a)(2) requires a 'short and plain statement of the claim.'" (Dkt. 26.) Consequently, I accepted the RAC as the operative pleading in this case and set a schedule for NYCHA's motion to dismiss. (Dkts. 26, 28.)

NYCHA filed its motion, supported by a memorandum of law (Def. Mem.) (Dkt. 42), on April 29, 2022. Judge Torres then expanded my reference to include report and recommendation on dispositive motions. (Dkt. 44.) Plaintiff filed his opposition papers on May 30, 2022, consisting of an initial brief (Dkt. 26), attaching 69 pages of exhibits; a declaration, attaching 46 pages of exhibits (Pl. Decl.) (Dkt. 47); and – later that same day – his revised brief, attaching 114 pages of exhibits. NYCHA filed its reply brief on June 24, 2022 (Def. Reply Mem.) (Dkt. 51), and plaintiff filed an unauthorized sur-reply on July 9, 2022 (Dkt. 52), attaching another 11 pages of exhibits.

II. THE PARTIES' ARGUMENTS

NYCHA argues: (1) that most of plaintiff's employment-related claims are barred, either because he failed to bring suit within the applicable statute of limitations or because he failed to exhaust his administrative remedies, Def. Mem. at 8-11; (2) that the RAC fails to state a cognizable claim for discrimination, *id.* at 11-13, for retaliation, *id.* at 14-16, or for intentional infliction of

emotional distress, *id.* at 16-17; and (3) that no further leave to amend should be granted, as the exercise would be futile. *Id.* at 17.

In response, plaintiff argues: (1) that he has met the heightened pleading standard for fraud under Fed. R. Civ. P. 9(b), Pl. Mem. at 11-15; (2) that the RAC is "simple," "concise," and "direct," in compliance with Fed. R. Civ. P. 8(a), *id.* at 15; (3) that the attachments to the RAC, as well as the additional attachments submitted with his opposition papers, "provide far more detail than is required to defeat a motion to dismiss," *id.* at 17-19; (4) that the RAC adequately pleads a "discriminatory and retaliatory scheme," as well as a "scheme to defraud," in violation of Title VII, the NYSHRL and the NYCHRL, *id.* at 20-23; (5) that the statute of limitations did not begin to run until plaintiff "knew or reasonably should have known of his . . . claim," *id.* at 23-24, which was not until 2010, *id.* at 7;⁹ and (6) that the RAC adequately pleads a claim for "breach of fiduciary duty" against NYCHA's directors (who are not named as defendants). *Id.* at 24.

In its reply brief, NYCHA reiterates the points that it made in its moving papers and adds that, to the extent plaintiff seeks to add new claims for fraud and breach of fiduciary duty, he cannot do so in his opposition brief. Def. Reply Mem. at 9.

III. ANALYSIS

A. Rule 8(a)(2)

Fed. R. Civ. P. 8(a)(2) requires that a complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Both brevity and clarity are required. "[U]nnecessary prolixity in a pleading places an unjustified burden on the court and the party who

⁹ Plaintiff explains that although defendant has been discriminating against him "continuously since [his] 2005 and 2006 job application[s]," it "took several years to know the fact," which he discovered "around August 6, 2010," when he "noticed many jobs plaintiff applied [for] was intentionally marked as disqualified." Pl. Mem. at 7; *see also* RAC ¶ 47 (alleging that he filed a complaint with NYCHA's DEO office in 2011).

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). Moreover, "the principal function of pleadings under the Federal Rules is to give the adverse party fair notice of the claim asserted so as to enable him to answer and prepare for trial." *Id.*; see also *Strunk v. U.S. House of Representatives*, 68 F. App'x 233, 235 (2d Cir. 2003) (summary order) ("The purpose of this requirement is to provide fair notice of the claims and to enable the adverse party to answer the complaint and prepare for trial."). Regardless of its length, therefore, a complaint fails to comply with Rule 8(a)(2) if it is "confused, ambiguous, vague, or otherwise unintelligible." *Strunk*, 68 F. App'x at 235 (quoting *Salahuddin*, 861 F.2d at 42). It is not the Court's job – nor the opposing party's – to decipher a complaint that is "so poorly composed as to be functionally illegible." *Avramham v. N.Y.*, 2020 WL 4001628, at *2 (S.D.N.Y. July 15, 2020).

A pleading that fails to comply with the command of Rule 8(a)(2) may be dismissed. In our Circuit, such dismissals are not uncommon. See, e.g., *Blakely v. Wells*, 209 Fed. App'x 18, 20 (2d Cir. 2006) (summary order) (affirming dismissal of a 57-page complaint for prolixity); *Nygard v. Bacon*, 2021 WL 3721347, at *7 (S.D.N.Y. Aug. 20, 2021) (dismissing "lengthy" 144-page complaint pursuant to Rule 8(a)). Indeed, if violative pleadings are not dismissed, they place an "unjustified burden" on the defendants required to respond to them. *Salahuddin*, 861 F.2d at 42. Thus, courts rely on Rule 8(a) not only to dismiss complaints that are unnecessarily prolix, but also complaints that are "unintelligible" or "indiscernible," *Strunk*, 68 F. App'x at 235; complaints that contain "unrelated and vituperative charges that defied comprehension," *Prezzi v. Schelter*, 469 F.2d 691, 692 (2d Cir. 1972); complaints that are "convoluted, confusing, and difficult to comprehend," *Phipps v. City of New York*, 2019 WL 4274210, at *2 (S.D.N.Y. Sept. 10, 2019); and complaints that "ramble," "needlessly speculate, accuse and condemn," and "contain circuitous

diatribes far removed from the heart of the claim." *Coon v. Benson*, 2010 (S.D.N.Y. March 8, 2010) (quotation marks and citation omitted).

A plaintiff's *pro se* status will not protect him from a Rule 8(a) dismissal. See *Owens v. McCall*, 5 F. App'x 15, 16 (2d Cir. 2001) (summary order) ("Although a complaint filed by a *pro se* litigant is to be liberally construed in his favor," dismissal was appropriate where "we are no more able than the district court to determine – even under such a liberal construction – the true substance of the plaintiff's claims."); *Coon*, 2010 WL 769226, at *3 ("[D]espite the liberal construction given to *pro se* complaints, that policy does not mandate that a Court sustain every *pro se* complaint even if it is incoherent, rambling, and unreadable.") (internal citation and punctuation omitted).

Moreover, "[a]lthough a plaintiff should generally be given leave to amend following a Rule 8 dismissal," dismissal without leave to amend is proper where "prior leave to amend was generously extended and the successive pleading remains prolix and unintelligible." *Strunk*, 68 F. App'x at 235 (affirming dismissal of *pro se* complaint with prejudice after "the District Court allowed Strunk to amend three times and instructed Strunk how to cure the pleading defects each time"); see also *Dyson v. New York Health Care, Inc.*, 353 F. App'x 502, 503 (2d Cir. 2009) (summary order) (affirming dismissal of *pro se* complaint with prejudice after "the district court afforded Dyson three opportunities" to "comply with Rule 8(a)(2)"); *Jones v. Nat'l Commc'ns & Surveillance Networks*, 266 F. App'x 31, 33 (2d Cir. 2008) (summary order) ("Given the numerous opportunities that Jones has had to clarify or restate his claims, his failure to do so provides a sufficient basis for a finding that granting him leave to amend his complaint would be futile").

Here, as in *Strunk*, *Dyson*, and *Jones*, plaintiff has already been given multiple opportunities to amend his complaint, but it remains largely unintelligible. While plaintiff

sprinkles legal terms like "discrimination," "retaliation," and "harassment" liberally throughout his pleading – frequently enough to inform the reader of the nature of the claims he is attempting to bring – the underlying facts are obscured within a convoluted series of paragraphs that make it difficult to understand who did what to whom, or when, much less why the plaintiff believes that any of the slights and injustices he lists (including, by way of example, not being promoted to level two Research Scientist in 2006, not being permitted to meet Mr. Rhea in 2009, having his building assignments changed on unspecified dates, being unjustly accused, by unnamed supervisors, of "using net for Face Book friend invitation" in 2011, and not being promoted to Community Engagement Specialist in 2015) constituted discrimination based on his age, race, or national origin, or were inflicted upon him in retaliation for protected conduct such as his multiple internal and external complaints of discrimination.

Moreover, the RAC regularly veers off into lengthy denunciations of NYCHA's COVID policies, nepotism, and general managerial incompetence, *see, e.g.*, RAC ¶¶ 5, 7, 8, 11, 12, 31, 34, 36-40, 61, and devotes several paragraphs to the alleged misconduct of a CHR staff attorney (and various NYCHA attorneys) in connection with plaintiff's 2017 administrative complaint. *Id.* ¶¶ 15-17. These are exactly the sort of "circuitous diatribes far removed from the heart of the claim" discussed in *Coon*, 2010 WL 769226, at *3. What is left of the RAC is largely incomprehensible, extraordinarily difficult to parse, and "so poorly composed as to be functionally illegible." *Avramham*, 2020 WL 4001628, at *2. Its 375 pages of attachments – unlabeled, and presented in no discernable order – unfairly demand that the reader "select the relevant material from a mass of verbiage," *Salahuddin*, 861 F.2d at 42, and the document as a whole is "incoherent, rambling, and unreadable." *Coon*, 2010 WL 769226, at *3.

Plaintiff had multiple opportunities to correct these errors. On September 29, 2021, I instructed plaintiff that his amended complaint "should tell the Court, to the extent possible: *which* statutes or laws he is suing under; *what* NYCHA did to violate each of those statutes or laws; *who* committed those violations on its behalf; *when* such violations occurred; *how* plaintiff was injured thereby; and *what* relief he seeks." 11/29/21 Order at 1. I gave the same instructions on November 12, 2021, adding that, in order to plead a Title VII retaliation claim, he must clearly identify both "the conduct that led to the alleged retaliation" and "the conduct that constituted the alleged retaliation," and specify the date(s) on which "the protected activity or the alleged retaliation occurred." 11/12/21 Order at 1-2. Plaintiff failed, for the most part, to follow these instructions.

In *Coon*, the court dismissed plaintiff's amended complaint for failure to comply with Rule 8(a)(2) after he failed to follow the court's instruction that he explain "*who* violated his federally protected rights; *what* facts show that his federally protected rights were violated; when such violation(s) occurred; *where* such violation(s) occurred; and *why* Plaintiff is entitled to relief," and instead submitted an amended complaint that "contains conclusory and vague factual allegations regarding his state court litigation, amounting to a long list of accusations about, and objections to, the conduct of various individuals involved in various capacities in that action." 2010 WL 769226, at *3. Those allegations were "combined with conclusory assertions that Plaintiff consequently suffered the violation of his rights to access to the courts and to due process and discrimination on the basis of his disability and his poor person status, caused, in part, by a failure to train or supervise," but the court was still unable to discern, after a careful reading of the amended pleading, "how Plaintiff's federally-protected rights were violated, by whom, and when." *Id.* Similarly, in the case at bar, plaintiff has in effect married a long, rambling, and frequently incomprehensible list of employment grievances with the conclusory charge that all of them – from

his failure to rise through the ranks at NYCHA to the negative counseling memos in his file – must be motivated by discrimination based upon his age, race, or national origin, and/or retaliation for his past complaints of discrimination. As a result, the RAC should be dismissed for failure to comply with Rule 8(a)(2).

B. Rule 12(b)(6)

1. Standards

Even if a complaint meets the "short and plain statement" requirement of Rule 8(a)(2), it is properly dismissed pursuant to Rule 12(b)(6) if it fails to present "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Absolute Activist Value Master Fund Ltd. v. Ficeto*, 677 F.3d 60, 65 (2d Cir. 2012) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). A claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678. If the plaintiff has not "nudged [his] claims across the line from conceivable to plausible, [the] complaint must be dismissed." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

Although the district court must "accept as true all factual statements alleged in the complaint and draw all reasonable inferences in favor of the non-moving party." *McCarthy*, 482 F.3d at 191, those factual allegations "must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555. A federal court may not credit "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements." *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555), and will not "unlock the doors of discovery for a plaintiff armed with nothing more than conclusions." *Id.* at 678-79.

In addition to the facts alleged in the body of the complaint, the court may consider documents "attached to [the complaint] as an exhibit or any statements or documents incorporated in it by reference," *Chambers v. Time Warner, Inc.*, 282 F.3d 147, 152 (2d Cir. 2002) (quoting *Int'l Audiotext Network, Inc. v. Am. Tel. & Tel. Co.*, 62 F.3d 69, 72 (2d Cir. 1995)); "documents that, although not incorporated by reference, are 'integral' to the complaint," *Sierra Club v. Construx, LLC*, 911 F.3d 85, 88 (2d Cir. 2018) (quoting *L-7 Designs, Inc. v. Old Navy, LLC*, 647 F.3d 419, 422 (2d Cir. 2011)); and documents of which judicial notice may be taken. *Chambers*, 282 F.3d at 153, including pleadings and other documents filed in related legal proceedings. *Kramer*, 937 F.2d at 774.

2. *Pro Se* Parties

Where, as here, the plaintiff is *pro se*, his complaint must be construed "liberally, reading it with special solicitude and interpreting it to raise the strongest claims that it suggests." *T'Kach*, 714 F.3d at 103. This mandate "applies with particular force when a plaintiff's civil rights are at issue," *Maisonet v. Metro. Hosp. & Health Hosp. Corp.*, 640 F. Supp. 2d 345, 348 (S.D.N.Y. 2009), and permits the court, in its discretion, to consider factual allegations made in a *pro se* plaintiff's opposition papers (or the attachments thereto) "as supplementing the Complaint, at least to the extent they are consistent with the allegations in the Complaint." *George v. Pathways to Hous., Inc.*, 2012 WL 2512964, at *6 n.7 (S.D.N.Y. June 29, 2012); accord *Adeniji v. New York State Off. of State Comptroller*, 2019 WL 4171033, at *2 (S.D.N.Y. Sept. 3, 2019). I have done so here, and have carefully considered the new factual assertions made in plaintiff's opposition papers, and the exhibits attached thereto, to the extent they are consistent with the allegations made in the RAC. However, even a *pro se* plaintiff "must state a plausible claim for relief." *Walker v. Schult*, 717 F.3d 119, 124 (2d Cir. 2013). Moreover, the court need not accept allegations that are

"contradicted by other matters asserted or relied upon or incorporated by reference by a plaintiff in drafting the complaint." *Fisk v. Letterman*, 401 F. Supp. 2d 362, 368 (S.D.N.Y. 2005).

More generally, *pro se* status "does not exempt a party from compliance with relevant rules of procedural and substantive law." *Maisonet*, 640 F. Supp. 2d at 348 (internal quotation marks and citation omitted). Consequently, I have not considered plaintiff's unauthorized sur-reply brief, which was filed in violation of Local Civ. R. 6.1. *See Paravas v. Cerf*, 2022 WL 203168, at *2 (S.D.N.Y. Jan. 24, 2022) (noting that "Local Civil Rule 6.1 provides for opening papers, opposition papers, and reply papers, in that order," and disregarding unauthorized "amended affidavit" filed out of time by *pro se* plaintiff); *Sachs v. Matano*, 2016 WL 4179792, at *2 n.5 (E.D.N.Y. July 15, 2016) (declining to consider unauthorized sur-reply brief submitted by *pro se* plaintiff because that plaintiff was obligated, "notwithstanding his *pro se* status, to be aware of and adhere to all applicable procedural rules"), *report and recommendation adopted*, 2016 WL 4186708 (E.D.N.Y. Aug. 4, 2016).

3. Plaintiff's Federal Claims Are Largely Time-Barred

Both Title VII and the ADEA require that a plaintiff file a charge of discrimination or retaliation with the EEOC, or with a local employment discrimination agency (such as the CHR), within 300 days of the discriminatory or retaliatory act. 42 U.S.C. § 2000e-5(e) (Title VII); 29 U.S.C. § 626(d) (ADEA). "These filing deadlines act as a statute of limitations, and failure to file a timely administrative charge acts as a bar to a federal action." *Johnson v. Wendy's Corp.*, 2021 WL 243055, at *4 (S.D.N.Y. Jan. 25, 2021) (quoting *Lomako v. N.Y. Inst. of Tech.*, 2010 WL 1915041, at *4 (S.D.N.Y. May 12, 2010)). The plaintiff must also receive a right-to-sue letter from the EEOC, after which he has 90 days to initiate a lawsuit. 42 U.S.C. § 2000e-5(f); 29 U.S.C. § 626(d). "Exhaustion of administrative remedies through the EEOC is 'an essential element' of

the Title VII and ADEA statutory schemes and, as such, a precondition to bringing such claims in federal court." *Legnani v. Alitalia Linee Aeree Italiane, S.P.A.*, 274 F.3d 683, 686 (2d Cir. 2001).

Here, plaintiff attempts to allege discrimination and retaliation claims dating back to 2006, when NYCHA failed to promote him to level two Research Scientist. RAC ¶ 57, 59. But he did not file his Verified Complaint with the CHR until February 2, 2017, *see* RAC ¶¶ 4, 45, Dkt. 23 at ECF pp. 156-57, meaning that he cannot sue for any discriminatory conduct occurring earlier than April 14, 2016, 300 days prior to that filing. Plaintiff's argument that the federal limitations period did not commence until he "knew or reasonably should have known of his . . . claim," Pl. Mem. at 23-24, is unavailing, because the limitations period for failure-to-promote claims accrues "when the plaintiff receives notice of the adverse action." *Cetina v. Longworth*, 583 Fed. App'x 1, 3 (2d Cir. 2014); *see also Anderson v. City of New York*, 2017 WL 3251603, at *4 (S.D.N.Y. July 31, 2017) (collecting cases). In any event, the discovery rule for which plaintiff contends would not assist him, because he concedes that he began complaining about employment discrimination to NYCHA's HR department in 2006, *see* RAC ¶ 47, 59, and to its DEO in 2011. *Id.* ¶ 47.¹⁰

Nor may plaintiff expand his claims through the "continuing violation" doctrine, under which, "if a Title VII plaintiff files an EEOC charge that is timely as to any incident of discrimination in furtherance of an ongoing policy of discrimination, all claims of acts of discrimination under that policy will be timely even if they would be untimely standing alone." *Chin v. Port Auth. of N.Y. & N.J.*, 685 F.3d 135, 155-56 (2d Cir. 2012) (internal quotation marks omitted). In this Circuit, "the continuing violations doctrine is disfavored outside of a hostile work

¹⁰ Plaintiff filed "several" complaints with HR, and several more with DEO. RAC ¶ 47. Additionally, he complained about NYCHA's allegedly discriminatory hiring practices to State Senator Toby Ann Stavisky in 2014, and to State Attorney General Eric T. Schneiderman and U.S. Senator Kirsten Gillibrand in 2016. Dkt. 23 at ECF pp. 165-68.

environment situation, and should only be applied in compelling circumstances." *Roches-Bowman v. City of Mount Vernon*, 2022 WL 3648394, at *4 (S.D.N.Y. Aug. 24, 2022) (quoting *Williams v. New York City Dep't of Educ.*, 2019 WL 4393546, at *9 (S.D.N.Y. Aug. 28, 2019)). The doctrine is not available at all in failure-to-promote cases, because "failures to promote are 'discrete acts' of discrimination and thus do not implicate the continuing-violation doctrine." *Chin*, 685 F.3d at 156 (2d Cir. 2012); accord *Rowe v. New York State Dep't of Tax'n & Fin.*, 786 F. App'x 302, 304 (2d Cir. 2019). Consequently, in considering whether plaintiff has stated a plausible claim under Title VII or the ADEA, this Court need not consider his allegations concerning events prior to April 14, 2016.¹¹

4. Plaintiff Fails to Allege a Plausible Federal Discrimination Claim

Title VII prohibits employment discrimination against an employee based on the person's "race, color, religion, sex, or national origin." 42 U.S.C.A. § 2000e-2. The ADEA prohibits "arbitrary age discrimination in employment." 29 U.S.C.A. § 621. Claims brought under Title VII and the ADEA are both analyzed under the burden-shifting framework set out in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). See *Mitchell v. New York City Dep't of Educ.*, 2021 WL 8013770, at *6 (S.D.N.Y. May 7, 2021) (analyzing Title VII, NYSHRL, and ADEA claims together under the *McDonnell Douglas* standard), *report and recommendation adopted sub nom. Mitchell v. New York City Dep't of Educ.*, 2022 WL 621956 (S.D.N.Y. Mar. 3, 2022); *Dabney v.*

¹¹ Defendants argue that this Court may also ignore any alleged discrimination or retaliation that occurred after February 2, 2017 (the date on which plaintiff filed his CHR complaint), because plaintiff never amended his administrative charge or filed a new one, "thus rendering any claims that allegedly accrued after February 2, 2017 improper and subject to dismissal for failure to exhaust administrative remedies." Def. Mem. at 10. In fact, as the Second Circuit explained in *Legnani*, a plaintiff need not file a new administrative charge where, as here, he claims that the defendant "retaliated against [him] for filing the initial EEOC charge." 274 F.3d at 686. Consequently, in determining whether plaintiff has stated a cognizable claim under Title VII or the ADEA, the Court properly considers all of NYCHA's alleged conduct after April 14, 2016.

Christmas Tree Shops, 958 F. Supp. 2d 439, 450 n.11 (S.D.N.Y. 2013) (addressing discrimination claims based on race, gender, and age together under the *McDonnell Douglas* standard until the "final stage" of the ADEA analysis). Under that standard, "what must be plausibly supported by facts alleged in the complaint is that the plaintiff is a member of a protected class, was qualified, suffered an adverse employment action, and has at least minimal support for the proposition that the employer was motivated by discriminatory intent." *Littlejohn v. City of New York*, 795 F.3d 297, 311 (2d Cir. 2015); *see also Santiago v. ACACIA Network, Inc.*, 2022 WL 6775835, at *4 (S.D.N.Y. Oct. 10, 2022) (applying *Littlejohn* test to Title VII case); *Lebowitz v. New York City Dep't of Educ.*, 407 F. Supp. 3d 158, 170 (E.D.N.Y. 2017) (applying *Littlejohn* test to ADEA case). Additionally, an ADEA plaintiff must plausibly allege that "age was the 'but-for' cause of the challenged action," that is, "that the adverse employment action would not have occurred without it." *Lebowitz*, 407 F. Supp. 3d at 172.

A plaintiff can support "the proposition that the employer was motivated by discriminatory intent" either "directly, by alleging facts that show an intent to discriminate, or indirectly, by alleging circumstances that give rise to a plausible inference of discrimination." *Lebowitz*, 407 F. Supp. 3d at 170-71; *see also Santiago*, 2022 WL 6775835, at *4 (factual allegations sufficient to raise an inference of discrimination can include "the employer's criticism of the plaintiff's performance in ethnically degrading terms; or its invidious comments about others in the employee's protected group; or the more favorable treatment of employees not in the protected group; or the sequence of events leading to the plaintiff's discharge"). While the plaintiff's initial pleading burden as to the necessary discriminatory intent is low, it is not non-existent. Thus, in a failure-to-hire or failure-to-promote case, it is not enough for the plaintiff simply to allege that he was qualified for a position but did not get it. He must present *facts* – not speculation or conclusions

– that "support the proposition" of a discriminatory motivation. *Littlejohn*, 795 F.3d at 311; *see also Iqbal*, 556 U.S. at 678 ("mere conclusory statements" will not do).

The RAC does not meet this standard. A failure to promote can constitute an adverse employment action, *see Treglia v. Town of Manlius*, 313 F.3d 713, 720 (2d Cir. 2002), and plaintiff alleges that he applied for "more than 70 vacanc[ies]" in the "last two to three years," RAC ¶ 11, that is, within the limitations period. However, the only job he claims to have been "highly qualified" for is identified vaguely as the "topmost position" in the NYCHA Environmental Health & Safety (EH&S) office. *Id.* ¶ 11. As to that position, plaintiff does not provide any facts to support his claim to have been "highly qualified." Nor does he provide any facts to suggest that his race, or national origin was "a motivating factor in the employment decision," *Vega v. Hempstead Union Free Sch. Dist.*, 801 F.3d 72, 87 (2d Cir. 2015), much less that his age was "the 'but-for' cause of the challenged action[.]" *Lebowitz*, 407 F. Supp. 3d at 172. No "invidious comments" are alleged, and no information is presented concerning the successful candidate for that position (or for any other positions that plaintiff applied for within the limitations period).

To be sure, plaintiff alleges – repeatedly – that NYCHA's failure to promote him was due to discrimination. *See, e.g.*, RAC ¶¶ 5, 45. But these are conclusions, and cannot substitute for the necessary "connective tissue that links [his] protected status to the alleged failure to [promote]." *Scalerio-Isenberg v. Morgan Stanley Servs. Grp. Inc.*, 2019 WL 6916099, at *5 (S.D.N.Y. Dec. 19, 2019) (dismissing Title VII claim where the plaintiff "alleged no facts" suggesting that "Morgan Stanley's decision not to hire her was based on her gender"); *see also Mitchell*, 2021 WL 8013770, at *8 (plaintiff's "assertion that he was the victim of age, race, and gender discrimination," based only on his "belief and speculation," does not "plausibly establish his discrimination claim"); *Akinsanya v. New York City Health & Hosps. Corp.*, 2017 WL 4049246,

at *6 (S.D.N.Y. July 28, 2017) (plaintiff's claim that she was "wrongfully terminated based on race" was insufficient where she failed to provide any "information" about what role, if any, her race "played in her employer's decision to end its employment relationship with her"), *report and recommendation adopted sub nom. Akinsanya v. New York City Health & Hosps. Corp.-Kings Cnty. Hosp. Ctr.*, 2017 WL 4023138 (S.D.N.Y. Sept. 12, 2017).

Besides the failure to promote, plaintiff does not identify any timely and actionable conduct on the part of NYCHA. "An adverse employment action is a materially adverse change in the terms and conditions of employment." *Mathirampuzha v. Potter*, 548 F.3d 70, 78 (2d Cir. 2008) (internal quotation marks omitted). The memos placed in plaintiff's file, *see* RAC ¶¶ 19, 24, 54 – which did not lead to discipline, demotion, or any other tangible consequence – do not rise to that level. *See Paupaw-Myrie v. Mount Vernon City Sch. Dist.*, 2023 WL 1109702, at *8 (S.D.N.Y. Jan. 30, 2023) ("counseling memos" did not "constitute adverse actions" for purposes of Title VII); *Green v. Jacob & Co. Watches, Inc.*, 248 F. Supp. 3d 458, 468 (S.D.N.Y. 2017) ("negative evaluations of an employee's work are not materially adverse employment actions unless such conduct is accompanied by negative consequences, such as demotion, diminution of wages, or other tangible loss"); *Watson v. Geithner*, 2013 WL 4028152, at *10 (S.D.N.Y. Aug. 8, 2013) (the issuance of "counseling memos," "unaccompanied by demotion, diminution of responsibilities or the like, does not constitute an adverse employment action for purposes of a discrimination claim"), *report and recommendation adopted*, 2013 WL 5441748 (S.D.N.Y. Sept. 27, 2013). Plaintiff's allegations that he was not given a reference letter "required for admission (2019) in course with GW University," and that "Manager Michael Wyands and RAM Renee Taylor interrupted and harassed the plaintiff [during a] team conference discussion (2021)," RAC ¶¶ 49, 67, fall even further from the mark. Moreover, as with plaintiff's unsuccessful applications for senior positions, the "connective tissue"

is missing, *Scalerio-Isenberg*, 2019 WL 6916099, at *5, in that plaintiff offers no "linkage" between these events and his age, race, or national origin. Consequently, plaintiff has failed to plead a discrimination claim under Title VII or the ADEA.

5. Plaintiff Fails to Allege a Plausible Federal Retaliation Claim

For a retaliation claim to survive a motion to dismiss, "the plaintiff must plausibly allege that: (1) defendants discriminated – or took an adverse employment action – against him, (2) because he has opposed any unlawful employment practice." *Duplan v. City of New York*, 888 F.3d 612, 625 (2d Cir. 2018) (quoting *Vega*, 801 F.3d at 90). To satisfy the first element, the plaintiff must plausibly allege that the adverse employment action was "harmful to the point that it could well dissuade a reasonable worker from making or supporting a charge of discrimination." *Shultz v. Congregation Shearith Israel*, 867 F.3d 298, 309 (2d Cir. 2017). To satisfy the second element, the plaintiff "must plausibly allege that the retaliation was a 'but-for' cause of the employer's adverse action," that is, "that the adverse action would not have occurred in the absence of the retaliatory motive." *Vega*, 801 F.3d at 90-91 (cleaned up). "Causation may be shown by direct evidence of retaliatory animus or inferred through temporal proximity to the protected activity." *Duplan*, 888 F.3d at 625.

Here, plaintiff appears to claim that every setback and slight he has suffered at NYCHA since 2006, when he first complained to its HR department about hiring discrimination, constitutes retaliation. RAC ¶ 57. He further alleges that the retaliation became "extreme" after he filed his CHR complaint in February 2017. *Id.* ¶ 4. Thus, in plaintiff's view, NYCHA's failure to promote him since 2006 constitutes retaliation (as well as discrimination). *See id.* ¶ 31. Similarly, plaintiff expressly characterizes the counseling memos placed in his file (including those prepared as late as 2018 and 2020) as "retaliatory memos," *id.* ¶¶ 24-25, 29, and appears to believe that NYCHA's

failure to give him a reference letter in 2019, and the conduct of Mr. Wyands and Ms. Taylor when they interrupted him during a 2021 team meeting, were also part of a retaliatory campaign. *See* RAC ¶¶ 49, 67.

Once again, however, plaintiff has failed to supply the required causal connection between his protected activity and NYCHA's allegedly retaliatory conduct. He alleges no facts that could constitute "direct evidence of retaliatory animus." *Duplan*, 888 F.3d at 625. To the contrary: as shown by the exhibits submitted with his opposition brief, NYCHA's Executive Vice President, Mr. Jew, affirmatively suggested to plaintiff in 2016 that he "consider seeking relief through an external human rights agency," and helpfully provided "a list of such agencies" for plaintiff's convenience. Dkt. 48-2, at ECF p. 11.

Nor can plaintiff rest on the temporal connection between his complaints and NYCHA's conduct. First, "courts uniformly hold that the temporal proximity must be very close." *Buchanan v. City of New York*, 556 F. Supp. 3d 346, 368 (S.D.N.Y. 2021). Plaintiff, however, has made no effort to tie any particular adverse action to any one of his discrimination complaints. Second, in order to create an inference of retaliatory animus through temporal proximity, a plaintiff must show that the personnel responsible for the alleged retaliation knew about the protected activity. *See Thomas v. DeCastro*, 2018 WL 1322207, at *10 (S.D.N.Y. Mar. 13, 2018) (dismissing retaliation claim where there was no allegation that Encarnacion, the alleged retaliator, was "aware of" plaintiff's participation in an investigation that resulted in Encarnacion being "locked out"); *Mateo v. Dawn*, 2016 WL 5478431, at *8 (S.D.N.Y. Sept. 28, 2016) (plaintiff's failure to allege any knowledge of the protected conduct by the alleged retaliators resulted in a "fail[ure] to establish a plausible causal connection" for the purposes of a retaliation claim); *Lyons v. New York*, 2016 WL 5339555, at *9 (S.D.N.Y. Sept. 22, 2016) ("an employer does not have the opportunity

to retaliate until he becomes aware of the protected activity") (quoting *Nielsen v. New York City Comm'n on Human Rights*, 1998 WL 20004, at *10 n.2 (S.D.N.Y. Jan. 20, 1998)). Here, plaintiff does not allege that any of the NYCHA supervisors whose conduct he characterizes as retaliatory were aware of his CHR complaint. Consequently, plaintiff has failed to plead a retaliation claim under Title VII or the ADEA.

6. No Leave to Amend Should Be Granted

"Generally, leave to amend should be freely given, and a *pro se* litigant in particular should be afforded every reasonable opportunity to demonstrate that he has a valid claim." *Matima v. Celli*, 228 F.3d 68, 81 (2d Cir. 2000) (internal quotation marks and citation omitted). Where amendment would be futile, however, leave should be denied. *Jackson v. Wells Fargo Home Mortg.*, 811 Fed. App'x 27, 30 (2d Cir. 2020) (summary order). Here, no amendment could revive the time-barred portion of plaintiff's Title VII and ADEA claims. Moreover, he has already amended his complaint twice, with judicial guidance, resulting in a "lengthier and more convoluted" document but no improvement in readability or substance. (Dkt. 26.) There is thus no reason to believe that, if given yet another opportunity, he could plead a cognizable claim for either discrimination or retaliation.¹²

¹² In his opposition brief, plaintiff appears to raise two entirely new claims, not pleaded in the RAC: (1) fraud, *see* Pl. Mem. at 9-14, 18, 20-22, 26-27, and (2) breach of fiduciary duty by NYCHA's board members, who "supported" the alleged discrimination and retaliation against plaintiff. *Id.* at 24-25. To the extent plaintiff's argument on these points can be construed as a motion for leave to expand his pleading by amendment, that motion should be denied as futile. "The elements of common law fraud are a material, false representation, an intent to defraud thereby, and reasonable reliance on the representation, causing damage to the plaintiff." *CapLOC, LLC v. McCord*, 2020 WL 1036044, at *14 (S.D.N.Y. Mar. 3, 2020) (Torres, J.) (quoting *Katara v. D.E. Jones Commodities, Inc.*, 835 F.2d 966, 970-71 (2d Cir. 1987)). Here, plaintiff accuses various NYCHA personnel of making false statements *about* him, but has never alleged that he relied, to his detriment, on any false statement made *to* him, and therefore has no basis upon which to assert a claim of fraud. Further, while directors owe fiduciary duties to the corporation or other entity on whose board they sit (and, in the corporate world, to its shareholders), there is no authority

"[W]here pleading deficiencies have been identified a number of times and not cured, there comes a point where enough is enough." *State Street Global Advisors Tr. Co. v. Visbal*, 462 F. Supp. 3d 435, 443 (S.D.N.Y. 2020) (quoting *In re Initial Pub. Offering Sec. Litig.*, 241 F. Supp. 2d 281, 397 (S.D.N.Y. 2003)). That point has been reached here. Consequently, plaintiff's federal claims should be dismissed with prejudice.

C. Plaintiff's State Law Claims

Plaintiff's state law claims – including those brought under the NYSHRL, the NYCHRL, and the common law – are within this Court's supplemental jurisdiction only because they form "part of the same case or controversy" as his Title VII and ADEA claims. *See* 28 U.S.C. § 1367(a). Supplemental jurisdiction may be declined where "the district court has dismissed all claims over which it has original jurisdiction." *Id.* § 1367(c)(3). Although the statute is phrased in discretionary terms, and there is no "mandatory rule to be applied inflexibly in all cases," *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988), in the "usual case in which all federal-law claims are eliminated before trial, the balance of factors to be considered under the pendent jurisdiction doctrine – judicial economy, convenience, fairness, and comity – will point toward declining to exercise jurisdiction over the remaining state-law claims." *Id.*; *see also Kolari v. N.Y.-Presbyterian Hosp.*, 455 F.3d 118, 123 (2d Cir. 2006) (reversing district court decision to retain supplemental jurisdiction over state law claims after dismissing federal claim, citing "the absence of a clearly articulated federal interest"); *Marcus v. AT&T Corp.*, 138 F.3d 46, 57 (2d Cir. 1998) ("In general, where the federal claims are dismissed before trial, the state claims should be dismissed as well.").

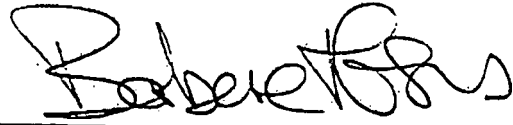
for the proposition that they owe such duties to individual employees. *See generally Lazar v. City of New York*, 2022 WL 2953934, at *4 (S.D.N.Y. July 26, 2022) (members of cooperative board owe fiduciary duties to the cooperative and its unit holders, but not to its employees). In any event, fraud and breach of fiduciary duty are state law claims, as to which this Court can and should decline supplemental jurisdiction. *See infra* at Part III(C).

Here, there is no discernable federal interest embedded in plaintiff's state-law claims. Nor do any of the other *Cohill* factors militate in favor of this Court retaining jurisdiction over those claims. Although plaintiff's state and local discrimination and retaliation claims are similar to their federal counterparts, they are not identical, and "must be analyzed separately," thus presenting "questions best left to the courts of the State of New York." *Kalia v. City Univ. of New York*, 2020 WL 6875173, at *7 (S.D.N.Y. Nov. 23, 2020) (quoting *Giordano v. City of New York*, 274 F.3d 740, 754 (2d Cir. 2001)); see also *Davis v. Town of Hempstead*, 2019 WL 235644, at *9 (E.D.N.Y. Jan. 16, 2019) (declining supplemental jurisdiction over NYSHRL claims once there were "no viable federal claims against any defendant"); *St. Juste v. Metro Plus Health Plan*, 8 F. Supp. 3d 287, 334 (E.D.N.Y. 2014) (declining supplemental jurisdiction over NYCHRL claim after dismissing claims under Title VII and the NYSHRL); *Sklodowska-Grezak v. Stein*, 236 F. Supp. 3d 805, 810 (S.D.N.Y. 2017) (declining supplemental jurisdiction over IIED and other state law claims because the court had dismissed all claims over which it had original jurisdiction and "because of the early stage at which those claims are being dismissed"). Upon dismissal of plaintiff's Title VII and ADEA claims, therefore the Court should also dismiss the remaining state law claims, without prejudice to refile in state court, for lack of subject-matter jurisdiction.

IV. CONCLUSION

For the reasons set forth above, I recommend, respectfully, that defendant's motion to dismiss be GRANTED, and that plaintiff's claims be DISMISSED WITH PREJUDICE for failure to comply with Fed. R. Civ. P. 8(a)(2). In the alternative, I recommend that plaintiff's federal claims be DISMISSED WITH PREJUDICE pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state a claim upon which relief can be granted, and that this Court decline to retain jurisdiction over his state law claims.

Dated: New York, New York
February 27, 2023



BARBARA MOSES
United States Magistrate Judge

**NOTICE OF PROCEDURE FOR FILING OF OBJECTIONS
TO THIS REPORT AND RECOMMENDATION**

The parties shall have 14 days from this date to file written objections to this Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). *See also* Fed. R. Civ. P. 6(a) and (d). Any such objections shall be filed with the Clerk of the Court, with courtesy copies delivered to the Hon. Analisa Torres at 500 Pearl Street, New York, New York 10007, and to the chambers of the undersigned magistrate judge. Any request for an extension of time to file objections must be directed to Judge Torres. **Failure to file timely objections will result in a waiver of such objections and will preclude appellate review.** *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Frydman v. Experian Info. Sols., Inc.*, 743 F. App'x, 486, 487 (2d Cir. 2018) (summary order); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brillingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010).

UNITED STATES DISTRICT COURT. SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Complaint of:

SHYAMAL GHOSH,

Civ. No. 1:21-cv-06139(AT)(BCM)
Re: Pre-Conference Acknowledgement

Plaintiff,

----- against -----

NEW YORK CITY HOUSING AUTHORITY,

Respondent.

I am Shyamal Ghosh, plaintiff in this case with due respect bring this matter to the honorable judge to consider:

1. Pre-conference correspondence with the defendant on rule 26(f)

According to the defendant's request the conference date of August 25, 2021, changed to September 29, 2021, which was the plaintiff acknowledged from the defendant's attorney. Plaintiff had an hour conference around August 20, 2021, limited to asking for plaintiff credential, and the rest of the time was confined to defendant job-related issues and the prior attorney, in this case, left NYCHA, etc.). I, Plaintiff tried to keep the defendant scheduled 9/3/21 conference discussion on rule 26(f) but the defendant was not available. Plaintiff tried to reach the defendant for the defendant's proposed common discovery plan, but the defendant was not available or responding to the plaintiff's call, Voice message, text messages, MS. Team message. Plaintiff tried but did not get any response from the defendant to make pre-conference discussion since the new conference date was approved and ordered by the judge.

2. Correspondence with Pro Se

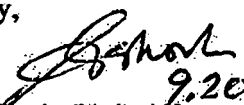
Plaintiff communicated with Pro Se several times and spoke with several individuals with several questions as judge July 28, 2021 order gave this privilege. It might be their internal policy or there some issues the spoke person could not answer several written questions except one that is plaintiff asked to know, the defendant brought this case from the NYS Supreme Court to Southern District Court considering the old history of this case, but the main issues of this case are defendant's persistent retaliation and harassment for more than a decade and the case as recommended by the supreme court judge and permitted plaintiff for a lawsuit against the defendant which is also approved by EEOC. As per the Pro Se representative, the plaintiff has no choice other than move with the defendant shifting the case to the district court. And that is the only answer against my six different written questions asking to Pro Se.

3. Discovery plan

Considering the history and depth of this case I am requesting a follow-up conference with the judge in the middle of the discovery plan if the court permitted. Also, I am drawing attention to my discovery plan which will be required to fact disclose with twenty NYCHA internal employees, 5 externals (left NYCHA or, changed department of working and related to the case), and a union representative also. I also bring attention in advance that some employees may have been demoted, terminated and some are promoted which will need the defendant's disclosure of the current status, location, and contact number to reach them for interrogatories and deposition if required. I also bring it advanced to acknowledge that opportunity for discovery, especially for interrogatories and depositions, to keep open until the summary judgment filing or a trial date is reached if permitted. As rule 26(a)(1)(A) permits document exchanging without a discovery plan in advance, the plaintiff tried to share the most recent retaliation and harassing incidences, but the defendant was unwilling and restricted on this sharing.

With due respect to the judge's order and to follow the instruction I am not counter responding at this time to the respondent's answer providing incorrect and misinformation there submitted on July 27, 2021, and I received an email copy more than two weeks after around August 13, 2021.

Respectfully,


Shyamal Ghosh, Plaintiff

42-52 Layton Street, 1D, Elmhurst, NY 11373

Ph: 646-220-6400

C/C : (Via e-mail, and regular mail)

1. Defendant

Sean - Patrick Wilson

Attorney, NYCHA

90, Church Street, 11 th Floor, NY, NY 10007

2. Pro Se Intake Unit, Room 105

Thurgood Marshall Courthouse, 40 Foley Square,

New York, NY 10007.

**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 16th day of June, two thousand twenty-five.

Shyamal Ghosh,

Plaintiff - Appellant,

v.

New York City Housing Authority,

Defendant - Appellee.

ORDER

Docket No. 23-822

By order dated May 27, 2025, the Court denied Appellant's motion for reconsideration of the order denying his motion for a transcript of an initial case management teleconference. Upon consideration thereof,

IT IS HEREBY ORDERED that Appellant's principal brief must be filed by August 26, 2025.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court

**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 20th day of August, two thousand twenty-five.

Before: William J. Nardini,
Circuit Judge.

Shyamal Ghosh,

Plaintiff - Appellant,

v.

New York City Housing Authority,

Defendant - Appellee.

ORDER

Docket No. 23-822

Appellant, pro se, moves for an extension of time, until September 20, 2025, to file his opening brief.

IT IS HEREBY ORDERED that the motion for an extension of time is DENIED. This Court has repeatedly denied Appellant's motion for a transcript that the court reporter has explained cannot be produced, based on the low quality of the audio recording of the proceeding in question. Appellant's repeated requests for relief that has been previously denied do not constitute good cause for an extension of time.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court

The block contains a handwritten signature in cursive script that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal of the United States Court of Appeals for the Second Circuit. The seal features the words "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "NEW YORK" at the bottom.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/18/2023

SHYAMAL GHOSH

(List the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

21 CV 06139 (AT) (BCM)

NOTICE OF APPEAL

NEW YORK CITY HOUSING AUTHORITY

(List the full name(s) of the defendant(s)/respondent(s).)

Notice is hereby given that the following parties: SHYAMAL GHOSH

(List the names of all parties who are filing an appeal)

in the above-named case appeal to the United States Court of Appeals for the Second Circuit

from the ☒ judgment ☒ order entered on: March 20, 2023

(date that judgment or order was entered on docket)

that: for the reasons stated in the Court's Order March 20, 2023, the Court adopts the Reports & Recommendation in its entirety. Accordingly, Defendants' motion to dismiss is GRANTED. Ghosh's federal claims are DISMISSED with prejudice, his state claims are DISMISSED without prejudice, and Court declines to grant leave to amend; Accordingly, the case is closed.

Dated 05-17-2023

Signature 1/5/ Shyamal Ghosh

GHOSH, SHYAMAL

Name (Last, First, MI)

42-52 Layton Street, 1D, Elmhurst, New York 11373

Address

City

State

Zip Code

1-646-220-6400

Telephone Number

ghoshsc@aol.com

E-mail Address (if available)

* Each party filing the appeal must date and sign the Notice of Appeal and provide his or her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his or her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/19/2023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHYAMAL GHOSH

(List the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

21 cv 06139 (AT)(BCM)

MOTION FOR EXTENSION
OF TIME TO FILE NOTICE
OF APPEAL

NEW YORK CITY HOUSING AUTHORITY

(List the full name(s) of the defendant(s)/respondent(s).)

I move under Rule 4(a)(5) of the Federal Rules of Appellate Procedure for an extension of time

to file a notice of appeal in this action. I would like to appeal the judgment

entered in this action on 3-20-2023 but did not file a notice of appeal within the required

date

time period because:

I was sick and depressed as a result of employer's persistent retaliation and harassment. I am under medication and it was informed this court with my last submission and I could not reach my e-mail in March 2023 and second half of February.
(Explain here the excusable neglect or good cause that led to your failure to file a timely notice of appeal.)

4-18-2023

Dated:

Signature SHYAMAL GHOSH

GHOSH, SHYAMAL

Name (Last, First, MI)

42-52 Layton Street Apt. 1D, Elmhurst, NY 11373

Address

City

State

Zip Code

646-220-6400

Telephone Number

ghoshsc@aol.com

E-mail Address (if available)

GRANTED. Any notice of appeal must be filed by May 19, 2023.

SO ORDERED.

Dated: April 19, 2023
New York, New York

App. 41

ANALISA TORRES
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
SHYAMAL GHOSH, : Docket #21cv6139
 :
Plaintiff, :
 :
- against - :
 :
NEW YORK CITY HOUSING AUTHORITY, : New York, New York
 : January 24, 2022
Defendants. :
 :
----- : TELEPHONIC
 : CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE BARBARA C. MOSES,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: SHYAMAL GHOSH, Pro Se
42-52 Layton Street, #1D
Elmhurst, New York 11373

For Defendant: NEW YORK CITY HOUSING AUTHORITY
CIVIL LITIGATION
BY: SYE-EUN AHN, ESQ.
90 Church Street, 11th Floor
New York, New York 10007

Transcription Service: Carole Ludwig, Transcription Services
155 East Fourth Street #3C
New York, New York 10009
Email: Transcription420@aol.com

Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

1
2 standpoint, about the progress of Mr. Ghosh's career.
3 He tells me in a nutshell that he's been stuck as a
4 housing assistant for years and that he believes this is
5 due to discrimination and then to retaliation.

6 MS. AHN: Currently, we deny everything. We
7 had, we looked back at his complaints that he filed with
8 the CCHR in 2017 and to the statute of limitations. We
9 have looked at each of the 17 various positions he
10 applied for between February 2016 to March 2017. So
11 within that one year one month he had applied to 17
12 various positions, and we've gone through each of those
13 reasons why he was denied a position. And there was a -
14 the CCHR was administratively (indiscernible) and as Mr.
15 Ghosh said --

16 THE COURT: CCHR did not make an adjudication
17 on the merits, I understand that.

18 MS. AHN: Yes, so then he appealed, and then
19 there was a whole history of it. For some reason or
20 another, while this complaint was filed in 2017, the
21 EEOC did not issue a dismissal and a notice of right to
22 sue letter until March 2021.

23 THE COURT: Right.

24 MS. AHN: Which is, with the four-year delay
25 being what it is, Mr. Ghosh then filed in the Supreme

1
2 Court, and (indiscernible) venue changed to federal due
3 to a federal question.

4 THE COURT: Well, let me ask the question more
5 broadly. Eighteen years with no promotion, why is that?

6 MS. AHN: We do not, we understand that he was
7 not applying to the position that he's qualified to get
8 a promotion at such as housing manager or assistant
9 housing manager. From there he can climb up in the
10 ranks. However, he's applying to a completely field
11 such as research scientist and much higher ranking
12 executive positions as well. And I believe he's applied
13 300 times to various positions, but none of them are in
14 the title or position of his experience with NYCHA.

15 THE COURT: Does NYCHA take into consideration
16 a candidate's experience before he came to this country?

17 MS. AHN: Yes, of course.

18 THE COURT: All right, Mr. Ghosh just told me
19 that he believes that it was his experience before he
20 came to this country that qualified him for at least
21 some of those positions to which he applied.

22 MS. AHN: Looking back on our notes and the
23 interview, we did not think that his experiences
24 actually qualified in the positions he was looking for.

25 THE COURT: All right, and you say he never

1
2 applied for what would have been the direct step in his
3 actual department?

4 MS. AHN: Let me rephrase that. From the
5 research we've done on the job that he's complained,
6 about positions that he's claimed about, none of them
7 happened for the housing assistant. I would have to do
8 another (indiscernible) to see if he actually had
9 applied to any of the promotional basis from the housing
10 assistant.

11 THE COURT: All right, and the next step would
12 be you say housing manager, is that right?

13 MS. AHN: He's a housing assistant now. It's
14 next to be an assistant housing manager.

15 THE COURT: Assistant housing manager, okay.

16 MS. AHN: Yes.

17 THE COURT: So it goes from housing assistant
18 to assistant manager, and then is there a manager
19 position above that?

20 MS. AHN: Then housing manager above that, and
21 then I am not proficient in what are all the
22 requirements to get to the next step after that.

23 THE COURT: All right. Well, this has all been
24 very helpful to me as background. Thank you to both of
25 you. Now, let's turn to the scheduling issues which are

1
2 now before us. Is it defendant's intention to make a
3 motion under Rule 12, Ms. Ahn?

4 MS. AHN: Yes, it is.

5 THE COURT: All right. How long do you need
6 for that motion?

7 MS. AHN: We've actually had a lot of
8 (indiscernible) and unfortunately some hospitalizations
9 in our department, and we are very slim at the moment
10 with a lot of deadlines. We respectfully request if we
11 could have a deadline in mid-March.

12 THE COURT: Well, I gave Mr. Ghosh, as we
13 discussed, a total of about seven weeks to prepare this
14 complaint. I don't think I'm going to give you quite
15 that long since we are already in late January. Hold
16 on, let me just take a look at the calendar. Today is
17 the 24th. One, two, three, four, five - I will give you
18 six weeks, Monday, March 7.

19 MS. AHN: Monday, March 7. We do have a
20 question. We are considering doing a joint motion --

21 THE COURT: A joint motion --

22 MS. AHN: -- motion to - a motion, sorry, a
23 motion to dismiss and, in the alternative, motion to
24 strike portions of the complaint.

25 THE COURT: Right. Understood, but please also

1
2 understand, as I'm sure you know, that a Rule 12(b)
3 motion to strike is disfavored --

4 MS. AHN: Okay, we'll consider that, thank you.

5 THE COURT: -- grounds for striking.

6 Certainly, you can identify specific portions of the
7 complaint if you believe they qualify for striking under
8 the standards at Rule 12(e), but it is a fairly narrow
9 category that's eligible for striking.

10 MS. AHN: Well, we were wondering with the page
11 limit is there any leeway in giving us more pages than
12 the standard 25 in light of --

13 THE COURT: You know, given, Ms. Ahn, given
14 that one of your complaints is that the plaintiff here
15 has been too prolix, I think you probably want to avoid
16 asking me to go beyond 25 pages because you know if I
17 give you extra pages, I'm going to have to give the
18 plaintiff extra pages in opposition.

19 MS. AHN: That is very fair. I understand,
20 Your Honor.

21 THE COURT: So why don't you hold off on that.
22 You prepare your motion. If you get closer to your
23 filing date and you find you just can't quite get it
24 into 25 pages, I don't think that will happen, I think
25 you can, but you can ask me when you have your papers in

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of GHOSH v. NEW YORK CITY HOUSING AUTHORITY, Docket #21cv6139, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature

Carole Ludwig

Carole Ludwig

Date: April 17, 2024

CRIMINAL COURT OF THE CITY OF NEW YORK
PART APAR COUNTY OF KINGS

THE PEOPLE OF THE STATE OF NEW YORK

STATE OF NEW YORK
COUNTY OF KINGS

V

ISAIAH FAISON

POLICE OFFICER NEIL WADE SHIELD NO.24150, OF 803 COMMAND SAYS THAT ON OR ABOUT JULY 05,2022 AT APPROXIMATELY 12:40 PM AT 51 NOSTRAND AVENUE COUNTY OF KINGS, STATE OF NEW YORK,

THE DEFENDANT COMMITTED THE OFFENSE(S) OF:

PL 120.05(3-B)	ASSAULT IN THE SECOND DEGREE (DQO)
PL 120.00(1)	ASSAULT IN THE THIRD DEGREE (DQO)
PL 110/120.00(1)	ATTEMPTED ASSAULT IN THE THIRD DEGREE (DQO)
PL 120.15	MENACING IN THE THIRD DEGREE (DQO)
PL 240.26(1)	HARASSMENT IN THE SECOND DEGREE

IN THAT THE DEFENDANT DID:

WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, CAUSE SUCH INJURY TO SUCH PERSON OR TO A THIRD PERSON; WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, ATTEMPT TO CAUSE SUCH INJURY TO SUCH PERSON OR TO A THIRD PERSON; WITH INTENT TO PREVENT AN EMPLOYEE OF THE NEW YORK CITY HOUSING AUTHORITY FROM PERFORMING HIS OR HER LAWFUL DUTIES WHILE LOCATED ON HOUSING PROJECT GROUNDS, REAL PROPERTY, OR A BUILDING OWNED, MANAGED, OR OPERATED BY SUCH AUTHORITY, CAUSE PHYSICAL INJURY TO SUCH EMPLOYEE; BY PHYSICAL MENACE, INTENTIONALLY PLACE OR ATTEMPT TO PLACE ANOTHER PERSON IN FEAR OF DEATH, IMMINENT SERIOUS PHYSICAL INJURY OR PHYSICAL INJURY; WITH INTENT TO HARASS, ANNOY OR ALARM ANOTHER PERSON, STRIKE, SHOVE, KICK OR OTHERWISE SUBJECT SUCH OTHER PERSON TO PHYSICAL CONTACT, OR ATTEMPT OR THREATEN TO DO THE SAME.

THE SOURCE OF DEPONENT'S INFORMATION AND THE GROUNDS FOR DEPONENT'S BELIEF ARE AS FOLLOWS:

DEPONENT IS INFORMED BY SHYAMAL GHOSH, WHO IS AN EMPLOYEE OF NEW YORK CITY HOUSING AUTHORITY, THAT, AT THE ABOVE TIME AND PLACE, THE DEFENDANT DID STRIKE THE INFORMANT ABOUT THE CHEST WITH A CLOSED FIST AND THE DEFENDANT DID PUSH THE INFORMANT TO THE GROUND.

THE DEPONENT IS FURTHER INFORMED BY THE INFORMANT THAT THE ABOVE DESCRIBED ACTIONS CAUSED INFORMANT TO SUFFER SWELLING AND BRUSING TO KNEES AND LACERATIONS TO ELBOW AND HAND, AND TO SUFFER SUBSTANTIAL PAIN, TO FEAR FURTHER PHYSICAL INJURY AND TO BECOME ALARMED AND ANNOYED.

FALSE STATEMENTS MADE IN THIS DOCUMENT ARE
PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT
TO SECTION 210.45 OF THE PENAL LAW.

DATE

SIGNATURE

ORI No: NY023033J

Order No: _____

NYSID No: _____

CJTN No: _____

At a term of the Kings Criminal Court, County of Kings, at the Courthouse at 120
Schermhorn St., Brooklyn, NY 11201, State of New York

Criminal Form 2 12/2020

PRESENT:

PEOPLE OF THE STATE OF NEW YORK

- against -

ORDER OF PROTECTION

Non-Family Offense - C.P.L. §30.13¹
(Not involving victims of domestic violence)

☐ Youthful Offender (check if applicable)

Part: _____

Case No.: _____

Defendant

Charges: PL 120.05 03 DF Assault In The Second Degree

DOB: _____

[Check box]: ☐ Ex Parte ☐ Defendant Present In Court

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CONTEMPT OF COURT. IF THIS IS A TEMPORARY ORDER OF PROTECTION AND YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND THEN CONTINUE IN EFFECT UNTIL A NEW DATE SET BY THE COURT.

☒ TEMPORARY ORDER OF PROTECTION - Whereas good cause has been shown for the issuance of a temporary order of protection [as a condition of: ☐ recognizance ☐ release on bail ☐ adjournment in contemplation of dismissal]

☐ ORDER OF PROTECTION - Whereas defendant has been convicted of [specify crime or violation]: _____

And the Court having made a determination in accordance with section 530.13 of the Criminal Procedure Law,

IT IS HEREBY ORDERED that the above-named defendant observe the following conditions of behavior:

[Check applicable paragraphs and subparagraphs]:

☒ Stay away from ☒ GHOSH SHYAMAL;

☒ the home of GHOSH SHYAMAL;

☒ the school of GHOSH SHYAMAL;

☒ the business of GHOSH SHYAMAL;

☒ the place of employment of GHOSH SHYAMAL;

☐ other _____

☒ Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means with GHOSH SHYAMAL;

☒ Refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of, or designated witnesses to, the alleged offense and such members of the family or household of such victim(s) or witness(es) as shall be specifically named GHOSH SHYAMAL;

☐ Refrain from intentionally injuring or killing without justification the following companion animal(s) (pet(s)) [specify type(s) and, if available, name(s)]: _____

☒ Surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following: ANY AND ALL and do not obtain any further guns or other firearms. Such surrender shall take place immediately, but in no event later than IMMEDIATELY at NEAREST PRECINCT;

☒ Specify other conditions defendant must observe for the purposes of protection: NO THIRD PARTY CONTACT GHOSH SHYAMAL. Refrain from remotely controlling, monitoring or otherwise interfering with any electronic device or other object affecting the home, vehicle or property of the protected person(s) by connection through any means, including, but not limited to, the internet, Bluetooth, a wired or wireless network, or other wireless technology;

☒ Specify other conditions defendant must observe for the purposes of protection: Refrain from assaulting, harassing, intimidating, threatening or otherwise interfering with the victim or victims of, or designated witnesses to, the alleged offense and such members of the family or household of such victim(s) or witness(es) as shall be specifically name GHOSH SHYAMAL;

IT IS FURTHER ORDERED that the above-named Defendant's license to carry, possess, repair, sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00, is hereby ☒ suspended or ☐ revoked (note: final order only), and/or ☒ the Defendant shall remain ineligible to receive a firearm license during the period of this order. (Check all applicable boxes). NOTE: If this paragraph is checked, a copy of this form must be sent to: New York State Police, Pistol Permit Section, State Campus Building #22, 1220

IT IS FURTHER ORDERED that this order of protection shall remain in force until and including 01/27/2023, but if you fail to appear in court on this date, the order may be extended and continue in effect until a new date set by the Court.

DATED: 07/05/2022



JUDGE JUSTICE

☒ Defendant advised in Court of issuance and contents of Order.

☐ Order to be served by other means [specify]: _____

☐ Warrant issued for Defendant.

☒ Order personally served on Defendant in Court

(Defendant's signature)

☐ ADDITIONAL SERVICE INFORMATION [specify]: _____

The Criminal Procedure Law provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties shall authorize, and in some situations may require, such officer to arrest a defendant who has violated its terms and to bring him or her before the Court to face penalties authorized by law.

Federal law requires that this order must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person against whom the order is sought is an intimate partner of the protected party and has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 USC §§2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty); and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired. (18 U.S.C. §§ 922(g)(8), 922(g)(9), 2261, 2261A, 2262).

¹ Use this form for non-family offenses of protection, except as to CPL §130.12, that are not aimed to protect victims of family offenses. For family offenses and family offenses that are aimed to protect victims of family offenses, use the statewide domestic violence order form. (§130.12(1), §130.12(2), §130.12(3))

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHYAMAL GHOSH, Plaintiff,

-against-

NEW YORK CITY HOUSING AUTHORITY, Defendant.

Case No. 21-cv-6139 (AT)(BCM)

Prayer for Plaintiff Safety Protection

Dear Judge Barbara Moses:

Plaintiff Shyamal Ghosh, Pro Se, is requesting the court for his safety protection at the workplace Plaintiff was seriously injured by the attacker (NYCHA resident and well connected with Plaintiff's supervisor) during his job performance on July 5, 2022. Still, Plaintiff is under medication for the injury and assault. Plaintiff is required to go back to work from today July 18, 2022, although he cannot properly walk yet.

Plaintiff discussed with Defendant's attorney Mr. Jason Levin on July 11, 2022 to submit a motion for Plaintiff's safety at the workplace. Defendant's attorney asked to send a draft to him, and he needs to discuss it with Defendant. But last Friday Defendant one of the supervisors send me a short e-mail stating I must be assigned to a different location Sumner House about a 30-minute walking distance from my present location Marcy house. I am working at Marcy House for more than 18 years and I am very well-known there without any complaint. The attacker planned to assault me, and he did (keeping close contact with my supervisor), after attacking me he came to my supervisor for shelter stating he assaulted the Asian Guy and now he wants to see my supervisor before the police come (reported by one of the secretaries Ms. Day).

If Defendant wants to transfer me for safety reasons my current location Marcy House is safer than Sumner house as I know, and the attacker has already been arrested. Moreover, because of the NYCHA supervisory incompetency/negligence in employees' safety hampered and I am the first victim within the last 18 years in Marcy's management office. It appears to me Defendant treating me differently. Defendant took another opportunity to increase my suffering at work because transferring to Sumner will need to walk around 30 minutes from my present location Marcy House where I worked for more than 18 years without any complaint. In fact, NYCHA has many locations like 90 church street and 250 Broadway where more than 1000 employees work, and convenient for me to place there. I also feel it will be a punishment to a victim if not accommodated in a convenient place like the places I mentioned.

I like to acknowledge also, during teleconferences with Judge Moses NYCHA's attorney Ms. Sye E. Ahn stated in response to the judge asking (why Plaintiff is not promoted to a position for 18 years) Plaintiff is not applying for the promotional position. NYCHA attorney Mr. S. P. Wilson (currently resigned from NYCHA) stated because of Plaintiff's education and experience-oriented position (which are not currently available) when available plaintiff will be placed accordingly. In the last 6 months Plaintiff applied for more than 4 positions and those

positions have Civil Service List and plaintiff is within the list with the highest score but Plaintiff was not considered (for Health Services Manager, Administrative Community Relation Specialist Plaintiff Civil Service Score is 100 in 100). On the other side violating Civil Service Rule (hiring from the list) NYCHA hiring out of the list.

Plaintiff prayers to the court to protect the plaintiff safely at work and order the defendant, considering the option available to place Plaintiff in the right position when the case is in court in progress for a judgment.

Respectfully,

Signature: "/S/ Shyamal Ghosh."

Date : July 18,, 2022 Shyamal Ghosh, Plaintiff, Pro Se

42-52 Layton Street ,Apt. 1D, Elmhurst, NY 11373

Ph: 1-646-220-6400 .E-mail : ghoshsc@aol.com

C/C : (Via e-mail / mail) Jason Levin .

E-mail : Jason.Levin@jacksonlewis.com and

Cooper Binsky. E-mail : Cooper.Binsky@jacksonlewis.com

Address: Jackson Lewis P.C. ,666 Third Avenue, 29 th Floor,
New York, NY 10017.

Sye-Eun Ahn. E-mail: sy-eun.ahn@nycha.nyc.gov

Address: NYCHA, 90 Church Street , 11 th Floor, New York , NY 10007.

Pro Se intake unit, Room 105 .

E-mail : Temporary Pro Se Filing@nysd.uscourts.gov

Mailing address: Pro Se Intake Unit, 500 pearls Street, New York, NY 10007

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE#: 1:21-cv-06139-AT-BCM**

Ghosh v. New York City Housing Authority
Assigned to: Judge Analisa Torres
Referred to: Magistrate Judge Barbara C. Moses
Cause: 28:1441ea Removal - Employment Discrimination

Date Filed: 07/19/2021
Date Terminated: 03/20/2023
Jury Demand: None
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff

Shyamal Ghosh

represented by **Shyamal Ghosh**
42-52 Layton Street, #1D
Elmhurst, NY 11373
646/220-6400
Email: ghoshsc@aol.com
PROSE

V.

Defendant

New York City Housing Authority

represented by **Jason Brett Levin**
Jackson Lewis P.C. (NY)
666 Third Avenue
New York, NY 10017
212-545-4000
Fax: 212-972-3213
Email: Jason.Levin@jacksonlewis.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

Sye-Eun Ahn
Nycha
Civil Litigation
90 Church Street
Ste 11th Floor
New York, NY 10007
212-776-5048

07/18/2022	<u>53</u>	LETTER addressed to Magistrate Judge Barbara C. Moses from S. Ghosh, dated 7/18/22 re: "PRAYER FOR PLAINTIFF SAFETY PROTECTION" - Plaintiff is requesting the Court for his safety protection at the workplace. Plaintiff was seriously injured by the attacker(NYCHA resident and well connected with Plaintiffs supervisor) during his job performance on 7/5/22 etc. Plaintiff prays that the Court protect the plaintiffs safety at work and order the defendant, considering the option available to place the plaintiff in the right position when the case is in Court in progress for a judgment. Document filed by Shyamal Ghosh.(sc) (Entered: 07/18/2022)
07/20/2022	<u>54</u>	MEMO ENDORSEMENT on re: <u>53</u> Letter,, filed by Shyama l Ghosh. ENDORSEMENT: The Court is in receipt of plaintiffs letter, which raises matters outside the scope of his claims in this action. Consequently, no response is required from defendant. SO ORDERED. (Signed by Magistrate Judge Barbara C. Moses on 7/20/2022) (rro) (Entered: 07/20/2022)
02/27/2023	<u>22</u>	REPORT AND RECOMMENDATION TO THE HON. ANALISA TORRES re: il MOTION to Dismiss . filed by New York City Housing Authority. For the reasons set forth above, I recommend, respectfully, that defendant's motion to dismiss be GRANTED, and that plaintiffs claims be DISMISSED WITH PREJUDICE for failure to comply with Fed. R. Civ. P. 8(a)(2). In the alternative, I recommend that plaintiffs federal claims be DISMISSED WITH PREJUDICE pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state a claim upon which relief can be granted, and that this Court decline to retain jurisdiction over his state law claims. Objections to R&R due by 3/13/2023. (Signed by Magistrate Judge Barbara C. Moses on 2/27/2023) (rro) (Entered: 02/27/2023)
03/20/2023	<u>56</u>	ORDER re: <u>55</u> Report and Recommendations, il Motion to Dismiss filed by New York City Housing Authority. The Court, therefore, ADOPTS the R&R in its entirety. Accordingly, Defendants' motion to dismiss is GRANTED. Ghosh's federal claims are DISMISSED with prejudice, his state claims are DISMISSED without prejudice, and the Court declines to grant leave to amend. The Clerk of Court is directed to terminate the motion at ECF No. 41, mail a copy of this order to Plaintiff pro se, and close the case. SO ORDERED. (Signed by Judge Analisa Torres on 3/20/2023) (va) Transmission to Orders and Judgments Clerk for processing. (Entered: 03/20/2023)
03/20/2023	<u>57</u>	CLERK'S JUDGMENT re: <u>56</u> Order Adopting Report and Recommendations,, in favor of New York City Housing Authority against Shyamal Ghosh. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Order dated March 20, 2023, the Court adopts the Report & Recommendation in its entirety. Accordingly, Defendants motion to dismiss is GRANTED. Ghoshs federal claims are DISMISSED with prejudice, his state claims are DISMISSED without prejudice, and the Court declines to grant leave to amend; Accordingly, the case is closed. (Signed by Clerk of Court Ruby Krajick on 03/20/2023) (Attachments:# 1 Notice of Right to appeal) (nd) (Entered: 03/20/2023)
04/18/2023	<u>58</u>	MOTION, Re: for Extension of Time to File the Notice of Appeal. Document filed by Shyamal Ghosh.(sc) (Entered: 04/18/2023)
04/19/2023	<u>22</u>	MEMO ENDORSEMENT granting <u>58</u> Motion for Extension of Time to File. ENDORSEMENT: GRANTED. Any notice of appeal must be filed by May 19, 2023.SO ORDERED.. (Signed by Judge Analisa Torres on 4/19/2023) (kv) (Entered: 04/19/2023)
05/18/2023	<u>60</u>	MOTION for Leave to Proceed In Forma Pauperis On Appeal. Document filed by Shyamal Ghosh. (tp) (Entered: 05/18/2023)
05/18/2023	<u>61</u>	NOTICE OF APPEAL from <u>57</u> Clerk's Judgment, <u>56</u> Order Adopting Report and Recommendations. Document filed by Shyamal Ghosh. Form D-P is due within 14 days to the Court of Appeals, Second Circuit. (tp) (Entered: 05/18/2023)