

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ SEP 06, 2017 ★
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
JORGE RODRIGUEZ, :
 :
 : Plaintiff, :
 :
 : -against- :
 :
 : FEDERAL BUREAU OF INVESTIGATION, :
 :
 : Defendant. :
----- X

NOT FOR PUBLICATION

MEMORANDUM & ORDER

16-cv-6655 (ENV) (LB)

----- X
JORGE RODRIGUEZ, :
 :
 : Plaintiff, :
 :
 : -against- :
 :
 : NYS DMV HAZMAT UNIT, NYS DMV, :
 : NYS DEPARTMENT OF TRANSPORTATION, :
 : and NYS US DEPARTMENT OF HOMELAND :
 : SECURITY TSA, :
 :
 : Defendants. :
----- X

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1801 (ENV) (LB)

----- X
JORGE RODRIGUEZ, :
 :
 : Plaintiff, :
 :
 : -against- :
 :
 : NEW YORK STATE DEPARTMENT OF :
 : MOTOR VEHICLES, NEW YORK STATE :
 : DMV HAZMAT UNIT, NYS TRAFFIC LAW, :
 : and HOMELAND SECURITY TSA, :
 :
 : Defendants. :
----- X

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1802 (ENV) (LB)

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----- X
JORGE RODRIGUEZ, :

Plaintiff, :

-against- :

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES and NYS DMV HAZMAT
UNIT, :

Defendants. :

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1803 (ENV) (LB)

----- X
JORGE RODRIGUEZ, :

Plaintiff, :

-against- :

NEW YORK STATE DMV HAZMAT UNIT,
NYS DMV, NYS DEPARTMENT OF
TRANSPORTATION, and NYS US
DEPARTMENT OF HOMELAND SECURITY
TSA, :

Defendants. :

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1804 (ENV) (LB)

----- X
JORGE RODRIGUEZ, :

Plaintiff, :

-against- :

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLE and NYS DMV HAZMAT
UNIT, :

Defendants. :

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1805 (ENV) (LB)

----- X
JORGE RODRIGUEZ,

Plaintiff,

-against-

NEW YORK STATE DMV HAZMAT UNIT,
NYS DIVISION OF CRIMINAL JUSTICE
SERVICE, and FEDERAL BUREAU –
INVESTIGATION,

Defendants.
----- X

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1806 (ENV) (LB)

----- X
JORGE RODRIGUEZ,

Plaintiff,

-against-

NEW YORK STATE DMV HAZMAT UNIT,
NYS DMV, NYS DEPARTMENT OF
TRANSPORTATION, and NYS US
DEPARTMENT OF HOMELAND SECURITY
TSA,

Defendants.
----- X

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1807 (ENV) (LB)

----- X
JORGE RODRIGUEZ,

Plaintiff,

-against-

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES, NEW YORK STATE
DMV HM UNIT, NEW YORK STATE
DIVISION OF CRIMINAL JUSTICE
SERVICES, FEDERAL BUREAU –
INVESTIGATION, and HOMELAND SECURITY
TSA,

Defendants.
----- X

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1808 (ENV) (LB)

----- X
JORGE RODRIGUEZ,

Plaintiff,

-against-

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES and NYS DMV HAZMAT
UNIT,

Defendants.
----- X

: NOT FOR PUBLICATION

: MEMORANDUM & ORDER

: 17-cv-1809 (ENV) (LB)

----- X
JORGE RODRIGUEZ,

Plaintiff,

-against-

NYS DMV HAZMAT UNIT, NYS DMV,
NYS DEPARTMENT OF TRANSPORTATION,
and NYS US DEPARTMENT OF HOMELAND
SECURITY TSA,

Defendants.
----- X

: NOT FOR PUBLICATION

: MEMORANDUM & ORDER

: 17-cv-1810 (ENV) (LB)

----- X
JORGE RODRIGUEZ,

Plaintiff,

-against-

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES, NYS DMV HAZMAT
UNIT, NYS TRAFFIC LAW, and HOMELAND
SECURITY TSA,

Defendants.
----- X

: NOT FOR PUBLICATION

: MEMORANDUM & ORDER

: 17-cv-1811 (ENV) (LB)

----- X
JORGE RODRIGUEZ, :

Plaintiff, :

-against- :

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES and NYS DMV HAZMAT
UNIT, :

Defendants. :

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1812 (ENV) (LB)

----- X
----- X
JORGE RODRIGUEZ, :

Plaintiff, :

-against- :

NYS DMV HAZMAT UNIT, NYS DMV,
NYS DEPARTMENT OF TRANSPORTATION,
and NYS US DEPARTMENT OF HOMELAND
SECURITY TSA, :

Defendants. :

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1813 (ENV) (LB)

----- X
----- X
JORGE RODRIGUEZ, :

Plaintiff, :

-against- :

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES, NEW YORK STATE
DMV HAZMAT UNIT, NYS TRAFFIC LAW,
and HOMELAND SECURITY TSA, :

Defendants. :

NOT FOR PUBLICATION

MEMORANDUM & ORDER

17-cv-1814 (ENV) (LB)

----- X
JORGE RODRIGUEZ,

Plaintiff,

-against-

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES and NYS DMV HAZMAT
UNIT,

Defendants.
----- X

: NOT FOR PUBLICATION

: MEMORANDUM & ORDER

: 17-cv-1815 (ENV) (LB)

----- X
JORGE RODRIGUEZ,

Plaintiff,

-against-

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES, NEW YORK STATE DMV
HAZMAT UNIT, NYS TRAFFIC LAW, and
HOMELAND SECURITY TSA,

Defendants.
----- X

: NOT FOR PUBLICATION

: MEMORANDUM & ORDER

: 17-cv-1816 (ENV) (LB)

----- X
JORGE RODRIGUEZ,

Plaintiff,

-against-

NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES and NYS DMV HAZMAT
UNIT,

Defendants.
----- X

: NOT FOR PUBLICATION

: MEMORANDUM & ORDER

: 17-cv-1817 (ENV) (LB)

VITALIANO, D.J.

On February 24, 2017, *pro se* plaintiff Jorge Rodriguez filed 17 complaints against
defendants New York State Department of Motor Vehicles ("DMV"), DMV Hazmat Unit, New

York State Department of Transportation, New York State Division of Criminal Justice Services, Federal Bureau of Investigation (“FBI”), Department of Homeland Security (“DHS”), Transportation Security Administration (“TSA”), and an entity that he identifies only as “NYS Traffic Law,” commencing 17 of the 18 cases captioned above. On February 24, 2017, alone, he filed more than 130 complaints in the courthouse’s night deposit box. Separately, he commenced another action against FBI in the Southern District of New York, which has been transferred to this district and also is captioned above. *See* Dkt. No. 16-cv-6655. For purposes of this Order, the above-captioned actions are consolidated and Rodriguez’s requests to proceed *in forma pauperis* are granted. For the reasons that follow, however, his consolidated complaint is dismissed.

Background

Rodriguez’s complaints appear to arise from his receipt of a letter from DMV, dated January 28, 2016, informing him that the hazardous materials endorsement to his commercial driver’s license had been revoked. Subsequently, however, DMV notified him, first on March 11, 2016 and again on November 7, 2016, that he had been approved for the endorsement. The complaints are substantially similar, but for the insertion of various conclusory claims of “unlawful practice,” “defamation of character,” “discrimination,” “retaliation,” “negligence,” “incompetence,” and “tort.” In these complaints, Rodriguez seeks damages ranging from indefinite amounts to \$240 million, along with an unspecified “injunction.”

Standard of Review

“[A] *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94, 127 S. Ct. 2197, 2200, 167 L. Ed. 2d 1081 (2007) (citation omitted). Pleadings submitted by a self-

represented party should be “liberally construed,” *id.* (citation omitted), and “interpreted ‘to raise the strongest arguments that they suggest,’” *Graham v. Henderson*, 89 F.3d 75, 79 (2d Cir. 1996) (citation omitted). Nonetheless, a *pro se* complaint must still “plead facts sufficient ‘to state a claim to relief that is plausible on its face.’” *Teichmann v. New York*, 769 F.3d 821, 825 (2d Cir. 2014) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 1949, 173 L. Ed. 2d 868 (2009)). “A claim has facial plausibility 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 (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556, 127 S. Ct. 1955, 1965, 167 L. Ed. 2d 929 (2007)). Although the complaint need not provide “detailed factual allegations,” it must include “more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Id.* (quoting *Twombly*, 550 U.S. at 555).

Where, as here, the plaintiff is proceeding *in forma pauperis*, the district court must dismiss the complaint if it “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief from a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). However, a court generally should not dismiss a *pro se* complaint “without granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated.” *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000) (citation omitted).

Discussion

Rodriguez’s complaints cannot proceed against any of the defendants named. As a threshold matter, although he has identified “NYS Traffic Law,” New York State Department of Transportation, New York State Division of Criminal Justice Services, FBI, DHS, and TSA as defendants in the complaint captions, other than in the captions, the complaints do not include

any factual allegations concerning those entities. Accordingly, his complaints must be dismissed as against those defendants, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for failure to state a claim.

Rodriguez has alleged certain facts regarding DMV and its Hazmat Unit (the latter of which is merely a division of DMV). Nonetheless, his claims against those defendants must be dismissed, in accordance with 28 U.S.C. § 1915(e)(2)(B)(iii), because the Eleventh Amendment bars suits for damages against states, state agencies, and state officials acting in their official capacity, absent the state's consent to suit or an express or statutory waiver of immunity. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 98-100, 104 S. Ct. 900, 906-08, 79 L. Ed. 2d 67 (1984); *State Emps. Bargaining Agent Coalition v. Rowland*, 494 F.3d 71, 95 (2d Cir. 2007); *Sandoval v. Dep't of Motor Vehicles State of New York*, 333 F. Supp. 2d 40, 43 (E.D.N.Y. 2004) (DMV entitled to Eleventh Amendment immunity). Moreover, while the Eleventh Amendment "does not bar certain actions against state officers for injunctive or declaratory relief," *see Natarelli v. VESID Office*, 420 F. App'x 53, 55 (2d Cir. 2011) (quoting *Conyers v. Rossides*, 558 F.3d 137, 150 (2d Cir. 2009)), and Rodriguez's complaints vaguely indicate that, in addition to demanding millions of dollars in money damages, he also seeks an unspecified "injunction," his tacked-on request for injunctive relief appears to be utterly frivolous. Indeed, he has not even identified which actions of DMV or the Hazmat Unit, if any, he seeks to enjoin. *See id.* (affirming district court's dismissal, on sovereign immunity grounds, of complaint that "generally sought 'equitable relief,' [but] failed to identify specifically which action of [defendant] he wished to enjoin"). In any event, any possible claim for a prospective injunction would need to be dismissed due to Rodriguez's failure to "follow the requirement, established in *Ex Parte Young*, [209 U.S. 123, 28 S. Ct. 441, 52 L. Ed. 714 (1908)], that a plaintiff seeking prospective relief from the state must name as defendant a state official rather than the state or a

state agency directly.” *Wang v. Office of Prof’l Med. Conduct, N.Y.*, 354 F. App’x 459, 460-61 (2d Cir. 2009) (alteration in original) (quoting *Santiago v. New York State Dep’t of Corr. Services*, 945 F.2d 25, 32 (2d Cir. 1991)).

Filing Injunction Warning

“The district courts have the power and the obligation to protect the public and the efficient administration of justice from individuals who have a ‘history of litigation entailing vexation, harassment and needless expense to other parties and an unnecessary burden on the courts and their supporting personnel.’” *Lau v. Meddaugh*, 229 F.3d 121, 123 (2d Cir. 2000) (citation omitted). “If a litigant has a history of filing ‘vexatious, harassing or duplicative lawsuits,’ courts may impose sanctions, including restrictions on future access to the judicial system.” *Hong Mai Sa v. Doe*, 406 F.3d 155, 158 (2d Cir. 2005) (citation omitted); *see Safir v. U.S. Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986) (outlining factors to be considered in imposing filing injunction); *see also* 28 U.S.C. § 1651(a). Prior to issuing such an injunction, the court must provide the litigant notice and an opportunity to be heard. *See Ling Li v. Asphalt Green, Inc.*, 581 F. App’x 6, 8 (2d Cir. 2014); *Iwachiw v. N.Y. State Dep’t of Motor Vehicles*, 396 F.3d 525, 528-29 (2d Cir. 2005).

As noted earlier, in one day, February 24, 2017, Rodriguez filed more than 130 separate civil complaints in this district. He has filed additional complaints since that time. Upon review, the Court observes that the complaints are vexatious and duplicative. In light of the significant judicial resources that already have been expended in processing these complaints, Rodriguez is hereby warned that, if he continues to make vexatious, harassing, or duplicative filings, he shall be—upon notice and opportunity to be heard—enjoined from filing any future *in forma pauperis* actions in this district without first obtaining court permission.

Conclusion

In line with the foregoing, the above-captioned complaints are consolidated, and the consolidated complaint is dismissed, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii). Leave to amend is denied.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal would not be taken in good faith, and, therefore, *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 920-21, 8 L. Ed. 2d 21 (1962).

The Clerk of Court is directed to enter judgment accordingly, and to close this case.

So Ordered.

Dated: Brooklyn, New York
August 25, 2017

/s/ USDJ ERIC N. VITALIANO

ERIC N. VITALIANO
United States District Judge