

26-1773

**In The United States Court of Appeals
For The Second Circuit**

MARIANO TORRES AND LESTER WILSON,
Plaintiffs-Appellants,

v.

JAMES CARLSON, AIDAN PARISI, GRANT MINER, CATHERINE CURRAN-
GROOME, PEOPLE'S FORUM, INC., LISA FITHIAN, GABRIEL YANCY, ETHAN
CHOI, AND JOHN DOES 1–40,
Defendants-Appellees.

On Appeal from the United States District Court for the Southern
District of New York, No. 1:25-cv-03474-CM

**BRIEF OF *AMICUS CURIAE* MANHATTAN INSTITUTE
SUPPORTING PLAINTIFFS-APPELLANTS AND REVERSAL**

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CORPORATE DISCLOSURE STATEMENT

The Manhattan Institute has no parent companies, subsidiaries, or affiliates, and does not issue shares to the public.

Dated: October 19, 2026

s/ Ilya Shapiro
Ilya Shapiro

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IDENTITY AND INTEREST OF *AMICUS CURIAE*¹

The Manhattan Institute (MI) is a nonprofit policy research foundation whose mission is to develop and disseminate ideas that foster individual responsibility and agency across multiple dimensions. It has sponsored scholarship and filed briefs opposing regulations that interfere with constitutionally protected liberties.

MI files this brief because it has particular concern for the scope of civil rights law in the Second Circuit, where *amicus* is located. Reconstruction-Era legislation designed to protect individual rights is a crucial component to our post-Civil War constitutional order.

INTRODUCTION AND SUMMARY OF ARGUMENT

A group of pro-Hamas Columbia University students conspired to take over Hamilton Hall. They stormed the building at night in masks and encountered two janitors, Mariano Torres and Lester Wilson. The mob attacked, berated, shoved, and shouted at Torres and Wilson. The janitors were told they were “Jew-lovers” who “worked for the Jews,” and

¹ Pursuant to Fed. R. App. P. 29(a), counsel for *amicus* states that all parties have consented to the filing of this brief. Further, no party’s counsel authored any part of this brief and no person other than *amicus* made a monetary contribution to fund its preparation or submission.

that they were “Zionists.” They considered jumping out the window but worked their way out through the crowd while being attacked.

Torres and Wilson filed suit against the marauders under the modern version of legislation that was passed during Reconstruction to go after conspiracies to violate rights. The district court dismissed plaintiffs’ claims under 42 U.S.C. § 1985(3) out of a mistaken notion that the statute required them to allege that they are members of the class of people against which defendants’ conspiracy was directed. When it found that they were not the objects of the conspiracy and not part of the relevant protected class—because they’re not Jewish—it concluded that they had no claim.

But § 1985(3) requires only that plaintiffs be injured by an action taken in furtherance of a conspiracy motivated by animus towards a particular class of people, not that they be members of that class. Indeed, plaintiffs need not be part of *any* protected class. Any person injured by a conspiracy to deprive rights based on animus has standing to sue.

Section 1985(3) was written broadly, and it covers such actions that concerned the drafters of the original Ku Klux Klan Act of 1871. During Reconstruction, the Klan conspired to systematically deprive minorities

of civil rights. “The Ku Klux Klan Act of 1871,” History, Art & Archives: United States House of Representatives, <https://tinyurl.com/yhx2vh5w>. If the Reconstruction-Era Klan had conspired to burn down a black polling station, and that fire then spread to unrelated, white-owned structures, the plain text of the statute—as well as Supreme Court jurisprudence—confirm that such harmed parties would have a cause of action under § 1985(3). Similarly, if this Court finds that plaintiffs here were injured in furtherance of the relevant kind of conspiracy, their claim must not be artificially blocked due to their identity.

The district court’s error did not appear out of thin air. It reflects a misunderstanding of § 1985(3) that has proliferated throughout the Second Circuit. The notion that § 1985(3) plaintiffs must be members of the targeted class has appeared in several of this Court’s rulings, despite the fact that it conflicts with the statute’s text and that it has never been endorsed by the Supreme Court. To prevent a systematic, unjustified narrowing of the statute, the Court should correct that error here.

ARGUMENT

I. The Text of Section 1985(3) Grants a Legal Claim to Anyone Injured by a Conspiracy to Deprive a Person or Class of the Equal Protection of the Laws, Regardless of Whether That Party Is a Member of a Protected Class

42 U.S.C § 1985(3) states:

If two or more persons in any State or Territory conspire . . . for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws . . . if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property . . . the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

The statute can be parsed into several requirements for making out a cause of action. First, there must be a conspiracy between several people. Second, the conspiracy must be directed at depriving a person or a class of certain rights. Third, an action must have been taken in furtherance of the goals of the conspiracy. And finally, that action must have injured the plaintiff.

The question here is whether the plaintiff must be a member of the class of persons against whom the conspiracy was directed to have standing under the statute. The district court, paraphrasing the statute,

inserts such a requirement, claiming that § 1985(3) requires a plaintiff to demonstrate that there exists a conspiracy “for the purpose of depriving the plaintiff of the equal protection of the laws, or the equal privileges or immunities under the laws.” *Torres v. Carlson*, No. 25-cv-3474, 2026 U.S. Dist. LEXIS 123088, at *19 (S.D.N.Y June 1, 2026).

The district court’s statutory restatement is not benign. Nothing in the text of § 1985(3) indicates that the subject conspiracy must be directed against the plaintiff. Instead, the statute says that the conspiracy must be undertaken for the purpose of depriving “any person or class of persons” of certain rights. It then, in a later clause, grants a cause of action to *any party* injured by acts taken in furtherance of such a conspiracy. Thus, the statute directs courts to consider *first* whether defendants were engaged in a conspiracy against a particular class of persons, and *then* whether the plaintiff was injured by an action that furthered that conspiracy. By changing “any person” to “the plaintiff,” the district court invented a substantive requirement that the statute lacks.

In sum, the district court introduced and relied on a novel statutory requirement. Because of this reliance, the court focused on whether non-Jewish plaintiffs can be taken to be the target of an anti-Jewish

conspiracy by virtue of their perceived support for Jews. But that inquiry is beside the point; under § 1985(3), if plaintiffs are injured by actions taken to further a conspiracy against a particular group, it doesn't matter whether they were themselves members of that group.

II. While Several Second Circuit Decisions Endorse the Rule That a § 1985(3) Plaintiff Must be a Member of a Targeted Class, These Holdings Reflect a Consistent Misreading of the Supreme Court's Ruling in *Griffin v. Breckenridge*

The district court's contention that plaintiffs were required to allege that they were members of a targeted protected class to bring a claim under § 1985(3) is based not only on its misreading of the statute itself, but also on its misunderstanding of *Griffin v. Breckenridge*, 403 U.S. 88 (1971), and this Court's cases that purport to follow it. The district court said that, in addition to satisfying the requirements found in the text of the statute itself, plaintiffs must "allege that they are a member of a protected class and that the conspiracy was motivated by racial or class-based discriminatory animus." *Torres*, 2026 U.S. Dist. LEXIS 123088, at *19. This requirement, which can indeed be found in many Second Circuit opinions, traces back to *Griffin*. A closer look at *Griffin*, however, reveals that it did not, in fact, endorse the proposition that § 1985(3) plaintiffs must be members of a targeted protected class. Instead, *Griffin* clarified

that only conspiracies motivated by animus towards protected classes qualify under the statute. But it remains true that *anyone* injured by actions taken in service of a qualifying conspiracy has a cause of action.

A. *Griffin* clarified that only conspiracies motivated by class-based animus qualify, but it did not say that plaintiffs must be members of such a class.

Griffin established that § 1985(3) applied to private conspiracies. 403 U.S. at 101. Previously, the statute had been interpreted to apply only to conspiracies undertaken by state officials or by those purporting to act under color of state law. *See Collins v. Hardyman*, 341 U.S. 651, 655, 662 (1951). *Griffin* rejected that reading. In expanding its interpretation of the statute, however, the Court was careful to clarify that § 1985(3) was not meant to apply to “all tortious, conspiratorial interferences with the rights of others.” *Griffin*, 403 U.S. at 101. If the statute were read to grant a federal cause of action to *any* person injured by a conspiracy to deprive *anyone* of the equal protection of the laws, it would begin to look like a “general federal tort law” for any tortious action as long as its perpetrators had conspired to commit it. *Id.*

The Court thus clarified the statute’s limiting principle: a § 1985(3) conspiracy must have an “invidiously discriminatory motivation.” *Id.* at

102. In other words, “there must be some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators’ action.” *Id.*

The requirement that a § 1985(3) conspiracy be motivated by animus against a protected class, however, is not equivalent to a requirement that a § 1985(3) plaintiff be a member of that class. As discussed above, the statute’s structure directs courts first to examine whether there existed a qualifying conspiracy, and then whether a party was injured by an act in furtherance of that conspiracy. The *Griffin* requirement goes towards the first inquiry: a conspiracy only qualifies if defendants were motivated by animus towards a protected class. But once a properly motivated conspiracy has been identified, the second part of the inquiry proceeds unaltered. Any person injured by an act taken to advance the conspiracy is granted a cause of action. Nowhere does *Griffin* state that a plaintiff must be a member of the class the conspiracy targeted to qualify.

It is true that, in *Griffin*, the petitioners *were* members of the class targeted by the conspiracy. *Griffin*, 403 U.S. at 89–91. The defendants there conspired to block a highway to prevent plaintiffs, who were black,

from exercising various rights, including their freedom of speech and movement. *Id.* In furtherance of that conspiracy, the defendants stopped and assaulted the plaintiffs. *Id.* The Court accordingly found that the plaintiffs were injured by an action taken in furtherance of a conspiracy to deprive black people of equal protection, a conspiracy clearly motivated by racial animus and so qualifying for a claim under § 1985(3).

However, the fact that the *Griffin* plaintiffs were members of the class targeted by the conspiracy does not mean that they would have lacked a cause of action had they not been black. Quite often, when a group conspires to prevent a protected class from enjoying its rights, actions taken in furtherance of that conspiracy will naturally injure members of that class. But the fact that these two inquiries often go together in practice does not mean they are conceptually inseparable.

What if the *Griffin* defendants, in service of the same goal, had blocked a road instead of stopping an individual car? If a white driver had been injured by that road blockage, nothing about the motivation for the conspiratorial action would be different; the defendants would have acted to further the same conspiracy, with the same racial motivation. *Griffin* relates entirely to requirements for the motivation behind the

conspiratorial action. Since the conspiracy in *Griffin* qualifies, so too would the conspiracy in this hypothetical, because the motivation behind them both would be identical. The white driver in this imagined scenario would have been injured by a qualifying conspiracy and would be able to bring a claim under the statute just as the *Griffin* plaintiffs were.

B. The Second Circuit decisions endorsing the proposition that § 1985(3) plaintiffs must be members of the targeted protected class ultimately rely on a misreading of *Griffin*.

This Court has, in the past, endorsed the district court's holding that § 1985(3) plaintiffs must be members of the targeted protected class. But each of these rulings ultimately relies on *Griffin*—and, as discussed, *Griffin* did not introduce that requirement.

To support the proposition that only plaintiffs who are members of the targeted protected class may bring suit under § 1985(3), the district court cited two cases: *Dorce v. City of New York*, 608 F. Supp. 3d 118 (S.D.N.Y. 2022), and *Graham v. Henderson*, 89 F.3d 75 (2d Cir. 1996). *Torres*, 2026 U.S. Dist. LEXIS 123088, *19. *Dorce*, a district court case, stated that rule, but cited only *Griffin* to support it. 608 F. Supp. 3d at 147. And *Graham*, a Second Circuit case, did not endorse the district court's reading at all. This Court there merely echoed *Griffin*, stating that

“the conspiracy must be motivated by racial or related class-based discriminatory animus.” *Graham*, 89 F.3d at 82. Again, requiring that a conspiracy that injures a party be motivated by class-based animus is not equivalent to requiring that the injured party be a member of that class.

Aside from the cases the district court cites, several other Second Circuit opinions endorse the proposition that only members of the targeted protected class may bring suit under § 1985(3). But each of these cases relies on the same improper reading of *Griffin* for that conclusion.

In *Dolan v. Connolly*, the Second Circuit noted that the plaintiff’s § 1985(3) claim failed because he did not allege membership in a protected class. 794 F.3d 290, 296 (2d Cir. 2015). The *Dolan* court reached that conclusion because the class claimed by the plaintiff was not a protected one *at all*, not because he wasn’t a member of the class targeted by the conspiracy. *Id.* (“Dolan argues that Section 1985(3) encompasses classes of jailhouse lawyers and members of an [Inmate Liaison Committee]. We disagree.”). The Court properly noted that the claimed conspiracy must be motivated by class-based animus—the relevant question in *Griffin*—which it wasn’t there even if the plaintiff was a member of the targeted (but not protected) class of jailhouse lawyers. *Id.* at 293.

Earlier, in *N.Y. State Nat'l Org. of Women v. Terry*, this Court claimed that prevailing on a § 1985(3) claim required a plaintiff to prove that defendants “(1) engaged in a conspiracy; (2) for the purpose of depriving, either directly or indirectly, any person or class of persons the equal protection of the laws, or the equal privileges and immunities under the laws; (3) acted in furtherance of the conspiracy; and (4) *deprived such person or class of persons* the exercise of any right or privilege of a citizen of the United States.” 886 F.2d 1339, 1358 (2d Cir. 1989) (emphasis added). For this claim, the Court cited only *Griffin. Id.*

Finally, in the unpublished case of *Devine v. City of New York*, this Court asserted that a plaintiff must allege “a conspiracy founded in invidious animus *against him*, resulting from his membership in a protected class.” No. 95-7801, 1996 U.S. App. LEXIS 2014 (2d Cir. Feb. 2, 1996) (emphasis added). Once again, this proposition distorts § 1985(3), because the statute requires only that a plaintiff was injured by an act in furtherance of a conspiracy, not that he was himself its target.

In sum, even though this Court has endorsed the district court’s interpretation of § 1985(3) as requiring that a plaintiff be a member of the protected class targeted by a rights-depriving conspiracy, a review of

those rulings reveals that each can be traced back to a misunderstanding of *Griffin*. The Supreme Court there simply did not introduce such a requirement—one that would be directly at odds with statutory text—so the opinions that rely on *Griffin* to assert it are on shaky ground.

III. Introducing a Requirement that § 1985(3) Plaintiffs Must Be Members of the Protected Class Targeted by the Conspiracy Unjustifiably Narrows the Scope of the Statute

Section 1985(3) grants a cause of action to *any person* injured by an act performed in furtherance of a conspiracy to deprive a person or group belonging to a protected class of the equal protection of the laws, or of equal privileges and immunities under the laws. The district court's reading of the statute unjustifiably narrows it. On the court's reading, even if a group of people—unquestionably motivated by racial animus—conspires to deprive a protected group of equal protection, and injures a person in furtherance of that conspiracy, that person has no claim under § 1985(3) unless he happens to be a member of the protected class against which the conspiracy was directed. That can't be the law.

To be fair, it is usually that case that those who are injured by rights-depriving conspiracies will be members of the targeted class. But that need not be so. It's all too easy to imagine scenarios in which those

injured by racially motivated conspiracies are not members of the targeted class. Let's say several people motivated by racial animus conspire to prevent a group of black people from worshipping at their church by setting a fire outside its doors, and then the fire spreads to destroy a neighboring house. On the district court's reading, whether the homeowner could bring suit under the statute would turn entirely on whether he happened to be black. But there is no basis in statutory text or Supreme Court precedent to restrict the cause of action in this way. That homeowner, regardless of his race, would unquestionably be a party injured by an action in furtherance of a conspiracy that qualifies under the statute—a conspiracy, motivated by racial animus, to deprive a protected class of the equal protection of the laws.

Indeed, we need not imagine cases where a person who does not belong to the targeted class is injured in furtherance of a conspiracy against it. That's exactly what happened when the non-Jewish plaintiffs here were detained and assaulted in service of a conspiracy motivated by animus against Jews. The district court's focus on whether Messrs. Torres and Wilson could be understood to be members of the targeted protected class misses the point entirely. If these plaintiffs were injured

by actions taken in furtherance of a conspiracy to deprive Jews of equal protection, § 1985(3) grants them a cause of action.

CONCLUSION

Section 1985(3) explicitly grants a cause of action to *any person* injured by an action taken in furtherance of a conspiracy to deprive “any person or class of persons” of the equal protection of the laws. The Supreme Court has clarified that the statute covers only conspiracies motivated by class-based animus, but it has never restricted the class of plaintiffs as the district court did.

If this Court finds that the plaintiffs here were injured by actions in furtherance of a conspiracy to deprive Jews of the equal protection of the laws, it should not block their § 1985(3) claims because they are not themselves Jewish. Accordingly, it should reverse the court below.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT

This brief complies with the type-volume limitation of 2nd Cir. R. 29.1, Fed. R. App. P. 29(a)(5), and Fed. R. App. P. 32(a)(7)(B) because it contains 3,197 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) as this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.

Dated: October 19, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2026, I electronically filed the foregoing brief with the Clerk of the Court for the U.S. Court of Appeals for the Second Circuit for filing and transmittal of a Notice of Electronic Filing to the participants in this appeal who are registered CM/ECF users.

Dated: October 19, 2026

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