

No. 18-6965

**ORIGINAL**

IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

NOV 26 2018

OFFICE OF THE CLERK

LEI YIN

(Your Name)

— PETITIONER

vs.  
Biogen, Inc, Integrated Resources, Inc. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

US Court of Appeals for the First Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

LEI YIN, Prose with Disability

(Your Name)

3 Blackberry LN, S2

(Address)

Andover, MA, 01810

(City, State, Zip Code)

508 404 3588

(Phone Number)

## **QUESTIONS PRESENTED FOR REVIEW**

1. Whether a Pro Se shall share the same right as those represented by lawyers that are protected by United States Constitution?
2. Whether the Federal Courts shall follow the same law of Federal Courts when handles a Pro Se case? Including the same federal Rules of Civil Procedure, Federal Rules of Evidence? Does a Pro Se have the same right and same discovery vehicles as described in Federal Rules Of Evidence, including but not limited to :

### **FEDERAL RULES OF EVIDENCE:**

**RULE 26. Duty to Disclose ; General Provisions Governing Discovery:**  
including witness contact information and statement , expert testimony

**RULE 30. Depositions by Oral Examination**

**RULE 31. Depositions by Written Questions**

**RULE 33. Interrogatories to Parties**

**RULE 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land, for Inspection and Other Purposes**

**RULE 37. Failure to Make Disclosure or to Cooperate in Discovery : sanction**

**RULE 45. Subpoena**

3. If the answer is YES to both Question 1 and Question 2, and if the Federal District Court and Court for Appeals had dismantled all the vehicles provided by Federal Rules Of Evidence in a Pro Se Case, what will this Court , the SUPREME COURT OF THE UNITED STATES do ?
4. If the answer is NO to Question 1 and /or Question 2, please describe in what extent that a Pro Se can have the rights as described in Federal Rules Of Evidence?
5. In a Civil case process, if a Pro Se party is disabled and in Forma Pauperis, whether physical or mental, shall the Federal Court appoint a lawyer when the disabled party ask for?

**LIST OF PARTIES**

- 1. LEI YIN, Pro Se with disability, plaintiff and Petitioner**  
**BIOGEN, INC, INTEGRATED RESOURCES INC, defendant and Respondent**
- 2. UNITED STATES COURTS OF APPEALS FOR THE FIRST CIRCUIT**  
**UNITED STATES DISTRICT COURT OF MASSACHUSETTS**

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**APPENDIX N. (3-pages) Automatic Disclosures by Lei Yin for Civil Action No. 14-CV-12255-WGY dated on Aug 26<sup>th</sup>, 2014 (including Request of production of documents from defendants)**

**APPENDIX O. (1-page) Written Concerns raised to Department of Immunology Director Dr Hodge (email appeared as [marty.hodge@biogenidec.com](mailto:marty.hodge@biogenidec.com)) about both Biogen Staffs misconducts in research on Friday July 1, 2011. On July 6, 2011 after July 4<sup>th</sup> Holiday, I was fired at night via a phone call.**

**APPENDIX P. (2-pages) email from Hiring manager Vidhu Nijhawan in the afternoon of July 05, 2011 to reassure me that my contract will go through September, 2011. But July 6, 2011, Vidhu called me at night informed me I was fired. Also in the afternoon of July 6, 2011, I had filed formal complain about the working hour filed was indeed correct, ( the rejected time filing was due to "something going on within the department").**

**APPENDIX Q. (3-pages) Motion to Compel Biogen to Provide Its witness Contact Info and answer Deposition Questions to Biogen Listed witness, Reminder to seating Judge Young regarding my Pro Se Right and fair DUE Process dated on July 26, 2015.**

**APPENDIX R. (3-pages). Motion to Clarification and Reconsideration about Court Order on April 10, 2015 dated on April 15, 2015. Raising Concerns about District Judge 's ruling on blocking my motions of discovery evidence, "What are you scared Of? as being Chief Judge for this oldest district court of America for many years, graduated from Harvard Law?" Remind the seating Judge shall be Impartial.**

APPENDIX S. (3-pages) Notice of Taking Deposition filed on May 6th, 2015, informing Biogen that Deposition will be held on May 28<sup>th</sup> 2015. Biogen and listed witness had never shown up. I had kepted Court reported in my filing dated July 6<sup>th</sup>, 2015.

APPENDIX T. (2-pages) Emergency Motion to Three Discovery Requests, and Two Objections to Defendants Recent Fillings without Informing Me as Required by law dated August 13, 2015. (Please note, defendant had provided a set of manipulated record as Lei Yin's HR record from ThermoFisher, as evidence to present case, Lei Yin vs ThermoFisher was therefore filed in USDC, and it is now under this Court's review with # 18-6717)

**IN THE SUPREME COURT OF THE UNITED STATES****PETITION FOR WRIT OF CERTIORARIO**

Petitioner Lei Yin respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

1. The opinion of the United States Court of Appeals for 1<sup>st</sup> Circuit appears at Appendix A to the petition and is unpublished.

On August 20, 2018, Judgement Affirmed from the United States Court of Appeals for 1<sup>st</sup> Circuit was entered to as 'Lei Yin's appeals the district court's order granting summary judgement in favor of Appellee Biogen, Inc. After careful review of relevant portions of the record and parties' submissions, we grant Appellee's motion for summary disposition and AFFIRM, essentially for the reasons set forth in the district court's well-reasoned decisions.' (see Appendix A to the petition). On October 15, 2018, ORDER OF COURT was entered and Appellant Lei Yin's Petition of Rehearing is denied by United States Court of Appeals for the First Circuit. None opinion from Appeal Court was provided. (see Appendix C to the petition).

2. The dismissal order on Motion for Summary Judgement (Nov 4, 2015) and opinion of the United States district court (Dec 4, 2015) appears at Appendix B to the petition and is unpublished.

## JURISDICTION

The date on which the United States Court of Appeals decided my case was August 20, 2018. A timely petition for rehearing was denied by the United States Court of appeals was on October 15, 2018, and a copy of the order denying rehearing appears at Appendix C.

In 2014, plaintiff Lei Yin, a Pro Se of protected minority race at age of 52, filed a civil complaint against Biogen, Inc. and Integrated Resources, Inc, (initially in MA States Court), was removed by Defendant Integrated Resources, Inc. to US District Court of MA on May 22, 2014 (14-cv-12255). On June 30, 2014, setting hearing on Motion to Dismiss Plaintiff's Complaint was for Sept 19, 2014, even before plaintiff's timely filed Objection to Motion to Dismiss had been docketed on July 7, 2014. On Sept 19, 2014, the case was dismissed. Notice of Appeals was docketed on Sept 23, 2014. On Sept 26, USCA Case Number 14-2012 was assigned to my appeals. On Oct 22, 2014, Briefs For Appeal was filed, and Show-Cause-Statement was filed on Nov 3, 2014, following Appeal Court Order on Oct 28, 2014. In the process of my appeals in Appeals Court, District Court reopened the case on Oct 14, 2014. Following ORDER of USCA of Oct 10, 2014, very limited claims and only one defendant Biogen left. On Dec 2<sup>nd</sup>, 2014, the Appeals Court dismissed the appeals citing " In view of the district court's October 14, 2014 order reopening the case and reinstating several claims, which are now pending in the district court, plaintiff's appeal is dismissed. Plaintiff must wait until all claims have been adjudicated before obtaining review of the dismissed claims or of other interlocutory orders". The case was then sent back to District Court for further process with the same seating judge who had dismissed the case in On Sept 19, 2014. See Appendix D.

From the case reopening on October 14, 2014 to another dismissal of case by the same seating District judge on Nov 4, 2015, each every motion I had filed had been denied by the District judge, including following motions but not limited to:

1. Denied the Subpoena Issued by District Court Clerk for Plaintiff Lei Yin on March 26, 2015 (Appendix F)
2. Denied the Motion to compel the defendant Biogen to release its witness contact information and witness statements. (Appendix K)
3. Denied the motion to Compel defendant to attend deposition conference. (Appendix S)
4. Denied the motion to Compel defendant to answering the written questions to defendant's witness. (Appendix L, M, N, Q, T)
5. Denied the motion to Compel defendant to answering deposition questions to defendant's listed witness (Appendix Q, L, M, R, T)
6. Denied motion to extend discovery time as none of protected Discovery vehicles had been disabled and plaintiff had got NOTHING in the set Discovery phase.
7. Denied motion to appoint a Counsel for plaintiff after each every motion plaintiff filed had been denied, and plaintiff had been diagnosed by primary care physician, several specialists including hospital specialists , and by government medical examiner that plaintiff had suffered severe depression that met total disability of criteria. (see Appendix H , I, J )

Appeal was timely filed. The date on which the United States Court of Appeals decided my case was August 20, 2018. A timely petition for rehearing was denied by the United States Court of appeals was on October 15, 2018, and a copy of the order denying rehearing appears at Appendix C.

**(Please note, defendants had provided a set of manipulated record as Lei Yin's HR record from Thermo Fisher, as evidence in present case. Lei Yin vs Thermo Fisher was therefore filed in USDC, and it is now under this Court's review of WRIT with # 18-6717)**

**REASONS WHY CERTIORARI SHOULD BE GRANTED**

Violations on Due Process, Equal Protection and Equal Right, violation of Federal Rules of Civil Procedure, violation of Federal Rules of Evidence, violation Pro Se Rights and Constitution Rights. Violations on Federal Court Procedure and Rules by US District Court and US Appeals Court are US Supreme Court's duty to process.

**CONSTITUTIONAL PROVISIONS, STATUTE AND REGULATIONS AT ISSUE**

The Fifth and Fourteenth Amendments to the United States Constitution: Due Process, Equal Right and Equal Protection

**FEDERAL RULES OF EVIDENCE:**

**RULE 26.p140.** Duty to Disclose ; General Provisions Governing Discovery: including witness contact information and statement , expert testimony

**RULE 30.p174.** Depositions by Oral Examination

**RULE 31.p181.** Depositions by Written Questions

**RULE 33.p185.** Interrogatories to Parties

**RULE 34.p190.** Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land, for Inspection and Other Purposes

**RULE 37.p198.** Failure to Make Disclosure or to Cooperate in Discovery : sanction

**RULE 45.p218.** Subpoena

**28 U.S.C. § 1654** provides: "In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

The Supreme Court noted that "[i]n the federal courts, the right of self-representation has been protected by statute since the beginnings of our Nation. Section 35 of the Judiciary Act of 1789, 1 Stat. 73, 92, enacted by the First Congress and signed by President Washington one day before the Sixth Amendment was proposed, provided that 'in all the courts of the United States, the parties may plead and manage their own causes personally or by the assistance of counsel.

### **STATEMENT OF THE CASE (see appendix E for detail)**

#### **A. Facts Giving Rise To This Case**

Plaintiff Lei Yin, Pro Se of a protected minority race at age of 53, Chinese, was co-employed by Biogen and Integrated Resource in 2011, who worked at Biogen, paid though Integrated Resource. Total working time was about 3 months. Some weeks after I had refused to manipulate my research data as required by Biogen scientists on several occasions, **5 days after I had reported to Biogen Department Director about Biogen scientists' misconducts in research for new drug development** (July 1st, 2011) (see Appendix O), I was fired at night of July 6<sup>th</sup>, 2011 via a phone call without any signoff process. My personal properties and earned salaries were seized by Biogen and Integrated Resource. Biogen and Integrated Resource had provided poor performance review to damage my reputation, damage my further future employment chances and intentionally let me suffer (Appendix P is the written contract that my contract will last through September, 2011, by hrинг manager in the afternoon of July 5<sup>th</sup>, 2011). When I worked for Biogen, very good quality work had provided , as recorded to my own lab notebook as comparing with others (Federal District Court Clerk issued subpoena requests 3 Biogen staffs' lab notebooks, besides my own lab notebook, covering 3 months working period) (see Appendix F). My contribution to set up a new experimental system was followed and copied by the 3

other Biogen scientists. When I worked in Biogen, Biogen staff had requested me come early in 7AM in the lab, worked without lunch time and had been called by Biogen staff as 'a slave'. As I had a long commute, in the morning I had to get to very early in order to start work at 7am. Since I joined Biogen, very good data had produced as recorded in my Lab Notebook and 3 other Biogen staffs' lab notebooks, and email chains with Biogen staffs. My main contribution in my 3 months working in Biogen was to build- up new experimental system (B cell activation is an early event, happened in hours, if not within minutes as comparing Biogen 's believing that this B cell activations happened in multiple days even weeks). My system had been widely accepted by Biogen Immunology Department on multiple projects, including IRAK project, BCMA and SPARE study by 3 Biogen staffs (recorded in their Lab Notebooks). One Biogen staff who had failed for longer time and complained about "having nothing to do" , was enable to catch after sitting with me to learn my method, she had even "copy-paste"ed from my lab notebook into her lab notebook (recorded in lab notebook). The experimental system I built up was also transferred to a new Biogen employee who was in his 30s right before I left. Before I joined Biogen, a Chinese female PhD scientist had worked in these projects with these 3 Biogen staffs had also been terminated without notice, before I filled her position. And that Chinese female scientist were in her 50s in 2011.

When I was forced to produce manipulated data by Biogen scientists, I had talked with my then-wife. My then- wife she had asked me to follow instructions to keep the job. She had told me I will not take any responsibility if anything went wrong as those 3 Biogen scientists had already done so and I was only a temp worker. However, after much struggle and fighting within conscience, I decided to do the right thing that I believe to be right. I want to do something meaningful to science, to patients, and to society. That decision is not easy to make. My wife

had complained that my emotion changed since I worked in Biogen, she complained that I had screaming with nightmare, and I had hit her with my fist when I was sleep. My wife separated with me since June 2011 till now, with one instance of sending me to prison, three instance of sending to hospitalizations, two times filings of Divorce Applications. She herself suffered breast cancer at age of 42. After I had raised my concerns to Biogen scientists and got all those poor treatments from 3 Biogen staffs, I had reported in writing to their supervisor-Department of Immunology Director on July 1st, 2011 (See Appendix O), this happened **before** I was fired by Biogen at night on July 6<sup>th</sup>, 2011. After my numerous inquiries, Biogen scientists had confirmed that previous data set was indeed false positive once following the standard Flow Cytometry testing procedure. After I refused to reproduce the same data set as Biogen scientists did and pointed out their wrongdoings, Biogen scientists had reduced my working hours, refused to approve my Time card twice, letting me to keep my overtime hours as comp hours (see Appendix P), assaulting me to question my integraties and credibilities, .... keeping repeating a very simple and basic but relative lenthly procedure as physical exercise, and mimicked my accent and saying he simply just wanted me to repeat and be trained and I had no other choice but to follow, in the open lab, and labeling me as slave . The Chinese female PhD scientist who had worked in these projects had also been terminated without notice, before I filled her position. And that Chinese female scientist were in her 50s in 2011.

Before my termination at night, Biogen had already hired a young (age about 30 years' old) white worker to take over part of my work before my termination. Also please note that I was hired by Biogen to replace another contractor who had also experienced termination without any in advance notice, and that contractor was a Chinese female PhD scientist who was in her 50s when she was fired in year 2011 (at 2011, I was 45).

Days before my termination, I noticed advertisements by both Biogen and Integrated Resources for the position I held. I contacted Ms Vidhu of Integrated. Ms Vidhu first told me they were not from my department. After I provided her the Biogen internal website advertisement showing the position was indeed from same department, Ms Vidhu then reassured me the new position is not for replacing me and , and my position will go through Sept 2011 (see Appendix P). Ms Vidhu had reassured me that my position will be assured at least to September. (see Appendix P). I had also complained to Vidhu about the issues I had experienced in Biogen over workhour fillings, denial of hours worked, forced to change overtime to comp hour in July 6<sup>th</sup>, 2011 right before my termination(see Appendix P). Also, days before my termination at night, I was also kept Department Director of Biogen reported about Biogen scientists' misconduct in research on July 1<sup>st</sup> , 2011 by written (see Appendix O). At night of July 6<sup>th</sup>, 2011, Vidhu informed me that I was fired and threatened me not go to Biogen the next day otherwise Security will take action against me. Integrated and Biogen had no sign-off procedure, no in advance notice as required by law and my signed contract. My personal belongings were confiscated by Biogen since then. My earned wage, saved comp time, overtime pay had NOT paid to me at the last day of my work as required by law. I was unable to find a job since my termination as both Biogen and integrated had provided a poor performance review. Hundreds of positions, if not thousands, I had applied to, including applying to Biogen positions through direct contact to Biogen hiring managers, and through contract agencies. My wife had separated from me since 2011 when I was still working for Biogen( see Appendix G)), and she had sent me to prison in early, and also send me to hospitalization for 3 times, and had filed for divorce twice. As a result, I had suffered with severe depression and under treatments, including 3 hospitalizations (see Appendix H, I , J). Social Security medical examiners had decided that my depression had been severed enough to meet **total disability** since March 1<sup>st</sup>, 2014 and I am living on SSDI now (see Appendix H). Please note government medical examiner had decided that I had suffered severe depression (that loss full work ability) after reviewing my medical record. The cause –effect relationship about my disability and

working relationship in Biogen and Integrated Had been set by medical specialists (see Appendix I , J) and by my witness (see Appendix G).

Not only I myself suffered, my family members including my then wife, two sons also suffered a lot (financial burden, no sex life for then-wife since 2011 and emotional and spiritual suffering, loss finance to support to family life and sons' activities, some are sons' best-at level of regional top 5, delay schooling and language development see. My separated wife had been diagnosed as breast cancer in end of 2015 at age of 42. She had also sent me to prison once, hospitalization 3 times, and had filed application to Divorce twice to County Family Court.

## **B. The District Court Proceedings**

In 2014, after contracted arbitration process, in which Biogen is NOT a party, and very limited claims of Integrated Resources had filed, plaintiff Lei Yin, a Pro Se of protected minority race at age of 52, filed a civil complaint against Biogen,Inc. and Integrated Resources, Inc, (initially in MA States Court) for much broarder claims, was removed by Defendant Integrated Resources, Inc. to US District Court of MA on May 22, 2014 (14-cv-12255). On June30, 2014, setting hearing on Motion to Dismiss Plaintiff's Complaint was for Sept 19, 2014, even before plaintiff's timely filed Objection to Motion to Dismiss had been docketed on July 7, 2014. On Sept 19, 2014, the case was dismissed. Notice of Appeals was docketed on Sept 23, 2014. On Sept 26, USCA Case Number 14-2012 was assigned to my appeals. On Oct22, 2014, Briefs For Appeal was filed and Show-Cause-Statement , was filed on Nov 3, 2014 following Appeal Court Order on Oct 28, 2014. In the process of my appeals in Appeals Court, District Court reopened the case on Oct 14, 2014 , following ORDER of USCA of Oct 10, 2014 , but with limited claims and only one defendant Biogen left. On Dec 2<sup>nd</sup> , 2014, the Appeals Court dismissed the appeals citing " In view of the district court's October 14, 2014 order reopening the case and reinstating several claims, which are now pending in the district court, plaintiff'd appeal is dismissed. Plaintiff must wait until all claims have been 10adjudicated before obtaining review of the dismissed claims or of other

interlocutory orders". (See Appendix D as Docket). The case was then sent back to District Court for further process with the same seating judge who had dismissed the case in Sept 19, 2014.

From the case reopening on October 14, 2014 to another dismissal of case by the same seating District judge on Nov 4, 2015, each every motion I had filed had been denied by the District judge, including following motions but not limited to:

1. Denied the Subpoena Issued by District Court Clerk for Plaintiff Lei Yin on March 26, 2015 (AppendixF)
2. Denied the Motion to compel the defendant Biogen to release its witness contact information and witness statements. (AppendixK)
3. Denied the motion to Compel defendant to attend deposition conference. (Appendix S)
4. Denied the motion to Compel defendant to answering the written questions to defendant's witness. (Appendix K, L, M, N, Q, R, T)
5. Denied the motion to Compel defendant to answering deposition questions to defendant's listed witness (Appendix L, M, Q)
6. Denied motion to extend discovery time as none of protected Discovery vehicles had been disabled and plaintiff had got NOTHING in the set Discovery phase.
7. Denied motion to appoint a Counsel for plaintiff after each every motion plaintiff filed had been denied, and plaintiff had been diagnosed by primary care physician, several specialists including hospital specialists , and by government medical examiner that plaintiff had suffered severe depression that met total disability of criteria.

### **C. The Appellate Court Proceedings**

Appeal was timely filed. The date on which the United States Court of Appeals decided my case was August 20, 2018 . A timely petition for rehearing was denied by the United States Court of appeals was on October 15, 2018, and a copy of the order denying rehearing appears at Appendix C. Brief of Appeals filed on Feb 12, 2016 is as Appendix E.

### **REASONS WHY CERTIORARI SHOULD BE GRANTED**

Violations on Due Process and Equal Right principle in civil case, violation my Pro Se Rights and my Constitution Rights, and violations on Federal Court Procedure and Rules by US District Court and US Appeals Court are Supreme Court's duty to process.

District Judge's dismissal order (Appendix B) had violated The Equal Protection Clause and the Substantive Due Process. I am a protected minority US Citizen, I have the rights protected by the Constitution and my right cannot be discriminated against by anyone, anybody including federal courts. The Equal Protection Clause in the Fifth and Fourteenth Amendments of the US Constitution provide all citizens with equal protection of their right to life, liberty and property. The Fifth Amendment states that no one may be deprived of life, liberty or property without due process of law. Substantive due process can be broadly defined as the Constitutional guarantee that no person shall be arbitrarily deprived of life, liberty or property without [procedural] due process of law. Substantive due process are my real Constitutional Rights. The Supreme Court of the United States interprets the clauses as providing four protections: procedural due process (in civil and criminal proceedings), substantive due process, a prohibition against vague laws, and as the vehicle for the incorporation of the Bill of Rights. . The substantive due process, which includes rights related to personhood, like the right not to be discriminated against or the right to privacy. I am a Chinese US Citizen, and I have the right not to be discriminated against by anyone including courts.

Courts' decisions (both Appeal Court for 1<sup>st</sup> Circuit and District Court of MA) had also violated The Equal Protection Clause and the Procedural Due Process. Procedural due process is based on the concept of fundamental fairness which govern how legal proceedings must be carried out. Both the 5th Amendment and the 14th Amendment of the US Constitution provide all citizens with equal protection of their right to life, liberty and property. The 5th Amendment provides it under the Due Process clause. Procedural due process is the method used to protect citizen's rights. ... The Fifth and Fourteenth Amendments to the United States Constitution each contain a Due Process Clause. Due process deals with the administration of justice and thus the Due Process Clause acts as a safeguard from arbitrary denial of life, liberty, or property by the government outside the sanction of law. The Supreme Court of the United States interprets the clauses as providing four protections: procedural due process (in civil and criminal proceedings), substantive due process, a prohibition against vague laws, and as the vehicle for the incorporation of the Bill of Rights.

Procedural due process is a legal doctrine in the United States that requires government officials to follow fair procedures before depriving a person of life, liberty, or property. When the government seeks to deprive a person of one of those interests, procedural due process requires at least for the government to afford the person notice, an opportunity to be heard, and a decision made by a neutral decision maker.

Procedural due process protects individuals during governmental proceedings, whether they are civil or criminal. Procedural due process also pertains to parole hearings, governmental benefit hearings, and full criminal trials. The rights afforded in this section include, but are not limited to:

The right to an unbiased trial

The right to be given notice of the proposed trial and the reason for it

The right of the individual to be aware of evidence against him

The right to cross-examine witnesses for the opposition

The right to present evidence and call witnesses

The right to be represented by counsel

The article "Some Kind of Hearing" written by Judge Henry Friendly created a list of basic due process rights "that remains highly influential, as to both content and relative priority. The rights, which apply equally to civil due process and criminal due process, are the following:

An unbiased tribunal.

Notice of the proposed action and the grounds asserted for it.

The opportunity to present reasons for the proposed action not to be taken.

The right to present evidence, including the right to call witnesses.

The right to know the opposing evidence.

The right to cross-examine adverse witnesses.

A decision based only on the evidence presented.

Opportunity to be represented by counsel.

The tribunal to prepare a record of the evidence presented.

The tribunal to prepare written findings of fact and the reasons for its decision.

The goal of civil discovery, similar to the rules governing sporting events, is to ensure a level playing field for all parties. No one side should possess a procedural or evidentiary advantage beyond that which is particular to the specific facts of a case. The rules of civil procedure promote reciprocity and equal access to evidence. As past Harvard Law School Professor and NYU Law School Professor Arthur Miller said about the procedure made the key difference in all the cases "If you let me control the procedure, I will win every time"

In my case, the case was dismissed quickly through a motion to dismiss on Sept 19, 2014, but re-considered to open two days after I had filed my Notice to Appeal by the same seating District Judge, what is going on? MACA had ordered on October 10, 2014 that my case shall be reopened. From the case reopening on October 14, 2014 to second time dismissal of case by the same seating District judge on Nov 4, 2015, each every motion I had filed had been denied by the District Judge, including following motions but not limited to:

1. Denied the Subpoena Issued by District Court Clerk for Plaintiff Lei Yin on March 26, 2015 (AppendixF)
2. Denied the Motion to compel the defendant Biogen to release its witness contact information and witness statements. (AppendixK, L, M, N, Q, R,T)
3. Denied the motion to Compel defendant to attend deposition conference. (Appendix S, )

4. Denied the motions to Compel defendant to answering the written questions to defendant's witness. (Appendix K, L, M, N, Q, T)
5. Denied the motion to Compel defendant to answering deposition questions to defendant's listed witness (Appendix K, L, M, N, Q, T)
6. Denied motion to extend discovery time as none of protected Discovery vehicles had been disabled and plaintiff had got NOTHING in the set Discovery phase. (Appendix)
7. Denied motion to appoint a Counsel for plaintiff after each every motion plaintiff filed had been denied, after plaintiff had been diagnosed by primary care physician, several specialists including hospital specialists , and by government medical examiner that plaintiff had suffered severe depression that met total disability of criteria. (see Appendix H, J, I)

**All the available vehicles described by Federal Civil Procedure and Rule, by Federal Rules of Evidence, Discovery of evidence had been dismantled by Federal Court Judges (District and then Appeals Court). Where is the fairness? The broken Rules are Federal Rules of Evidence in Federal Civil Judicial Procedure and Rules as following:**

**RULE 26. Duty to Disclose; General Provisions Governing Discovery:** including witness contact information and statement, expert testimony; Both Biogen and Integrated Resources had failed to provide witness contact information and statement, failed to provide expert testimony, even after I had provided my full set of medical record to two defendants, and court had approved their request to extent the deadline for expert testimony. My Motions to Compel to provide witness contact information had been denied by federal judge for several times. Why?

**RULE 31. Depositions by Written Questions**

**RULE 33. Interrogatories to Parties**

RULE 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land, for Inspection and Other Purposes

RULE 37. Failure to Make Disclosure or to Cooperate in Discovery : Sanction

RULE 45. Subpoena

After defendants refused to cooperate in Evidence Discovery, I had asked Court to put the case into **Default Judgement** as Rule 37 guided, court had also denied my request. After dismantling all vehicles in Evidence Discovery to plaintiff side ONLY, this case was first dismissed by a motion to dismiss from the other side, and then dismissed by a motion to summary judgement from the other side. Where is the fairness, where is the equal right? Where is the DUE Process and Equal Protection? In contrast to District Judge had blocked each every motion I had filed in Discovery of Evidence process (as above 1-7), the same District Judge had approved nearly each every motion defendants filed and I **had fully cooperated to those orders: including** automatic disclosure of witness contacts and witness statements (Appendix G, H, I, J), medical records, experts statements (appendix I, J), answering all of two sets of Interrogatories from defendants, attending deposition conference twice for two whole days.

The goal of civil discovery, similar to the rules governing sporting events, is to ensure a level playing field for all parties. No one side should possess a procedural or evidentiary advantage beyond that which is particular to the specific facts of a case. The rules of civil procedure promote reciprocity and equal access to evidence. What Professor Arthur Miller of Harvard Law/ NYU Law said is true about the procedure made the key difference in all the cases " If you let me control the procedure, I will win every time"

The present case is about whether the Federal Civil Judicial Procedure and Rules set by United State Congress and ordered by United States Supreme Court shall be followed by United States District Court District of Massachusetts and United States Court of Appeals for the First Circuit. The present case is also about whether a Pro Se's rights, DUE Process, EQUAL RIGHT, and EQUAL PROTECTION as provided and protected by United States Constitution shall be preserved in the daily practice of United States Federal Courts System. For all above reasons, review shall be warranted.

## CONCLUSION

Based on the foregoing, Petitioner respectfully submit that this Petition for Writ of Certiorari should be granted. The Court may wish to consider summary reversal of the decision of the First Circuit Court of Appeals.

Dated: *Nov. 26, 2018*  
Dated: ~~October 25, 2018~~, 2018

Respectfully submitted,

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*Yin* 11-26-2018