

JURISDICTION

STATE OF NEW YORK COURT OF APPEALS

**Decided and Entered on the
fourth day of October, 2019**

Present, Hon. Janet DiFiore, Chief Judge, Presiding.

The Church of Jesus Christ of Latter
-Day Saints, Servant, &c.,
Appellant,

v.

Michael P. Kelly, et al.,
Respondents,

The Church of Jesus Christ of Latter- Day Saints,
Servant, &c.,
Appellant,

v.

Christopher J. Baum & Thomas Bailey, et al.,
Respondents,

Sixty (60) days having passed since appellant's taking of an appeal, and appellant's papers not having been filed pursuant to section 500.12 of this Court's Rules of Practice, it is

ORDERED, that the appeal to this Court is dismissed for want of prosecution.

John P. Asiello
John P. Asiello
Clerk of the Court

STATE OF NEW YORK COURT OF APPEALS

August 5, 2019

Re: Sun v. Kelly; Sun v Baum

This letter acknowledges receipt of your preliminary appeal statements, which include notices of appeal to the Court of Appeals dated July 24, 2019, both of which relate to the same order of the Appellate Division, First Department, dated July 11, 2019. A notice of appeal is not filed in the Court of Appeals. CPLR 5515(1) provides that "[a]n appeal shall be taken by serving on the adverse party a notice of appeal and filing it in the office where the judgment or order of the court of original instance is entered." This Court has no basis upon which to determine that your notices of appeal have been so filed and served. If your matter originated in Supreme Court, Bronx County, your notice of appeal should be filed with the Bronx County

A2

Clerk's Office, 851 Grand Concourse, Bronx, NY 10451. If your matter originated in Supreme Court, New York County, your notice of appeal should be filed with the New York County Clerk's Office, 60 Centre Street, New York, NY 10007.

No action will be taken on your preliminary appeal statements until you provide proof that your notices of appeal have been so filed and served.

You may direct questions to Margaret Wood at 518-455-7702 or Edward Ohanian at 518-455-7701.

Very truly yours,

John P. Asiello

John P. Asiello

JPA/EO/ni

Encs

cc: Christopher J. Baum, Esq.

Michael P. Kelly, Esq.

B1

Friedman, J.P., Richter, Tom, Oing, Moulton, JJ.
9867-9868

The Church of Jesus Christ of Latter-Day Saints, etc.,
Plaintiff-Appellant,

-against-

Michael P. Kelly, et al., Index 301088/17
Defendants-Respondents. 100946/17

The Church of Jesus Christ of Latter-Day Saints, etc.,
Plaintiff-Appellant,

-against-

Christopher J. Baum & Thomas Bailey, et al.,
Defendants-Respondents.

Xiu Jian Sun, appellant pro se.

Order, Supreme Court, Bronx County (Donna Mills, J.), entered on or about May 1, 2018, which granted defendants' motion to dismiss the complaint, unanimously affirmed, without costs. Order, Supreme Court, New York County (Gerald Lebovits, J.), entered April 30, 2018, which sua sponte dismissed the complaint, unanimously affirmed, without costs.

B2

Construing the pleadings liberally, accepting all the facts alleged in the complaints to be true and according plaintiff the benefit of every possible favorable inference (see generally *Leon v Martinez*, 84 NY2d 83, 87-88 [1994]), there are simply no causes of action against defendants that are discernible from the complaints.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JULY 11, 2019

Susanna Rojas
CLERK

C1

301088/2017 Notice of Appeal Page 6 of 8
301088/2017 Short form Order Dated 04/23/2018
Page 1 of 142

**New York Supreme Court-Country Bronx
PART 09**

Case Disposed
CHURCH OF JESUS CHRIST Settle Order
-against- Schedule Appearance
KELLY, MICHAEL P. Index No: 301088-2017
Hon. Donna Mills
Justice Supreme Court

The following papers numbered I do ___ Read on this
motion, **DISMISSAL**
Notice on **April, 06 2018** and duly submitted as No. ___
on the Motion Calendar of _____

Paper Number
Notice of Motion Order to Show Cause –
Exhibits & Affidavits Annexed
Answering Affidavits & Exhibits
Replying Affidavits & Exhibits
_____ Affidavits & Exhibits
Pleading - Exhibit
Stipulation(s) -Referee's Report – Minutes
Filled Papers
Memoranda of Law

Upon the foregoing papers this

Defendants move to dismiss pursuant to CPLR 33013, 3014 & 3211 (a)(7). Defendants' motion to dismiss is granted. Plaintiff, who appears to be Xiu Jian Sun (appearing pro-se) names the law firm Marshall Dennehey Warner Coleman & Goggin, several of its counsel (defendants Connor, Evangelista & Kelly) & a shareholder (defendant/ Counsel Gura) setting forth a series of unintelligible statements, portions of which appear to be in a defendant language, and other non-consecutive paragraphs that do not state any cognizable claim for relief. Plaintiff's opposition to the motion is similarly unintelligible. It is axiomatic that a Plaintiff must adhere to the pleading rules set forth in the CPLR, which require that Pleadings be set out in plain and concise statements in consecutively numbered paragraphs and be sufficiently particular to give the court and parties notice of the material elements of each cause of action. In this case, even the most liberal construction of the pleadings could not sustain this action. Joffe v Rubensiein, 24 A.D.2d 752, 263 N.Y.S.2d 867, 1965 N.Y. App. Div. LEXIS 3168 (N.Y. App. Div. 1st Dep, 1965), app. Dismissed, 21 N.Y.2d 721, 287 N.Y.S.2d 685, 234 N.E.2d 706, 1968 N.Y. LEXIS 1686 (N.Y. 1986). Defendants' other requests for relief are denied at this time.

The constitutes the Decision & Order of this Court
Dated: 04/23/2018

Hon. Donna Mills,
Donna Mills, J.S.C.