

No. 20-388

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IN THE  
**Supreme Court of the United States**

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LINGFEI SUN,

*Petitioner,*

—v.—

CITY OF NEW YORK, NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, ELMHURST HOSPITAL, POLICE OFFICER SGT. CUNNINGHAM, YUANFANG CHEN, M.D., SOSTRE, S. SAMUEL, M.D., CHEN SHANWAN, M.D., MIHAI IORDACHE, M.D., LI YUN, M.D., HYEKYUNG LEE, M.D., RICHARD WANG, M.D., YOU DU LI, QIYIN LI, LINNGOR TSANG,

*Respondents.*

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

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**PETITION FOR A WRIT OF CERTIORARI**

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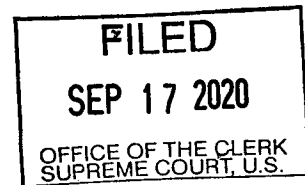
LINGFEI SUN  
87-11 52 Avenue  
Elmhurst, New York 11373  
lfs2020912@yahoo.com

Mailing Address:

P.O. Box 737823  
Elmhurst, New York 11373  
(917) 379-7351

*Petitioner Pro Se*

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## **QUESTIONS PRESENTED**

**I** Did Court of Appeals for the Second Circuit must determine the Petitioner's current U.S. district court suit whether applicable continuing violation doctrine?

**II** With new fact the Petitioner's current U.S. district court suit whether overcome res judicata (claim preclusion, collateral estoppel) bar the suit and entitle to proceed with the suit?

**RULE 14.2(b) STATEMENT**

The following were parties in the proceeding in the court whose order and judgment is sought to be reviewed:

LINGFEI SUN,

Petitioner-Plaintiff,

City of New York,

New York City Health and Hospitals Corporation,

Elmhurst Hospital,

NYPD Sergeant Joseph Cunningham,

The doctors of Elmhurst Hospital:

Yuanfang Chen, M.D.,

Samuel S. Sostre, M.D.,

Shanwan Chen, M.D.,

Mihai Iordach, M.D.,

Yun Li M.D.,

Richard Wang, M.D.,

Hyekyung Lee, M.D.,

Individual Landlord: Youdu Li, Qiyin Li,

Linngor Tsang.

Respondents-Defendants,

New York City Police Department,

P.O. Steven Grattan, P.O. Neil Zuber,

P.O. Terrance Connelly,

P.O. Hugo Dominguez,

Jennifer Shaw, John Doe Tenant,

Defendants

# TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED .....	i
RULE 14.1(b) STATEMENT .....	ii
TABLE OF AUTHORITIES .....	v
PETITION FOR A WRIT OF CERTIORARI.....	1
OPINIONS BELOW .....	1
JURISDICTION.....	1
STATUTORY PROVISIONS INVOLVED .....	2
STATEMENT OF THE CASE.....	2
THE CURRENT U.S. DISTRICT COURT LAWSUIT .....	18
REASONS FOR GRANTING THE WRIT .....	19
CONCLUSION .....	23

# TABLE OF CONTENTS – Continued

	Page
APPENDIX	
U.S. Court of Appeals for the Second Circuit's SUMMARY ORDER dated March 3, 2020, on Docket 18-2905-cv .....	Appx. 1
U.S. Court of Appeals for the Second Circuit's Order dated April 27, 2020, Docket 18-2905-cv Petition for Rehearing.....	Appx. 10
District Court Eastern District of New York's Order dated September 11, 2020.....	Appx. 11
District Court Eastern District of New York's Judgment dated September 13, 2020 .....	Appx. 19
Elmhurst Hospital Mental Emergency Room's Record on August 2, 2003, CT Brain Scan done .....	Appx. 20
CT Brain Scan Statement (August 2003) .....	Appx. 21
Order of Mental Health Supreme Court, State of New York, Queens County (March 22, 2005) Index Number 500268/2005.....	Appx. 22
Proven the Plaintiff have served (State Court suit) to Samuel S. Sostre, M.D , Qiyin Li, Youdu Li and Linngor Tsang at year of 2006.....	Appx. 24

## TABLE OF AUTHORITIES

Case	Page
<i>Builder's Dev. Group, L.L.C., v. Smith</i> , No. 23846, 2010 WL 3448574 (Ohio Ct. App. Sept. 3, 2010) .....	20
<i>Lawlor v. National Screen Service Corp.</i> , 349 U.S. 322 (1955) .....	20
<i>Rienzi v. Rienzi</i> , 23 AD3d 450, 450 .....	22

## **PETITION FOR A WRIT OF CERTIORARI**

LINGFEI SUN, Petitioner (Pro Se), respectfully petitions for a writ of certiorari to review the SUMMARY ORDER of United States Court of Appeals for the Second Circuit which affirmed, vacated and remanded District Court's Judgment (dated September 13, 2018) and Judge Raymond J. Dearie's Order (dated September 11, 2018), resolving the Petitioner's U.S. district court current lawsuits and all claims has been dismissed wrongfully.

### **OPINIONS BELOW**

The Judge Raymond J. Dearie's Order (dated 09/11/2018) and Clerk Office's judgment (dated 09/13/2018) of United States District Court Eastern District of New York (Docket 07 CV 04868), are not officially reported and are reproduced in the Appendix at Appx. page 11 and Appx. page 19.

### **JURISDICTION**

The order of United States Court of Appeals for the Second Circuit denying Petition for Rehearing (docket #18-2905-cv) was entered on April 27, 2020. The PETITION is timely under 28 U.S.C. and Supreme Court Rule 13.1 and 13.3. It is being filed within (add covid-19 pandemic 60 days) 150 days.

This Court has jurisdiction to review the order and judgment pursuant to 28 U.S.C.

## **STATUTORY PROVISIONS INVOLVED**

42 U.S.C. sections 1981 and 1983

U.S.C. - "first, fourth, fifth, eighth and fourteenth Amendments".

## **STATEMENT OF THE CASE**

1. Petitioner, LINGFEI SUN, is an individual (Date of Birth 06/26/1958) residing at County of Queens, the State of New York.
2. Respondent THE CITY OF NEW YORK is a municipal corporation within the City and State of New York.
3. Respondent THE NEW YORK CITY HEALTH AND HOSPITALS CORPORATION is a municipal corporation within the City and State of New York and by virtue of the laws of the State of New York.
4. Respondent ELMHURST HOSPITAL is one of the branches of THE NEW YORK CITY HEALTH AND HOSPITALS CORPORATION.
5. Respondent Police Officer SGT Cunningham was or still is police officer employed by the respondent -The City of New York.
6. Respondents, Yuanfang Chen, M.D., Samuel S. Sostre, M.D., Shanwan Chen, M.D., Mihai Iordach, M.D., Yun Li, M.D., Richard Wang, M.D., Hyekyung Lee, M.D., are physicians employed by and associated with the respondent ELMHURST HOSPITAL
7. Respondents, Linngor Tsang (landlord: 64-42 Booth Street Rego Park NY 11374, from Hong Kong), Youdu Li, Qiyin Li, (landlord: 63-04 Austin Street Rego Park NY 11374, a couple from Hong Kong and



P.R.China) are individual residing at County of Queens, the State of New York.

8. Defendants: New York City Police Department, P.O. Steven Grattan, P.O. Neil Zuber, P.O. Terrance Connelly, P.O. Hugo Dominguez and individuals Jennifer Shaw (used to live in 64-42 Booth Street Rego Park NY 11374, year of 2003) and John Doe Tenant (used live in 63-04 Austin Street Rego Park NY 11374 year of 2005)

9. What happened – Defendants' series of related continuing violation harmed me (Petitioner)

I, the Petitioner have no mental illness ever. What happened was that the Defendants premeditatedly arranged persecution to harm and infringe on me, for making me who I was a normal and healthy person been locked into the Elmhurst Hospital psychiatric ward (hospitalization). The Respondents intentionally arranged malicious and cruel serial of related continuing violations and wrongfully intentional professional treatment to brutally and cruelly harm me, and they insidiously damaged and ruined my life.

At 08/02/2003, around 7:00am, I was at kitchen (on first floor) preparing my meal, in the kitchen there were simple folding chairs that are not comfortable to sit on, so I brought pillows from my room (I rent a room on second floor since February 2002) which can be leaned on to make it comfortable to sit on folding chair (while the meal was cooking), That was normal and common. The Tsang (female, landlord from Hong Kong) and the Shaw (female, from P.R. China Shanghai) came to kitchen, purposely started incident, they badly used discrimination words to sully me, for insulting and mocking me, they maliciously shouted to me: "You are a cheap nanny

and a cheap servant". They maliciously discriminated looked down on me and intentionally referred pillows as children as domestic worker's labor work – cheap job. (my job was nanny/domestic-worker). Tsang and Shaw even intentionally and maliciously pushed me strongly. I was calmly, firmly and peacefully said to them in Chinese mandarin: "These are only pillows, not any other things. That's all. Why are you making trouble here?" At this situation I calmly finished kitchen cooking right away. Tsang and Shaw called cops intentionally.

\* The landlady Tsang gave Jennifer Shaw moved in the house (Shaw lived in a room herself only on second floor) just after 07/20/2003. The premeditated incident (08/02/2003) occurred within ten days from the Shaw lived in 64-42 Booth Street, Rego Park NY 11374 .

\* Jennifer Shaw (from P.R. China, Shanghai) worked (year of 2003) at Integrated Neurologic Clinic (as body massage worker), the Clinic (Entre) located at 70-20 Yellowstone Blvd., Forest Hills NY 11375 where, cross street is NYPD Police 112 Precinct. Jennifer Shaw (defendant) speaks fluently in English, Tsang (landlord) only has limited English and low level in English.

Only few minutes later NYPD 112 Precinct polices came into the house. The Shaw spoke to polices in fluent English which intentionally made up the incident falsely, because I only has limited English so I explained calmly and politely in simple English to NYPD polices that the Tsang and Shaw intentionally made trouble and discriminated me, they even strongly pushed me. But the Polices didn't talk or ask me any, the NYPD 112 Precinct polices immediately and intentionally arrested me, they cruelly and

brutally handcuffed me. Then the NYPD 112 Precinct polices immediately and violently forced me out the house. There was an ambulance already waiting at outside house (64-42 Booth Street, Rego Park NY 11374), the Polices with ambulance worker violently forced me into ambulance. All these happened less than two minutes after the NYPD 112 Precinct polices arrived at 64-42 Booth Street, Rego Park NY 11374 and entered into the house.

In the ambulance, I calmly and quietly sat while I was cruelly cuffed. I was arrested falsely and was forced into ambulance. I am a good person and healthy. I have Civil Rights to refuse answer.

The ambulance brought me to a building, and ambulance worker forced me enter into there. A female in nurse uniform came to me, she asked me in simple English as "name?" and "date of birth?", I told her my name and the date of birth. Then she said to me: "Here is Hospital." (She didn't mention this is Elmhurst Hospital Mental Emergence Room). I calmly, clearly and politely asked her right away: "I need Chinese mandarin translator please." Then the female in nurse uniform didn't talk to me more. I was perfect normal and healthy. I sat calmly and quietly and waited for Chinese translator. But the Hospital didn't provide me Chinese translator. Only few minutes later suddenly the Hospital staffs brutally and violently tied me on a bed, immediately doctors intentionally and wrongfully gave me a shot (Anesthesia) to put me in an unconscious state, and while I was on unconscious state Elmhurst Hospital Mental Emergency Room doctor sent me out to forced perform CT Brain Scan on me immediately. That was no any reasonable way to forced perform CT Brain Scan on me, CT Brain Scan was not standard-care

examine at Hospitals Mental Emergency Rooms in year of 2003. Elmhurst Hospital infringed my Civil Rights and Constitutional Rights.

See Appx. page 20. \*This is Elmhurst Hospital Mental Emergency Room Record's beginning page (08/02/2003).

On the page (at Appx. page 20) it were only what's the Tsang and the Shaw falsely said ... , without any the Mental Emergency Room's doctor examine and no doctor talk to me (also no Chinese translator provided). The Tsang (landlady, from Hong Kong) and the Shaw (from Shanghai) intentionally fabricated the incident, they discriminated me and planed incident premeditated. I am a good person and was perfect normal and healthy. But I was shot (Anesthesia) by doctor intentionally and immediately, and while I was on unconscious, I was sent outside of Mental Emergency Room to forced perform CT Brain Scan on me. \* See at Appx. page 20 / bottom of the page—"Head CT Scan was done around 14:00pm".

After Anastasia gone, I was wrongfully locked into Elmhurst Hospital psychiatric ward (Hospitalization). On 08/02/2003, 08/03/2003/ and 08/04/2003 no doctor came to recheck on me, I was locked. Elmhurst Hospital violated Mental Hygiene Law that doctor must recheck within law required hours (24 hours). On August 5<sup>th</sup>, I was transferred to the psychiatric ward Asian Union, I immediately spoke to doctor who spoke Chinese and told him the entire above situation (incident) and explained to him that I was normal and healthy.

(I'd like to point out that: I came from People's Republic of China Shanghai, and in 1995, when I was pregnant with my second child, I have applied

political asylum with U.S. government, and was approved. The United States Citizenship and Immigration Services arranged for my citizenship naturalization interview on August 11<sup>th</sup> 2003, at few months ago the office already notice me by letter.) The Landlord Tsang with Shaw previously planned incident (08/02/2003) for purpose of harming me - Defendants falsely arrested me and locking me into psychiatric ward (hospitalization).

The doctor who spoke Chinese spoke to me on August 5<sup>th</sup>. I really was perfectly normal and healthy, doctor immediately started discharge procedure. I was out the psychiatric ward at 08/07/2003 morning. I was able to go to my Citizenship Interview on time (08/11/2003). I was naturalized and became an U.S. citizen in September 2003.

I am a good person who was normal and healthy. I was never a patient at any mental health facility anywhere. The Defendants arranged insidious persecution to cruelly harm me. I have inquired numerous times with related Departments and requested to investigate the Defendants' cruel violations and Elmhurst Hospital professional's wrong doing, the case hasn't been resolved.

\* For the purposes of persecution to me and covering up the Defendants' violations, the Defendants purposed to conceal Elmhurst Hospital cruel violation's liabilities that they maliciously forced CT Brain Scan on me on August 2, 2003. The Defendants continued their tortuous "continuing violation" on January 2005, March 2005 and July to September 2005. Later the Defendants intentionally made incident again to lock me into psychiatric ward (hospitalization).

On January 3<sup>rd</sup> 2005, the Respondents, YouDu Li and QiYin Li (landlord couple, from Hong Kong and P.R. China) intentionally started incident in the early evening that QiYin Li and YouDu Li badly discriminated me, they with John Doe Tenant shouted at front of outside my room by using bad discrimination words (in Chinese mandarin): "You are a cheap renter... cheap women..., outside the house (63-04 Austin Street, Rego Park, 11374) there is a broken chair which was their chair...". They badly created incident while I stayed in my room and did my normal daily life. I didn't walk out of my room. After 11 pm at night, they called cops. NYPD 112 precinct polices brutally knocked on my door and violently entered into my room. The landlord said to polices : "that outside of the house, on the sidewalk, there's a big plastic bag, and inside, there's a broken wooden chair that was the item belonged to the landlord, and place a broken chair into a plastic bag was not a normal thing". I calmly told polices in simple English "when I rented this room (September 2003) the landlord has said to me – this chair have belonged to you". The chair was already shaking and very broken, since this wood chair was no longer usable, the afternoon of January 3<sup>rd</sup> 2003, I took apart the chair in part. I placed it into a big plastic bag and placed it on the sidewalk outside of the house, which was helping to keep neat for the environment outside of the house, which was a very normal act for all. Without any proper reason, there is no any harm and dangerous to myself or others, the NYPD 112 precinct police (Defendant Sgt. Cunningham) and others intentionally arrested me falsely, they violently used choking on my neck and twisting my body caused my body bruise all over. I was calm and peaceful. NYPD police with maliciously

laughing brutally forced me out my room and cruelly forced me into an ambulance. I am a good person, perfectly normal and healthy. In the ambulance I have rights to refuse to answer. I calmly sat.

The Respondents intentionally sent me to Elmhurst Hospital Mental Emergency Room.

I calmly explained the above situation in simple English to the Mental Emergence Room doctor that the landlord couple badly discriminated me and intentionally made incident (they shouted "you are a cheap renter ... cheap, cheap woman...") at outside of my room door, while I stayed in my room. There was not any conflict, Without any rational reason, there was not any harm or danger to myself or others, Elmhurst Hospital Mental Emergency doctor intentionally said to me: "You was sent by NYPD police to Mental Emergency Room, so Hospital has to lock you into psychiatric ward", doctor even maliciously said: "Hospital is able to use the record of you had been locked in psychiatric ward on August 2003 as reason, to lock you into the psychiatric ward again (hospitalization)". I am a good person, normal and no mental illness at all. I was wrongfully and illegally locked up by Elmhurst Hospital psychiatric ward from 1/3/2005 to 1/24/2005. I was cruelly abused by Elmhurst Hospital psychiatric ward doctor ... and my life was threatened.

Elmhurst Hospital cruelly abused me, they deprive my Civil Rights to obtain Mental Hygiene Legal service lawyer that granted by Constitution, I lost freedom was locked into psychiatric ward, I was illegally locked up by Elmhurst Hospital psychiatric ward (hospitalization) for 21 days. I didn't have any mental illness. I didn't take any medications. I have been normal; I lived normally and worked normally.

During the time that I was illegally locked up from 1/3/2005 to 1/24/2005, Respondent SHANWAN CHEN M.D. (from P.R. China, Shanghai) in Elmhurst Hospital didn't even talk to me one time nor was there any examination on me, she issued a Certificate of Examining Physician Certification to wrongfully testify that I was seriously mentally ill and unable to take care of self. She cruelly harmed me. I ask the Court please be very serious exam that the falsely testified Certificate of Examining Physician Certification was not only negligent.

After I was discharged from Elmhurst Hospital, I requested to get copy of Hospital Records, the Records were they falsely made while I were illegally locked into psychiatric ward (hospitalization). I have contacted law firm to have legal action, to protect my rights.

In the evening of March 10<sup>th</sup> 2005, I returned to my residence from lawyer's office. I was in my room, landlord couple (YouDu Li and QiYin Li) created incident outside of my door. I said to them in my room that all matters between us related to landlord/tenant shall be resolved through legal way. Both of us get lawyer talk next-day. Only after several minutes, the door of my room was broken by NYPD 112 Precinct police without knocking on door, polices brutally entered into my room. I was peaceful and calm, without any reason polices immediately and violently handcuffed me, they falsely arrested and maliciously threatened me "lock you into psychiatric ward again". Polices cruelly choked on my neck and violently twisted my body, they brutally forced me out of my room and forced me into an ambulance. I am a good person, normal and healthy.



In the ambulance I calmly sat; I have civil rights to refuse to answer.

The Defendants intentionally sent me to the Mental Emergency Room in Elmhurst Hospital. I explained the entire above situation in simple English to doctor: "I was really normal, and there was no any harm and dangers to myself or others". But doctor maliciously said to me: "You was sent to Mental Emergency Room by police, hospital has to lock you into psychiatric ward, hospital was able based on hospital records of August 2<sup>nd</sup> 2003 and January 3<sup>rd</sup> 2005 that you have been locked in psychiatric ward to lock you into psychiatric ward again". Elmhurst Hospital illegally locked me - the person who was normal, healthy and no mental illness into psychiatric ward (Hospitalization). The Respondents' continuing violation intentionally abused me and cruelly harmed me.

Since after I discharged on 1/24/2003 I have prepared to contact law firm, from copy of records that I got from Elmhurst Hospital I have checked the Chinese - English dictionary and I have learned about Mental Hygiene Legal Service. I have gotten the service lawyer office's phone number. I immediately called the Mental Legal Service and requested a Mental Health Court hearing that I was illegally locked into Elmhurst Hospital psychiatric ward (Hospitalization). On 3/10/2005, I filled up an application that Elmhurst Hospital have violated the Mental Hygiene Law, and illegally locked me into the psychiatric ward (hospitalization). The Mental Health Supreme Court arranged me to have Court hearing on 3/22/2005.

After I was locked into psychiatric ward, Elmhurst Hospital asked Mental Health Supreme Court's order

to immediately force me taking medications because I was serious mental illness and asked order to continuously lock me in psychiatric ward. Elmhurst Hospital made all false medical records. I was really normal and had no mental illness at all. Elmhurst Hospital has produced such untrue records without any examination. During the 12 days I was waiting for the hearing from 3/10/2005 to 3/22/2005, I was illegally locked up, my life was threatened.

On 3/22/2005, the Mental Health Supreme Court held a hearing for me. The Respondent Yuanfang Chen M.D. still sworn in and made false testimonial that I was serious mental illness and asked Court's order to forcefully give me medication and continually lock me in psychiatric ward. In accord with facts that I really was perfectly normal and no mental illness at all, the Judge has determined that Elmhurst Hospital illegally locked me into the Elmhurst Hospital psychiatric ward (hospitalization) and issued an Order that I was discharged at once.

See (\*again Respondents' Wrongfully Continuing Professional Treatment to me). Appx. page 22, Order of Mental Health Supreme Court Queens County, date March 22, 2005 Index Number 500268/2005

\* The Respondents' intentional continuing violations were for covering up their wrong doing on August 2, 2003 (the root violation), that were as a chain of continuing harm which cruelly took my life away, intentionally the defendants purposed to cause me lost ability to ask investigating the forced CT Brain Scan on me (The Defendants cruelly infringed on me August 2003).

Subsequently, the Defendants continued tortuous violation to me and intentionally made incident of eviction premeditatedly.

On July 19<sup>th</sup> 2005 morning, the Respondent landlord couple (YouDu Li and QiYin Li 63-04 Austin Street Rego Park NY 11374) intentionally made eviction premeditated. I was living in my room like usual, somebody knocked my door violently, I asked in English immediately: "Who is it?" The person outside of my door was a man who spoke English, I answered in English: "Please wait a minute". It is in summer, my room was very hot; I only wore simple clothes, so I quickly found my daily clothes immediately to put on. I calmly opened the door; at outside of my door was a man, he wore uniform of "City Marshall" and the Respondents YouDu Li and QiYin Li. I politely and calmly asked the man: "Who are you? What's your name?" He didn't tell me his name, he spoke in English that my landlord had an order which issued by Judge of Housing Court and asked me to move out. He came to enforce this. My English was very limited, and I didn't know what the situation was, so I calmly and politely talked to him: "Please let me contact lawyer." At this moment, the NYPD 112 precinct polices entered into my room, they maliciously used brutal force, violently handcuffed me, I was falsely arrested. Again NYPD 112 precinct polices cruelly choked my neck and twisted my body, my body was all bruises and polices brutally threatened me: "lock you into psychiatric ward, don't let you out again!" They violently forced me out of my room and forced me into an ambulance. I was calm and peaceful. I am a good person, normal and healthy. In the ambulance I calmly sat.

The Defendants intentionally sent me to Elmhurst Hospital Mental Emergency Room again.

I explained the entire above situation in simple English to Mental Emergency Room doctor, that my landlord couple made incident of eviction premeditatedly, there are no any harm and dangers to myself or other, I was perfectly normal. But the Respondent Hospital doctor only said: "NYPD sent you to Mental Emergency Room, Elmhurst Hospital was able without any examine to lock you into psychiatric ward (Hospitalization) again. I immediately called Mental Hygiene Legal Service and requested a Mental Health Court hearing that I was wrongfully locked into Elmhurst Hospital psychiatric ward, I was normal, healthy and no mental illness at all. On 7/19/2005, I filled up an application, Mental Health Supreme Court arranged me to have Court hearing on 8/2/2005.

At the same time I called lawyer's office at the Mental Emergency room, I asked lawyer why City Marshall came to my room and the City Marshall said: it was from an order of Judge of Housing Court.

When I was wrongfully and illegally locked at Elmhurst Hospital by the Respondents:

(July 2005 – September 2005)

a. The lawyer searched records of Housing Court and found out that in May 2005, that is about 2 months before the incident of eviction happened on July 19, 2005, the Respondent QiYin Li (landlord) filed eviction at Housing Court that she has no lease with me (tenant) and asked me to move out. She (QiYin Li) premeditated arranged incident of eviction intentionally, I didn't know it (I didn't receive any notice of appearance of the House Court). On July 19,

2005 the Respondents (YouDu Li and QiYin Li) arranged City Marshall to enforce and asked me to move out.

According to Housing Law, when there's no lease between landlord and tenant, law allows tenant still have rights to live in the place (rent room) for at least 6 months. The lawyer applied Housing court to reopen my case. The Housing Court arranged me to appearance the Housing Court on 08/16/2005. I have been locked wrongfully and illegally in Elmhurst Hospital psychiatric ward, Elmhurst Hospital violated my Civil Rights, the Respondents prohibited me to leave the hospital to appear in the Housing Court that caused me losing of my living rights (rent room) and caused me losing my living place – home. The Respondents intentionally violated due process of law and cruelly persecuted me.

The incident of eviction was previously arranged by the Respondents purposely. They intentionally persecuted me. The Respondents maliciously and cruelly locked me into Elmhurst Hospital psychiatric ward (hospitalization) from July 2005 to September 2005. During the long 59 days, the Respondents landlord couple (Qiyin Li and Youdu Li) held my personal properties in possession. On 9/13/2005, Mental Health Supreme Court Queens County Judge signed an Order that the Hospital has wrongfully and illegally locked me, I was discharged. How was the Qiyin Li and Youdu Li (landlord couple) so fast in receiving the news, on the same date of 9/13/2005, Peng Li, son of the Qiyin Li sent the rest of my objects to the storage place in Bronx after they robbed my properties, they even destroyed what they have not robbed. My life was persecuted continuously.

When I was wrongfully and illegally locked into Elmhurst Hospital psychiatric ward by the Respondents:

(July 2005 – September 2005)

b. I was normal, healthy and no mental illness at all, but I was forcibly locked into the psychiatric ward (hospitalization). My Civil Rights and Constitutional Rights were viciously violated. My life was threatened every minute. I am the person who was normal, healthy and no mental illness, but the Respondent hospital doctors made fraudulent Certificate of Examining Physician Certifications without any examine on me and even didn't talk to me one time, the illegal Certificate of Examining Physician Certifications for applying order from Mental Hygiene Court to lock me in the psychiatric ward and forced me to take medication.

On August 2, 2005, the Mental Health Supreme Court held a hearing for me. The Respondent Mihai M.D. provided fraudulent testimony in Court that I was seriously mentally ill, asked to lock me in the psychiatric ward, and asked order to force me take medication. I told Judge that the Mihai M.D. was wrong, I was perfectly normal, Mihai didn't do any examination on me and he even didn't talk to me once, how could he testify? The Mihai M.D. was wrongful testimony in Court. The Judge arranged that Mihai M.D. must talk to me with Mental Hygiene Legal Service lawyer on the next day (08/03/2005). In the morning of 08/03/2005, the Mental Hygiene Legal Service lawyer and me talked to the Mihai M.D., I seriously and calmly pointed out to Mihai that he presented the false testimony in the Mental Health Supreme Court hearing yesterday (August 2, 2005), clearly Elmhurst Hospital

wrongfully and illegally locked me into the psychiatric ward (hospitalization). I was normal, healthy and no mental illness at all.

After 10 minutes, Elmhurst Hospital psychiatric ward notified me through the legal service Lawyer: "You didn't need any medication and you could be released from Elmhurst Hospital psychiatric ward now immediately. But you have to agree to make a deal with Elmhurst Hospital – agree to visit clinic". I calmly pointed out immediately – "I really was normal, healthy and had no mental illness at all, Elmhurst Hospital psychiatric ward wrongfully locked me into psychiatric ward (hospitalization). I couldn't make a deal with Elmhurst Hospital". Elmhurst Hospital maliciously turned hostile right away, Elmhurst Hospital psychiatric ward immediately submitted an application to Mental Health Court again, asked Court's order to force me take medication and lock me in the psychiatric ward continually (\*Respondents' Wrongfully Continuing Professional Treatment again and again to me). I continually asked the Mental Health Court hearing that Elmhurst Hospital wrongfully and illegally locked me into psychiatric ward (hospitalization).

While I was illegally locked in psychiatric ward, Elmhurst Hospital made all false medical records and had illegally produced untrue Certificate of Examining Physician Certifications without any examination on me and even didn't take to me one time.

I was really normal, healthy and no mental illness at all. On September 13, the Mental Hygiene Court Judged that Elmhurst Hospital wrongfully and illegally locked me into psychiatric ward (hospitalization), I was discharged. I didn't take any

medication; I have been normal. I was wrongfully and illegally locked in psychiatric ward (hospitalization) for 59 days.

The Respondents' intentional continuing violation maliciously violated my Civil Rights and Constitutional Rights, their intentional the series of related continuing violation cruelly hurt and harmed me.

### **THE CURRENT U.S. DISTRICT COURT LAWSUIT**

In 2006, the Plaintiff, filed lawsuit at the New York State Court. The State Court lawsuit was ultimately dismissed.

In 2007, I filed lawsuit at U.S. District Court Eastern District Court of New York (docket 07 CV 04868) against the defendants' the series of related continuing violation to me, that their series of related continuing violation maliciously and cruelly harmed me. The defendants violated my civil rights and constitutional rights. The district court ordered to pending my U.S. district court lawsuit.

In 2017, the U.S. district court reopened my district court lawsuit. The Defendants (the City of New York, Police Officers, New York City Health and Hospitals Corporation, Elmhurst Hospital, Police and doctors, but not including individuals Qiyin Li, Youdu Li and Linngor Tsang ) moved to dismiss the current lawsuit based on claim preclusion. The district court's order and judgment wrongfully dismissed the current lawsuit and state court claim based on claim preclusion.



See the Judgment (dated September 13, 2018) at Appx. page 19 and the Order (dated September 11, 2018) at Appx. page 11.

The Petitioner appealed the dismissal order and judgment of the district court. U.S. Court of Appeals for the Second Circuit's SUMMARY ORDER (March 3, 2020, docket 18-2905cv) wrongfully affirmed the district court's order and judgment, and wrongfully ordered vacated and remanded claim.

See SUMMARY ORDER at Appx. page 1.

### **REASONS FOR GRANTING THE WRIT**

1. The Court of Appeals must determine whether there has a change to my current U.S. district court lawsuit in the applicable law "continuing violations doctrine". Because there is a change in the applicable law "continuing violations doctrine", then Claim preclusion would not apply.

The SUMMARY ORDER did not have decision to my current U.S. district court lawsuit - the applicable law "continuing violations doctrine".

The Continuing Violation Doctrine overrides time-limitation to a series of related continuing violation case (lawsuit). So in the applicable law "Continuing Violation Doctrine" the Petitioner's current lawsuit against the Defendants' the related root violation of the series continuing violation (on August 2003) was not time-limitation barred.

The Petitioner should be allowed to apply the continuing violations doctrine and entitle to proceed with the suit (U.S. District Court Eastern District Court of New York Docket 07 CV 04868).

2. U.S. Court of Appeals for the Second Circuit's SUMMARY ORDER unjustifiably based on claim preclusion barred my current district court lawsuit, the Order has wrongfully affirmed the dismissal order and judgment of U.S. District Court Eastern District Court of New York

Also based on collateral estoppels Court of Appeals wrongfully barred my current U.S. court lawsuit (claim) against Defendant-Appellee, Samuel S. Sostre M.D. (see Appx. page 5/second paragraph) and I have served to Samuel S. Sostre M.D. (State court suit at year of 2006 (see Appx. page 25). The SUMMARY ORDER was wrong.

New York law instructs dismissal based on time-limitation that do not trigger claim preclusion. New York State Court based on time-limitation dismissed my State Court suit which I against the Defendants' violation to me on August 2003, the dismissal of time-limitation was not on merits.

A principle advanced in Ohio case that "the binding effect of res judicata has been held not to apply when fairness and justice would not support it." *Builder's Dev. Group. L.L.C. v. Smith*, No. 23846. 2010 WL 3448574. At \*3 (Ohio Ct. App. Sept. 3, 2010).

U.S. Court of Appeals for the Second Circuit's SUMMARY ORDER based on claim preclusion (res judicata) affirmed the dismissal order (Appx. page 12) and judgment (Appx. page 21) of district court was unfair and wrongful.

3. As the Supreme Court explained more than 60 years ago in *Lawlor v. National Screen Service Corp.*, 349 U.S.322 (1955); "res judicata does not bar a suit, even if it involves the same course of wrongful

conduct as alleged earlier, so long as the suit alleged new facts or worsening of the earlier condition”.

a. Data of Hospitals Mental Emergency Rooms’ CT Brain Scan exam brings new fact to my current suit – what was CT Brain Scan examining for? ;

b. Data of Mental Emergency Rooms’ required standard-care exam brings new fact to my current suit - required standard-care exam whether including CT Brain Scan;

c. Living fact: I am indeed normal and no mental illness at all. But the Defendants’ the series of related continuing violation to me, that cruelly and insidiously hurt, harmed and damaged me (worsening of earlier situation), further that caused my rights be deprived wrongfully.

I have rights to ask U.S. District Court allow me to amend my current lawsuit’s complaint and claim – that the NYPD police (the defendants and police officer Sgt. Cunningham) intentionally arrested me falsely, police violently used choking on my neck and twisting my body caused my body bruise all over, I was calm and peaceful, NYPD police were with maliciously laughing brutally forced me out my room, and that the individuals landlord (Defendants-Appellees Qiyin Li, Youdu Li and Linngor Tsang) brutally and harshly discriminated tenant (me), they intentionally arranged incident and were conspiracy with NYPD police for purpose of false arresting me. Their violations were under 42 U.S.C. §1981 and §1983. They violated the Petitioner’s Civil Rights and Constitutional Rights.

Also Court of Appeals for the Second Circuit’s SUMMARY ORDER wrongfully vacated and remanded the New York State Court’s claim against

individuals (Qiyin Li, Youdu Li and Linngor Tsang) – “it appears that these defendants were never served” (see Appendix “SUMMARY ORDER” at Appx. Page 7/ second paragraph). In fact, the Petitioner have served to QiYin Li, YouDu Li, Linngor Tsang and Samuel S, Sostre M.D. (New York State court) at year of 2006 Appx. page 24-25), as well as I have served to Qiyin Li, Youdu Li, linngor Tsang and Samuel S. Sostre M.D. (U.S. district court) at year of 2007.

“The power of the court to dismiss an action, sua sponte, is to be used sparingly” (*Rienzi v. Rienzi*, 23 AD3d 450, 450, citing *Myung Chun v. North Am. Mtge. Co.*, 285 AD2d 42, 45). The SUMMARY ORDER was improper and wrong. Court of Appeal for the Second Circuit’s SUMMARY ORDER erred in negligence and arbitrariness.

I respectfully ask Supreme Court of the United States to please seriously further consider my current U.S. district court lawsuit.

CONCLUSION

For the reasons and facts set forth above, the Petitioner respectfully asks the petition for a writ of certiorari should be granted and the Supreme Court of the United States reverse the summary order of court of appeals for the second circuit.

Respectfully submitted,

*Lingfei Sun*

LING FEI SUN

87-11 52 Avenue

Elmhurst NY 11373

Mailing Address:

P.O.BOX 737823

Elmhurst, New York 11373

917-3797351

September 17, 2020.

Sworn to before me on

September 17, 2020

NADIA R. OSWALD HAMID

Notary Public, State of New York

No. 01OS6101366

Qualified in Kings County

Commission Expires November 10, 2023

*Nadia Oswald Hamid*  
Notary Public