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STATE OF NEW YORK COURT OF APPEALS

John P. Asiello
Chief Clerk and
Legal Counsel to the Court

Clerk's Office
20 Eagle Street
Albany, NY 12207-1095

February 16, 2022

Xiu Jian Sun, the Spiritual Adam
4812 207th Street
Oakland Gardens, NY 11364

Re: Sun v Kelly
APL-2022-00014

Dear Mr. Sun:

The Court has received your preliminary appeal statement and will examine its subject matter jurisdiction with respect to whether any jurisdictional basis exists for an appeal as of right. This examination of jurisdiction shall not preclude the Court from addressing any jurisdictional concerns in the future.

You should file within ten days after this letter's date your comments in letter format justifying the retention of subject matter jurisdiction ("Jurisdictional Response"). By copy of this letter, your adversary is likewise afforded the opportunity to submit a Jurisdictional Response within the same ten-day period after this letter's date. All letters shall be filed with proof of service of one copy of the letter on each party.

If applicable, the disclosure statement required to be filed by corporations and other business entities pursuant to section 500.1(f) of the Court of Appeals Rules of Practice shall be filed with the written submissions discussed above.

The times within which briefs on the merits must be filed are held in abeyance during the pendency of this jurisdictional inquiry. If this inquiry is terminated by the Court, the Clerk will notify counsel in writing and set a schedule for the perfecting of the appeal. This communication is without prejudice to any motion any party may wish to make.

Digital Filing Requirement

Parties also are required to submit digital versions of each paper filing (see sections 500.2, 500.10 of the Rules) by uploading them to the Court of Appeals Companion Filing Upload Portal for Civil Motions and Rule 500.10 Jurisdictional Responses (the Portal) accessed through the Court's web site (www.courts.state.ny.us/ctapps). Appellant also shall upload a digital version of each brief filed by each party in the Appellate Division and a copy of the record or appendix filed in that court. A document containing the Technical Specifications and Instructions for Companion Filing Upload of Rule 500.10 Jurisdictional Responses (including Naming Conventions) is enclosed and available on the Court's web site.

For the Portal, parties to this appeal will use 93104 as the pin number and APL- 2022-00014 as the

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appeal number for uploading purposes. This pin number should not be shared with others who are not parties to this appeal. All companion digital filings must be submitted no later than the due date for the jurisdictional response letter.

For uploading purposes, appellant's digital Jurisdictional Response shall have the following file name: **SunvKelly-app-Sun-JurRsp.pdf**. Appellant also shall follow the PDF file naming conventions with respect to the digital submission of additional materials, including Appellate Division records and briefs. All digital materials shall be submitted in separate files. Respondent's digital Jurisdictional Response shall have the following file name: **SunvKelly-res-Kelly-JurRsp.pdf**.

The contents of the digital submissions must be identical to those filed in hard copy, with the exception that the digital version need not contain an original signature (see section 7 of the enclosed Technical Specifications and Instructions).

If you have any questions regarding this letter, you may contact either Margaret N. Wood at 518-455-7702 or Edward J. Ohanian at 518-455-7701.

Very truly yours,
Heather Davis
Heather Davis
Deputy Clerk

HD/MNW/jvw

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STATE OF NEW YORK COURT OF APPEALS

John P. Asiello
Chief Clerk and
Legal Counsel to the Court
Clerk's Office
20 Eagle Street
Albany, NY 12207-1095
August 5, 2019

Mr. Xiu Jian Sun
54-25 153rd Street
Flushing, NY 11355

Re: Sun v Kelly: Sun v Baum

Dear Mr. Sun:

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 Clerk's Office, 851 Grand Concourse, Bronx, NY 10451.

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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.

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**Supreme Court of the State of New York
Appellate Division, First Judicial Department**

Kapnick, J.P., Friedman, González, Rodriguez, Pitt, JJ.

14876

THE CHURCH OF JESUS CHRIST
OF LATTER-DAY SAINTS, SERVANT:

XIU JIAN SUN, The Spiritual Adam,

Plaintiff-Appellant, Index No. 301088/17

-against

Case No.19-03463

MICHAEL P. KELLY, ESQ., et al.,

Defendants-Respondents.

Xiu Jian Sun, Flushing, for appellant.

Marshall Dennehey Warner Coleman & Goggin, P.C.,
Melville (Michael P. Kelly of counsel), for respondents.

Appeal from order, Supreme Court, Bronx County
(Donna M. Mills, J.), entered on or about May 1, 2018,
which granted defendants' motion to dismiss the
complaint, unanimously dismissed, without costs, as
moot.

This Court has already affirmed the order sought
to be appealed (Church of Jesus Christ of Latter-Day

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Sts., *Servant v Kelly*, 174 AD3d 463, 463 [1st Dept 2019], appeal dismissed, 34 NY3d 978 [2019]). Even if a valid appeal were pending, plaintiff has made no cognizable request for relief, and offers no legal or factual arguments that would warrant reversal.

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

ENTERED: December 16, 2021

Susanna Molina Rojas

Susanna Molina Rojas

Clerk of the Court

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