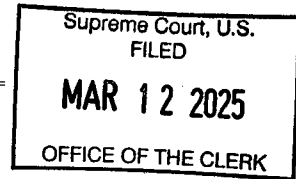


24-1162

No. 25 _____



IN THE

Supreme Court Of The United States

GINA ROBINSON,

Petitioner(s)

V.

FASHION DISTRICT DENTAL
DR. JUSTIN RASHBAUM, DMD;
DR. DAVID STEIN, DMD;
DR. JAY RASHBAUM, DMD;
DR. MICHAEL ABRAMS, D.D.S.,

Respondent(s)

On Petition for a Writ of Certiorari

To the State of New York Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Gina Robinson
Pro se, Petitioner
108 West 63rd Street,
No. 22594
Kansas City, MO 64113
(646) 266-1142

April 23, 2025

QUESTIONS PRESENTED

1. Was it legal for the State of New York Court of Appeals to (a) refuse jurisdiction of a case they are obligated by law to take, because it clearly stated important constitutional questions, pursuant to CPLR 5601(b)(1) & (2), constituting a violation of 42 U.S. code § 1983; as well as 13th and 14th Amendment rights, and (b) To do so based on an order of dismissal that itself states no valid or applicable legal grounds for that dismissal?

2. Was it legal for The State of New York Court of Appeals to ignore Substantive Constitutional Violations Including Petitioner's 13th And 14th Amendment Rights, Committed By The Appellate Division, First Department That Were Clearly Stated In The Preliminary Appeal Statement submitted October 18, And Jurisdictional Response Filed November 7, 2024?

3. Was it legal for The State of New York Court of Appeals to ignore Substantive Constitutional Violations Including Petitioner's 13th And 14th Amendment Rights, Committed By The State Trial Court (NYSC) Which The Appellate Division, First Department Failed to Address That Were Clearly Stated In The Preliminary Appeal Statement submitted October 18, And Jurisdictional Response Filed November 7, 2024?

THE PARTIES

The full name, address, and telephone number of the
Respondent parties are as follows:

Tortfeasors-Respondents Under Undisclosed Firm
Name, A.K.A. Fashion District Dental,
Dr. Justin Rashbaum, DMD.,
Dr. Michael Abrams, DDS. with,
Tortfeasors-Respondents-Appellants,
Dr. David Stein, DMD,
Dr. Jay Rashbaum, DMD,
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Individually and doing business as Fashion District
Dental

Appeared June 13, 2022, in Substitution For:
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Dr. David Stein, DMD,
Dr. Jay Rashbaum, DMD and
Dr. Michael Abrams, D.D.S.

The full name, address, and telephone number of the
Petitioner is as follows:

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- Robinson v. Fashion District Dental, et al., No. 153436/2022, N.Y. Supreme Court. Judgment entered Dec. 9, 2022.
- Robinson v. Fashion District Dental, et al., No. 2022-05698, N.Y. Supreme Court, Appellate Division, First Department. Judgment entered September 26, 2024.
- Robinson v. Fashion District Dental, et al., No. 2024-00139, State of New York Court of Appeals. Judgment entered December 12, 2024.

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Pursuant To CPLR 5601(B)(1) & (2),
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OPINIONS BELOW

The order dismissing the timely and Constitutionally substantiated appeal to the State of New York Court of Appeals (NYCOA), is unreported and found at Appendix. 1. The order dismissing an appeal to the State of New York Appellate Division, First Department (First Department) is unreported and found at Appendix. 2. The order of the New York Supreme Court (NYSC) punishing Petitioner for rightful claims against Tortfeasors, is unreported and found at Appendix 4C.

JURISDICTION

The judgment of the State of New York Court of Appeals was entered on December 12, 2024 when it dismissed Petitioner's case *sua sponte*. The NYCOA denied a timely application for appeal of the September 26, 2024 order from the First Department despite several Constitutional questions being firmly stated in the appeal papers, as well as the construction of the Constitution of the State or of the United States being directly involved therein (*see* NY Const., art VI, § 3b (7)). The Honorable Justice Rowan D. Wilson was the presiding judge. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and 1257(a) as a Constitutional question was raised before that court.

PRELIMINARY STATEMENT

On December 12, 2024, The State of New York Court of Appeals, in Albany, N.Y. The NYCOA under color of law, decided the deprivation of Petitioner's 13th and 14th Amendment rights; theft of Petitioner's property; forging three of her signatures to "dox" her medical records, and refusal of a refund or completion of the contract, by dental professionals, warranted Petitioner being punished with additional costs and defamation, by dismissing Petitioner's appeal *Sua Sponte* and without proper cause. This is despite the fact the appeal rested on constitutional questions which grants jurisdiction in that and all courts. This fact was clearly stated to NYCOA, in Petitioner's additional attachment sheet of her Preliminary Statement submitted October 18, 2024, App. 17, 19, and her Jurisdictional Response dated November 7, 2024.

Although the rules of NYCOA, as well as the Constitution of the State of New York state plainly jurisdiction in that court relies on certain conditions being met, one being a Constitutional question, it was wrongfully dismissed stating the above portion of the NY Const. does not apply, Art VI, §3 [b], App.18.

In this respect NYCOA, under color of law violated 42 U.S. Code § 1983, for deprivation of Petitioner's 13th Amendment right to be heard in open court and her 14th Amendment rights to procedural due process and equal treatment, as well as to substantive due process and the equal treatment clause, due to various forms of discrimination, App.12A-C. This is because Petitioner experienced

identical circumstances in the State Trial Court (New York Supreme Court- NYSC), as well as the Appellate Division, First Department (lower courts), explicitly pointing out to them both that Petitioner experienced bias and discrimination. NYCOA, under legal obligation to adjudicate, was presented with the disturbing facts of those cases, and made the willful decision not to adjudicate as well, which also violated 42 U.S. Code § 1983, for deprivation of Petitioner's 13th and 14th amendment rights.

Petitioner was denied these rights in a variety of instances during the proceedings in both the NYSC case (NYSCEF - 153436 / 2022), as well as the First Department case (NYSCEF - 2022-05698). The lower courts violated both federal and state laws and statutes, during the proceedings and are both liable for damages. The lower courts through their actions, and in their final orders, selectively applied the laws to Petitioner when it harmed her and did so for Tortfeasors when it benefited them, violating Petitioner's 13th and 14th Amendment rights to Equal Treatment and Protection of the law. App. 4A-C.

The lower courts also selectively, and improperly, denied all Petitioner's motions no matter their nature but granted all the Tortfeasors' [Fashion District Dentals' Principals' Counsel] requests no matter the impropriety. App. 2, 3, 4C, 5-7, 20, 38-42, 47-51. For example, Petitioner's NYSC plea for summary judgment, was granted only as to breach of contract out of 34 perfectly legitimate causes of action which included proven Conversion and 3 counts of forgery. App. 27 - 28C. And NYSC, in violation of court rules (CPLR 3215(b), dismantled the relief sought for

Petitioner's motion for Default even though it was granted in full, App. 4B-C.

Similarly, the first motion filed by Petitioner in late December 2022, with the First Department, requested Tortfeasors surrender to her the merchandise (SA) which was paid for in full in July 2021, incredibly, this was denied, App. 3. Petitioner had previously filed a demand with NYSC, on June 28, 2022, for the SA to be returned to her, which was obviously denied. Therein, the First Department suborned conversion and breach of contract involving the personal property of a brand new patient for Tortfeasors, App.3, 22.

Additionally, when confronted with Tortfeasors' demand to violate Petitioner's 14th Amendment rights by striking material from the record, supporting her appeal, the First Department also incredibly struck that material even after Petitioner brought this to their attention. App. 16, 20, 41, 44, 48. Here the First Department suborned violations of Petitioner's 13th and 14th Amendment rights, because at that point, Petitioner, a black person, was denied due process and the right to bear witness against a white person and this was supported by the First Department.

Given Tortfeasors violated multiple laws and the lower court found them guilty of breach of contract and conversion, on those grounds alone Tortfeasors would not prevail, there was no triable (or questionable) issue, trial was not needed, so summary judgment was compelled App. 4B. The lower courts, chose to ignore the elements for summary judgment. In doing so, the lower courts prevented Petitioner from receiving the

justifiable damages she sought from Tortfeasors. Therefore the lower courts are liable for those damages. And because NYCOA refused to hear this case(s) in their court it is also liable for those damages.

For reasons set forth below, in the State of New York Court of Appeals case 2024-00139 of Petitioner G. Robinson and the Appendix thereto, Petitioner submits with Writ of Certiorari to the United States Supreme Court to overturn the dismissal of the above case for adjudication in that court or to grant the relief requested in the New York Supreme Court complaint filed 4/21/22.

STATEMENT OF THE CASE

On December 12, 2024, The State of New York Court of Appeal (NYCOA), Hon. Rowan D. Wilson, Chief Judge, presiding, did *sua sponte*, under color of law, dismiss case no. 2024-00139, App. 1, which presented substantial Constitutional issues within case 2022-05698, was itself dismissed by the Appellate Division's First Department (1st Dept.), App. 2. Case 2022-05698 appealed an order from the New York Supreme Court (NYSC), which also presented Constitutional Issues as well as a number of both criminal and civil violations that were never addressed by NYSC, App. 4A-C.

Because NYCOA reviewed the substantial Constitutional Issues and biased treatment of Petitioner by those lower courts in the Preliminary Statement and Jurisdictional Response, and obligated to adjudicate them but chose to dismiss the case, they are as responsible for their own dereliction of duty and

the violations within that instant case as they are for the dereliction of duty and the violation of Petitioner's Constitutional rights by the lower courts. App. 3, 4A-C, 23-28C, 41-46.

This Constitutes A Violation of 42 U.S. Code § 1983 for deprivation of rights under color of law; Violation of the 13th And The 14th Amendment Rights, well established legal foundations bound to be upheld by all courts across the nation. *Yick Wo V. Hopkins*, 118 U.S. 356 (1886); and contradicts a United States Supreme Court decision that held Novel cases presenting Novel Constitutional issues must proceed. *Uzuegbunam v. Preczewski*, 592 U.S. (-2021). Case 2024-00139 presents novel Constitutional issues and must proceed.

In addition because the order of dismissal itself states no valid or applicable legal grounds for dismissal, it must proceed. App. 1, 17-19.

Pursuant to the Code of Judicial Conduct (JCUS-APR 73) or Model Code of Judicial Conduct (MCJC) Judges are also bound to respect and comply with the law at all times, this demands adjudication of criminal and civil violations by Tortfeasors in all lower court proceedings.

The NYCOA dismissal joins the lower courts in reducing Petitioner, who is a Black female, pro se litigant of modest means, to chattel, a being with no rights any court is bound to respect. This is aligned with the dreadful Dred Scott Supreme Court decision, a blight on the judiciary for 75 years. *Dred Scott v. Sandford*, 60 U.S. 393 (1856).

The staggering amount and variety of transgressions and violations by NYCOA, The 1st Dept, NYSC as well as the Tortfeasors can only be attributed to Petitioner's status as a black female from a low socioeconomic background, and pro se litigant, as she presented no controversial actions or faults during any of the proceedings. This is a violation of (NYCAC) § 8-107 (4) a.1(a), for unlawful discrimination, and a wrongful application of the Badges of Slavery, outlawed in 1867 by the 13th Amendment. Petitioner seeks Certiorari to address this and all the other violations perpetrated by the parties above.

STATEMENT OF THE CASE

Facts of The Original Dispute

In July of 2021, Petitioner, Gina Robinson contracted Tortfeasors, Fashion District Dental to produce a replacement dental device known as a Spring Aligner or (SA), App. 21. The Tortfeasors, 4 medical professionals broke their contract with Petitioner, rescinding their promise to produce the SA to Petitioner's specifications, and stole the SA from their own patient, App. 22, 29E. They withheld it, refused to refund it, and when Petitioner tried to reverse the charges with her bank she found Tortfeasors had forged Petitioner's signature three times in order to obtain false authorization to doxx her medical records to her bank, and then taunted her to sue them in court several times via email, App. 25-29E.

Petitioner paid for the SA in full on July 14, 2021, in the amount of \$1050.00, but the SA was not

produced per her requested specifications, nor was the SA ever delivered to her. Instead it was transferred to another orthodontist on February 9, 2023, 1 year and 7 months later, App. 22-24.

During the course of this protracted transaction, Tortfeasors engaged in an array of illegal and unethical acts including three forgeries of Petitioner's signature, several counts of HIPAA violations such as withholding records (violating PBH 18.2); transferring Petitioner's x-rays and other medical records to two different banks without authorization; over 22 acts of breach of fiduciary duty; several counts of fraud; and theft and conversion of the SA, for unknown reasons, App. 25-28C.

Tortfeasors refused to surrender the SA as requested or a refund to Petitioner then taunted her several times by email to sue them. App. 29A-E, 32. Why would anyone with so much at stake risk it all by committing so many unlawful acts and violations? They wouldn't, unless confident of not being held accountable for them. They would have to be completely confident they could defraud their patient, steal from her, harass her, break multiple laws in the process, then go on to encourage a lawsuit. Basically saying to the victim: "What are you gonna do about it?" "Take me to court, I dare you, I doubt you will win." Tortfeasors stated:

"I would keep it if I were you, in case any court requires you to return it upon any favorable judgment to you (which I doubt)."

App. 29A.

Petitioner had good reason to try to avoid a

lawsuit. Due to stress caused by the looming case against Tortfeasors, Petitioner developed stress-induced hives lasting over 6 months for which she received medical treatment. App. 30.

Without a single reasonable explanation and after stealing from Petitioner and offering no refund, without signing her rights away with an NDA, Tortfeasors terminated Petitioner as a patient and did not complete the pre-paid services that were part of the contract. App. 31-32. What outside of racial and other forms of discrimination could cause such outrageous and abusive treatment of a new patient? This was brought before NYSC, in the complaint filed April 21, 2022, but never addressed as Tortfeasors were granted dismissal in summary judgment, App. 4A-4C.

Facts of The State Trial Case

The Trial Judge ignored all 34 violations committed by Tortfeasors and presented by Petitioner in great detail but was forced to admit the SA was pre-paid, was the property of Petitioner, and Petitioner was rightfully entitled to have it. Then without citing to any legal standard or authority, or medical convention, she permitted Tortfeasors to continue to withhold the SA from Petitioner after almost 2 years. For this, their punishment was for Petitioner to be fined additional money. The Trial Judge would only allow Petitioner to have her paid merchandise if Tortfeasors transferred the SA to another orthodontist for which Petitioner paid \$250.00. Essentially being fined for being robbed, App. 4C, 24.

The proceedings of the trial case included violations of Petitioner's 14th Amendment rights, violations of New York Statutes and violations of Civil Practice Rules. The Order presented after the proceedings further violated Petitioner's 14th Amendment rights to due process, and violated civil practice rules, 5A-7B. It resulted in, as stated earlier, Petitioner being punished by the court after being victimized by the Tortfeasors and the Tortfeasors not being punished at all.

In fact the Order sought to dismiss the charges and sever one Tortfeasor (Abrams) who was instrumental in the breach of contract (and defamation), which the trial judge found them liable for, App. 4C. There were so many indiscretions taking place during the proceedings, it would take nearly 300 pages to spell out here. Indeed the formal complaint filed April 21, 2022 in New York Supreme Court is over 85 pages. The disgraceful legal jiu-jitsu occurring during the proceedings in order to let the Tortfeasors off scott-free was dizzying. All over a tiny mount-piece Petitioner already paid for.

The NYSC violated 42 U.S. Code § 1983, for deprivation of rights by an officer of the United States, to Petitioner's 14th Amendment rights to fair treatment under the law and procedural due process on multiple occasions during a civil tort case. Petitioner was also denied access to the equal protection clause and substantive due process in a variety of instances during the proceedings in the NYSC case.

During the proceedings, The lower courts gave clear priority and deference to Tortfeasors and did

numerous times violate 42 U.S. Code §1983 by denying Petitioner's 14th Amendment, and N.Y.S. Const. Art. I § 6 and Art 1 § 11 rights to due process and equal protection under the law.

The reason for this cavalier deprivation of rights by an officer of the state was due to Petitioner's low socio-economic status, and status as a black, female, and *pro se* litigant. If any other reason for this unequal treatment and denial of due process existed, it was never presented by the NYSC.

Facts of the Appeal

As in the Trial case the appeal case presents so much reprehensible behavior from the appeal court and the Tortfeasors, again, it would require more pages to detail than Petitioner is permitted. Filed December 19, 2022, the appeal presented a similar set of actions taken by NYSC, including showing preference to Tortfeasors; not demanding Tortfeasors immediately submit the SA to Petitioner; accepting Petitioner's record and brief as perfected by June 8, 2023 (NYSCEF Doc. No. 23-26), then striking it at the behest of Tortfeasors for arbitrary criteria and against long-standing court rules; repeatedly rejecting Petitioner's record for being too lengthy; then again for not including enough material, App. 2, 20, 35-37, 42-44.

When Petitioner asked The First Department to specify what they wanted removed by settling the record they refused, App.42. Instead they asked Petitioner to remove the documents supporting a major part of her argument on appeal. Not only was this a violation of her 14th Amendment rights to due process,

when it was presented to the court that NYSC had misidentified certain documents as extraneous, which in fact, were rightfully included in the record, they continued to press Petitioner to remove them, App. 41, 45, 46, 49. Even after Petitioner stated this violated her 14th Amendment rights, they insisted she violate her own rights and remove the documents, App. 16. Once the records were stricken Tortfeasors moved for a joint record on appeal that The First Department agreed to. Then Tortfeasors proceeded to stall and deliberately obstruct the process, for instance, by hiring an appeal printer they knew did not work with pro se litigants and never once presenting their own draft of the record for the parties to work with.

After being notified by The First Department twice, on February 21, and September 19, 2024, to file Briefs and given due dates of February 28, and October 2, 2024, Tortfeasors still refused to produce the record and brief meant to replace Petitioner's stricken record and brief. Nothing was done about this by The First Department, App. 9-12.

Petitioner in the long run, uploaded several perfectly acceptable versions of the record and brief, the Joint record and brief, all tailored to the shifting criteria cited by the court, including resizing titles and pages App. 15, 43, 52-54. On June 20, 2024, the court accepted the record and brief but mistakenly without proof of service to Tortfeasors (filed 4/30/24 – Doc No. 169 & 170), App. 46. However, within the deadline, on July 8, Petitioner cured that small defect and uploaded both the proofs of service as well as the Brief and Record with the Service affidavits attached.

An OSC why the affidavits should not be accepted was also filed July 11th, but the Court would not accept them either and soon dismissed the fully compliant appeal anyway, *sua sponte*, without cause and after requesting Petitioner make all the prior changes to her brief and record in order to perfect it, App. 43, 44. Tortfeasors never did file a brief or record but their appeal stands including sanctions against Petitioner.

REASONS FOR GRANTING CERTIORARI

A. Jurisdiction: Certiorari Should Be Granted As (A) The Court Of Appeals Of The State Of New York, Under Color Of Law, Refused Jurisdiction of a Case they are obligated by law to take, Because it Clearly Stated Important Constitutional Questions, Pursuant To CPLR 5601(B)(1) & (2), Constituting A Violation Of 42 U.S. Code § 1983; As Well As 13th And 14th Amendment Rights, and (B) Has Done So Based on An Order Of Dismissal That States No Valid Or Applicable Legal Grounds For Dismissal.

Appropriate "Constitutional grounds" for Appeal to the NYCOA are clearly stated in Petitioner's preliminary Appeal Statement to the New York Solicitor General dated October 17, 2024 and submitted to the NYCOA, App. 19, Petitioner designates CPLR 5601(b)(1) & (2) as such. Despite Petitioner stating numerous claims of violations by the lower courts, of

her Due Process and Equal Protection Clause rights, the NYCOA dismissed her appeal, in violation of both U.S. and New York Constitutions, depriving her of: An unbiased tribunal; A Decision Based Exclusively On The Evidence Presented; and The Requirement The Tribunal Prepare A Record Of Evidence Presented, among others. This constitutes a violation of 42 U.S. Code § 1983, and her 13th And 14th Amendment rights and reduces petitioner's status to that of chattel, affirming the outlawed standards of this court's decision in *Dred Scott V. Sandford*. Essentially Stating In Reference To Black Citizens: "... *They Had No Rights Which The White Man Was Bound To Respect.*" This Conflicts With The United States Constitution's 13th And 14th Amendments.

The Dismissal from the Court of Appeals, dated December 12, 2024, cites NY Const, art VI, § 3 [b]; CPLR 5601), as grounds for dismissal because "it does not lie." App. 1. However, Article 6, "Judiciary," section 3 has no subsection "b" and simply states: "Court of appeals; jurisdiction." App. 15. This is followed by CPLR 5601, which guarantees an appeal as of right. Incidentally subsection "b" of CPLR 5601 states Constitutional grounds as a condition for appealing as of right:

(b) Constitutional grounds. An appeal may be taken to the court of appeals as of right:

1. from an order of the 1st. Dept. which finally determines an action where there is directly involved the construction of the constitution of the state or of the United States; ...

**B. SUBSTANTIVE CONSTITUTIONAL VIOLATIONS; FIRST DEPARTMENT:
Certiorari Should Be Granted As The Court
Of Appeals Of The State Of New York, Under
Color Of Law, Failed To Address
Constitutional Violations Including
Petitioner's 13th And 14th Amendment Rights,
Committed By The Appellate Division, First
Department That Were Clearly Stated In The
Preliminary Appeal Statement submitted
October 18, And Jurisdictional Response
Filed November 7, 2024**

In all of the 9 violations below the following is true:

There is direct involvement because the constitutional question was raised before the First Department and the First Department took a view on it.

The Constitutional Question of Preferential or unequal treatment was raised before the First Department because Petitioner objected to that particular error in motion documents, the First Department took a view on it because they committed the error over Petitioner's objections in which she stated it was constitutionally prohibitive.

It is substantially a constitutional question because it relies on a correct understanding of the Equal Protection and Due Process clauses of the United States and New York State Constitutions.

The First Department's selective enforcement of the facially neutral rules of civil procedure render them unconstitutional in violation of the Equal Protection

and Due Process clauses of the United States and New York State Constitutions. *Yick Wo v. Hopkins*, 118 U.S. 356 (1886).

1- In Petitioner's Cross-motion for contempt she explains the First Department gave preferential treatment to Tortfeasors and affirmed their request to remove material from the record that supported her appeal, in violation of her 14th Amendment rights, and they continued to press plaintiff to remove them, App. 20, 40-44, 47- 51.

2- The First Department ignored Tortfeasors' frivolous actions from the start and particularly during the late stage of the appeal and should have been sanctioned to the fullest extent. NYCRR 130.1.1. App.45.

According to the Rules of the Chief
Administrative Judge, Section 130-1.1
(c) For purposes of this Part, conduct is
frivolous if:

(1) it is completely without merit in law
and cannot be supported by a reasonable
argument for an extension, modification
or reversal of existing law;

(2) it is undertaken primarily to delay or
prolong the resolution of the litigation, or
to harass or maliciously injure another;
or

(3) it asserts material factual statements
that are false.

(a)- The First Department allowed Tortfeasors to strike Petitioner's already perfected appeal on superficial grounds that had no standing in law or court rules for pro se litigants. They demanded filing of a joint record in which they refused to participate and in whose production they actively hindered in order to run down the clock on the deadline to file and when this was brought to the courts attention they did not address it.

(b)- Tortfeasors demanded Petitioner remove "extraneous" material from the joint record in violation of her 14th Amendment rights.

"The appendix shall include those portions of the record necessary to permit the court to fully consider the issues which will be raised by the Petitioner and the respondent including, where applicable, -

Practice Rules of the Appellate
Division Part 1250.7 (d) (1)
Form and Content of Records
and Appendices; Exhibits

3- Tortfeasors instead of filing two individual motions for contempt could have filed their own draft of the Joint Record as the court ordered months before, or even a supplemental record, but chose to engage in dilatory tactics, preventing the court from resolving the case, and when this was brought to the First Departments attention they did nothing, demonstrating preferential treatment for Tortfeasors, App. 9-12, 13, 45.

4- The First Department was obligated to accept this pro se litigants papers as long as they were presentable and understandable to a reasonable degree but struck them at the behest of Tortfeasors: App, 15, 35, 44, 52-54.

It is a widely accepted legal standard in all levels of courts in the U.S. that Pro se litigants are by law to be afforded solicitude regarding the process of litigating a case, the substance of the case takes priority over formatting and other such details (*Tracy v. Freshwater*, 623 F.3d 90, 102 (2d Cir. 2010) and *Rosendale v. Brusie*, 374 F. App'x 195, 196 (2d Cir. 2010).*

It is almost universally recognized in both New York State and Federal Court pro se pleadings are construed more liberally than those prepared by attorneys. 1. New York State Cases a. *Pezhman v. City of New York*, 29A.D.3d 164, 168, 812 N.Y.S.2d 14, 18 (1st Dep't 2006) (a "pro se complaint should be construed liberally in favor of the pleader). b. *Rosen v. Baum*, 164 A.D.2d 809, 811, 559 N.Y.S.2d 541, 542 (1st Dep't 1990)*
"Although the courts remain obligated to construe a pro se complaint liberally, . . . the complaint must contain sufficient factual allegations to meet the plausibility standard."

They did not honor this obligation, App.15, 35, 36, 44, 47, 52-54.

5- Petitioner made the 1st Dept. aware, there were multiple instances of her motion sequence numbers misidentified as not being within the scope of sequences 001-003 which the Court demanded. But many documents pertinent to Petitioner's argument on appeal were mislabeled as sequence nos. 004-006. And as stated earlier, the First Department would not specify what material they wanted removed, they only referred to the sequence numbers, App. 45, 49.

6- Not only did The First Department refuse to make Tortfeasors give Petitioner her Property but they never addressed NYSC Illegally Allowing the Introduction of Outside Parties Into the NYSC's Order Dated December 9, 2022, As An Unconstitutional and Improper Contingency of that Order, Meant to Resolve the Dispute Between The Proper Parties in The Case. The court committed conversion. *Marbury v. Madison*, 5 U.S. 137), App. 3, 4C, 24.

7- The alternative orthodontist \$250.00 bill, was paid by Petitioner and re-billed to Tortfeasors as they were found liable for breach of their incomplete contract. Tortfeasors ignored the bill and its compound interest and late fees have resulted in a running total over \$6,000. In response Justin Rashbaum twice attempted to use the First Department to charge Petitioner with felony usury. This was a pretzel-like or inverted interpretation of the law because Petitioner did not *lend* Tortfeasors any money, they *owe her* money for an incomplete contract.

Tortfeasors deserve sanctions for this act but the First Department, but did nothing to address this detestable misuse of the law. App. 14, 24.

8- Petitioner clarified multiple times the undisclosed firm name had been tabled during the Oral Argument on August 2, 2022. Tortfeasors refused to give the name to Petitioner and the trial judge refused to do anything about it. The First Department did likewise, violating Code of Judicial Conduct JCUS APR 73, App. 8.

9- The First Department demonstrating more preferential treatment gave Tortfeasors yet another extension of time they did not even have to formally request. July 30 & August 4, 2024, Tortfeasors filed Applications For Interim Relief or (AIR) for extensions to the September and October terms (NYSCEF Doc. No. 198 & 202). App. 51. The AIR for Aug 4 was removed but Tortfeasors received the extension anyway when the First Department emailed a passive extension, "2nd Court Request For Tortfeasors' Briefs" on September 19th. App. 9-12.

Petitioner's appeal was then Ordered dismissed *sua sponte* leaving Tortfeasors appeal open to the February 2025 Term. App. 2. These were already their 3rd or 4th AIR's for extensions or enlargements of the proceedings for time to file a Brief. It is the 5th such application if you count Tortfeasor Justin Rashbaum's Application (NYSCEF Doc. No. 152, filed January 30, 2024). Tortfeasors never once filed a brief or record as Petitioner did and she could not even get the court to return her property. App. 3.

In all the above 9 violations there is direct involvement because the constitutional question was raised before the First Department and the First Department took a view on it.

The Constitutional Question of Preferential or unequal treatment was raised before the First Department because Petitioner objected to that particular error in motion documents, the First Department took a view on it because they committed the error over Petitioner's objections in which she stated it was constitutionally prohibitive.

It is substantially a constitutional question because it relies on a correct understanding of the Equal Protection and Due Process clauses of the United States and New York State Constitutions.

The First Department's selective enforcement of the facially neutral rules of civil procedure render them unconstitutional in violation of the Equal Protection and Due Process clauses of the United States and New York State Constitutions *Yick Wo v. Hopkins*, 118 U.S. 356 (1886).

Dereliction of Duty Due To Various Forms of Discrimination

Petitioner could not even get her service affidavits accepted for filing and entered along with her already accepted and entered June 20th Brief and Joint Record on appeal, but Tortfeasors got a 4th extension without even notifying Petitioner ahead of time per court rules.

This aggressive abuse of discretion did not happen in a vacuum, they happened because Petitioner is a black, female, economically deprived, pro se litigant and Tortfeasors are white, male, affluent, privileged

and represented by high powered attorneys. There is clear bias here. Petitioner's 14th Amendment rights to due process and equal protection under the law were violated repeatedly even at the Appellate level and this Petitioner's case deserves to be heard in court. To deny this is to violate both the 13th and 14th Amendment.

A quick glance at the timeline of the proceedings and the size of the case file of this appeal compared to many others, gives you an idea how very differently this Petitioner has been dealt with. Here is a short list of First Department cases with short (normal) document lists: 2033-05600 = 6 docs; 2023-05620 = 12 docs.; 2020-03450 = 2 docs.; 2020-03480 = 9 docs.; Petitioner's case – 2022-05698 = 208 docs. This is not due to anything Petitioner did wrong. This is due to corruption and the court's refusal to follow law.

C. SUBSTANTIVE CONSTITUTIONAL VIOLATIONS; NEW YORK SUPREME COURT: Certiorari Should Be Granted As The Court Of Appeals Of The State Of New York, Under Color Of Law, Failed To Address Constitutional Violations Including Petitioner's 13th And 14th Amendment Rights, Committed By The State Trial Court (NYSC) Which The Appellate Division, First Department Failed to Address That Were Clearly Stated In The Preliminary Appeal Statement submitted October 18, And Jurisdictional Response Filed November 7, 2024.

In all of the 17 violations below the following is true: There is direct involvement because it was properly raised before the courts below and the First Department took a view on the constitutional question.

It was raised before the courts below because NYSC made this unconstitutional error in the final order on appeal and Petitioner raised the issue in the Petitioner brief.

The First Department ruled on it because they dismissed Petitioner's appeal despite it being raised in the "Petitioner's Brief" and motions practice before the First Department and they dismissed it despite Petitioner's objections.

It is substantially a constitutional question because it relies on a correct understanding of the Equal Protection and Due Process clauses of the United States and New York State Constitutions.

1- NYSC violated petitioner's 14th amendment right to due process and fair treatment, petitioner presented striking evidence compelling summary judgment which was not ever granted; if questions arose regarding the evidence this compelled a trial which was not ordered. However she granted summary judgment to Tortfeasors claiming there was no triable issue, App. 4C, 25-28C.

To grant summary judgment it must clearly appear that no material and tri-able issue of fact is presented (*Di Menna & Sons v. City of New York*, 301 N. Y. 118). This drastic remedy

should not be granted where there is any doubt as to the existence of such issues (*Braun v. Carey*, 280 App. Div. 1019), or where the issue is "arguable" (*Barrett v. Jacobs*, 255 N. Y. 520, 522); "issue-finding, rather than issue-determination, is the key to the procedure" (*Esteve v. Abad*, 271 App. Div. 725, 727).

Yick Wo v. Hopkins, 118 U.S. 356 (1886). 'A neutral law cannot be applied differently to one group of people than it is to another group.'

New York Constitution Art. I § 11 - No person shall be denied the equal protection of the laws of this state or any subdivision thereof.

2- The Proceedings Were Not Adjudicated By A Neutral Decision Maker. NYSC Demonstrated Repeated And Consistent Preference For Tortfeasors Throughout The Entire Case, Even Severing One Key Tortfeasor Responsible For The Breach As Well As Defamation, App. 4C, 5-8, 33-34.

3- NYSC did not acknowledge or adjudicate illegal actions by Tortfeasors. Petitioner demonstrated Tortfeasors' actions had met all the legal elements for adjudication. Regardless if Petitioner now has the SA, it was stolen. If someone steals a car then "returns" it 2 years later did they not steal it? This violates both PJI 3:10 h (1) and JCUS APR 73.

4- NYSC, against court rules, allowed discovery to Tortfeasors but denied the same to Petitioner, contrary to CPLR 3214(b). App. 6-7.

5- NYSC, contrary to CPLR 3212, allowed Tortfeasors to halt summary judgment even though the record demanded it be adjudicated immediately: Strongest evidence was entered into court records such as the three forged signatures committed by Tortfeasors used to doxx Petitioner's medical records to two banks, including x-rays, false statements and claims Petitioner already had possession of her SA. App. 24, 33-34.

Petitioner's burden was to present facts and evidence that would grant summary judgment. She did this, and showed she would prevail with evidence but it was disregarded by NYSC. Tortfeasors, however, in order to be granted summary judgment for dismissal and sanctions against Petitioner, had to show the allegations were wholly unfounded, that there was no evidence whatsoever of the alleged crimes and violations. They failed to prove this. They were proven to be guilty of conversion and fraud, yet they were granted summary judgment.

6- NYSC In Essence Sanctioned Petitioner Instead of Giving Her Any Relief: Petitioner's burden was to prove she would prevail with the fact pattern and evidence presented in order to be granted summary judgment. She did this, though the fact pattern and evidence was disregarded by NYSC. Tortfeasors, on the other hand, in order to be granted summary judgment for dismissal and sanctions against Petitioner, had to prove the allegations Petitioner raised were wholly

unfounded, that there was no evidence whatsoever of the crimes committed by Tortfeasors and her claims unproven. They failed to establish this. They were proven to be guilty of conversion and fraud, App. 4A-C.

7- NYSC Illegally Allowed the Introduction of Outside Parties Into the NYSC's Order Dated December 9, 2022, As An Unconstitutional and Improper Contingency of that Order, Meant to Resolve the Dispute Between The Proper Parties in The Case. The court committed conversion. *Marbury v. Madison*, 5 U.S. 137. App. 4C, 24.

8- NYSC Violated Court Rules In Order To Avoid Giving Petitioner Proper Relief:

Whether before the clerk or the court, a default judgment shall not exceed the amount or differ in type from the relief demanded in the complaint or notice served with a summons.

(CPLR 3215(b)).

9- NYSC abetted conversion of Petitioner's rightful property violating PJI 3:10 h (1). The first action NYSC should have taken was to demand Tortfeasors surrender Petitioner's property.

10- NYSC granted breach of contract but refuses Petitioner a refund:

PJI 3:20, p. 222.

Although in conventional fraud cases a party seeking rescission must prove the fraud, the

burden of proof on that issue is shifted whenever the relation between the contracting parties appear to be of such a character as to render it certain that they do not deal on terms of equality and— as a result of (a) one side having superior knowledge derived from a fiduciary relationship, (b) one side having an overmastering influence, or (c) the other side operating from weakness, dependence, or trust justifiably reposed –unfair advantage in the transaction is rendered probable. In such circumstance, the transaction is presumed void.

11- NYSC selectively scrutinized the details of the case: The court made spelling corrections and other notes directly on the cover pages of Petitioners OSCs and denied them all but gave no such scrutiny to the numerous illegal and unethical acts committed by Tortfeasors, App. 5-6.

12- NYSC granted judgment for default by the Firm as a Tortfeasor but allowed the withholding of the firm name.

NYSC during Aug 2 Oral argument is told Tortfeasors are concealing the Firm name, but does not ask for it. This is a violation of the Code of Judicial Conduct (JCUS APR 73), App. 7C-7D.

13- NYSC Holds liability for all 34 violations cited in Petitioner's April 21, 2022 complaint because she did not a single thing to remedy any of them except punish Petitioner for being the victim as a poor, black,

woman and pro se litigant.

14- NYSC Abused Petitioner's Rights Due To Racial Discrimination.

New York City Administrative Code (NYCAC)
§ 8-107 (4) a.1(a), for unlawful discrimination,

A civil right is an enforceable right or privilege, which if interfered with by another gives rise to an action for injury. Discrimination occurs when the civil rights of an individual are denied or interfered with because of the individual's membership in a particular group or class.

Cornell Law School

In *United States v. Virginia*, though the commonwealth felt allowing women into the military would require drastic alterations which would in turn cause irreparable damage to the existing systems, it was found that these alterations would not harm them.

The Supreme Court, on the strength of Justice, Ruth Bader Ginsburg's opinion on gender discrimination, found the military's policies in violation of the Equal Protection Clause of the 14th Amendment, *United States v. Virginia*, 518 U.S. 515 (1996), Supreme Court of the United States, June 26, 1996.

15- NYSC Abused Petitioner's Rights Due To low socio-economic Status. (see ¶ 14).

16- NYSC violated these rights due to Petitioner's status as a pro se litigant. (see ¶ 14).

17- NYSC violated these rights due to gender bias against Petitioner. (see ¶ 14).

In all 17 of the above violations there is direct involvement because it was properly raised before the courts below and the First Department took a view on the constitutional question.

It was raised before the courts below because NYSC made this unconstitutional error in the final order on appeal and Petitioner raised the issue in the Petitioner's brief.

The First Department ruled on it because they dismissed Petitioner's appeal despite it being raised in the "Petitioner's Brief" and motions practice before the First Department and they dismissed it despite Petitioner's objections.

It is substantially a constitutional question because it relies on a correct understanding of the Equal Protection and Due Process clauses of the United States and New York State Constitutions.

**D. Is The United States Constitution
The Law Of The Land Or Can Judges
Violate A Litigant's Rights At Will?**

The course this over-wrought case has taken is the result of entrenched toxic conventions in which nearly everyone but the Plaintiff is doing everything in their power to come to the aid of criminally liable doctors because their adversary happens to be a black woman and a pro se litigant of humble finances. The doctors in this case have taken full advantage of this culture's hesitancy to hold medical professionals to the light when it is abundantly clear it is necessary. There is a price to pay for this. Aside from the corrosion of trust in medical and professional realms, what is at stake here is the corrosion of trust in the judiciary, the highest authority in this country. A hard won and continually fought for authority everyone relies and counts upon to monitor, adjust and correct wrongdoing. Even if the wrongdoing is committed by a member of the judiciary that trust needs to be maintained.

If Judges are not ever held accountable for their abuses of discretion and violating the rights of their subjects, why would they ever stop?

As decided in *Uzuegbunam v. Preczewski*, this is a novel case presenting novel Constitutional issues the outcome and implications of this case and its bearing on rule and law in this nation will have a wide spread impact on public trust in the judiciary, it should not have been dismissed and must proceed. But to answer the above question, perhaps it depends on the social status and race of the litigant.

CONCLUSION

For the reasons set forth herein, this Court should grant the petition.

PRAYER OF RELIEF

Based on the foregoing, Plaintiff respectfully requests this Court enter an Order, pursuant to CPLR 3212, awarding Plaintiff summary judgment on all 34 original causes of action in NYSC, entering a money judgment in the amount of \$64,000.00, plus court fees, additional costs and expenses, and pre and post-judgment interest, and for such other and further relief as the Court deems just and proper.

Grant an Order of **specific performance** for the following:

(a) lower courts to amend their December 9, 2022, and September 26, 2024 orders, granting all damages and relief requested in the original complaint, the summary judgment, as well as the appeal filed May 19, 2023, or June 20, 2024.

(b) **the lower courts have all their cases reviewed and investigated** by The New York State Commission on Judicial Conduct or another appropriate New York State Administrative Oversight body and abide by its recommendations. **This includes but is not limited to presenting Petitioner with the amended patient chart per Petitioners direction to remove all false statements;**

reimbursement for **court costs, medical bills, fees, pre- and post-judgment interest, costs associated with bringing this case to Court.**

(c) Grant a **full refund** for the services and SA from Tortfeasors in the amount of **\$1,050.00 plus court costs, medical bills, fees, pre- and post-judgment interest, costs associated with bringing this case to Court.**

(d) for Tortfeasors to **retrieve and provide proof of, destruction of all records sent to Petitioner's bank, USAA, and all other third parties including a notarized affidavit from USAA that no records were shared with any other entities and if they have, those entities be identified and shared with the Court and Petitioner.**

(e) an **injunction** for inspection by a consumer advocacy group and have Tortfeasors abide by their recommendations.

(f) an **apology** from Tortfeasors in Court and via email or letter, to Petitioner at her satisfaction, and to USAA, explaining their deceptive acts and disparagement of Petitioner throughout their transaction.

Grant any additional relief the Court would deem beneficial to Petitioner and the general public.

Dated: April 23, 2025

Gina Robinson, *Pro se*

NOTARY:

By:  4/23/25

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MISSOURI NOTARY ACKNOWLEDGMENT

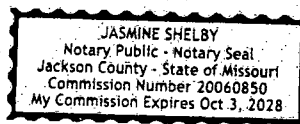
THE STATE OF MISSOURI

COUNTY AND OR CITY OF Jackson

On this 23 day of April in the year 2025, before me, a Notary Public in and for said state, personally appeared Gina Robinson (name of individual), known to me to be the person who executed the within petition (type of document), and acknowledged to me that he/she executed the same for the purposes therein stated.

Jasmine Shelby
Notary Public Signature

Print Jasmine Shelby



(Seal)

APPENDIX