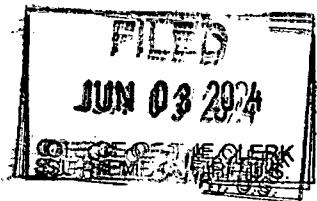


ORIGINAL

24-143

IN THE
Supreme Court of the United States



LENA LASHER,

Petitioner,

v.

PETER RICCIO, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF NEW JERSEY

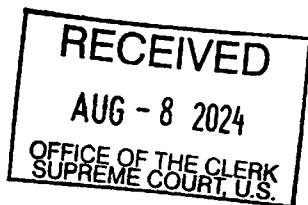
PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Is Identity Theft an exceptional circumstance to reinstate a complaint?
2. Did the Appellate Division err in finding no error by the Middlesex County Superior Court of New Jersey in NOT granting Lena's complaint of IDENTITY THEFT and ANTI-ASIAN RACISM, a HATE CRIME, thus denying the Plaintiff her constitutional guaranteed right to pursue the First, Fifth and Fourteenth Amendment rights?
3. Did the Appellate Division err in dismissing Plaintiff's case on ground of failure to prosecute when it was Plaintiff's attorney who not only failed to prosecute the case but also told the Plaintiff that he was prosecuting her case.
4. Did the Court of Appeals erred in dismissing Appellant's case because the "Appellant did not serve summons upon Defendants Riccio and Defendants Della-Ventura, because the appellant DID."

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

LENA LASHER,

Plaintiff-Appellant,

v.

PETER RICCIO, LAURA HISHMEH,
AND MICHAEL DELLA-VENTURA,

Defendants-Respondents,

and

STEVEN GOLOFF, DANIEL GEIGER,
JAMES BARNES, ALBERT BUCK, JOHN
NICHOLAS BURLING, AND ANU KONAKANCHI,

Defendants.

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PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is unpublished.

The opinion of Superior Court of New Jersey Law Division appears at Appendix B to the petition and it unpublished.

JURISDICTION

The date on which the highest state court decided my case was July 13, 2023. A copy of that decision appears at Appendix C.

A timely petition for rehearing was thereafter denied on the following date: March 5, 2024, and a copy of the order denying rehearing appears at Appendix D.

An extension of time to file the petition for a writ of certiorari was granted to and including August 6, 2024 on June 7, 2024 appears at Appendix E.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution prohibits any person from being deprived of his or her liberty without due process of law:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Fourteenth Amendment Due Process and the Equal Protection Clauses

“Procedural due process” concerns the procedures that the government must follow before it deprives an individual of **life, liberty, or property**.

28 U.S.C. Sect. 1331 states:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

Rule 1:13-7

Rule 1:13-7 seeks “to balance the institutional needs of the judiciary against the principle that a just result should not be forfeited at the hands of an attorney’s lack of diligence.” *Baskett, supra*, 422 N.J. Super. at 379.

Rule 1:13-7(a)

Rule 1:13-7(a) allows the court to issue a notice informing a party that dismissal of a pending action, which has languished for four months without complying with “required proceeding[s],” will occur in sixty days. Apt to this matter, one “required proceeding” is filing proof the complaint had been served upon the defendant. R. 1:13-7(b)(1). **Once dismissed, a complaint may be reinstated.** R. 1:13-7(a). To do so, a plaintiff must file a motion, which “shall be granted on good cause shown if filed within 90 days of the order of dismissal, and thereafter shall be granted only on a showing of exceptional circumstances.” R. 1:13-7(a).

PETITION FOR A WRIT OF CERTIORARI**THE ISSUE BEFORE THE
COURT IS EXTRAORDINARY**

I filed a writ of certiorari to the United States of the Supreme Court on November 12, 2021 (See Lena Lasher v. USA 21-762). The United States of the Supreme Court looked at my case favorably where they invited the solicitor general to respond to my writ on December 28, 2021 (See Lena Lasher v. USA 21-762). However, because I filed my motion when I was incarcerated, and the Supreme court

looked at my case only after I was released, they used that technicality to avoid addressing the matter of my wrongful conviction.

STATEMENT OF THE CASE

The issue before the Court is extraordinarily simple. **Anti-Asian Racism is a HATE CRIME.** On January 26, 2021, President Joe Biden Signs **Executive Order Condemning Anti-Asian Racism.**

Recent events across the nation have rightly focused attention on persons of color and other historically disadvantaged persons seeking equal access to justice. Our Constitution says that “all courts shall be open, and every person, for any injury done him or her in his or her lands, goods, person, or reputation, shall have a remedy by due course of law and justice administered without denial or delay . . . ” Our judicial branch has the sacred duty of achieving the lofty goals professed in our Constitution.

The Supreme Court’s Access to Justice Commission created the Committee on Equity and Fairness in 2017 whereas the Committee recognizes that a person’s race, ethnicity, gender, disability, . . . can be a barrier to accessing courts.

‘EQUALITY BEFORE THE LAW’

Racial injustice, implicit bias, and equal access to justice are complex issues that must be addressed. All must have equal access to justice in courts, and there is no place in the court system for historic racial inequity or discrimination.

Here, Congtang, an indigent, a Vietnamese Asian **female**, clearly did not have equal access to justice in the New Jersey courts, and this Court must reverse the Supreme Court of New Jersey's July 13, 2023 and March 5, 2024 orders, Superior Court of New Jersey Appellate Division's April 27, 2022 Order and the Middlesex County Superior Court of New Jersey's February 14, 2020 Order due to the following extenuating circumstances to prevent manifest injustice, as a result of Defendants Peter RICCIO and Laura HISHMEH committing **IDENTITY THEFT** and **ANTI-ASIAN RACISM**, a **HATE CRIME**, against CONCTANG, and grant CONGTANG's COMPLAINT to ensure fairness and equity for all who use the Courts. (See Exhibits of forged signatures on file with the New Jersey District, Appellate, and Supreme Courts—Fraud—Laura Hishmeh forged Lena's signatures, Lena Congtang's police report, and Lena Congtang's completed police report).

President Biden, on Tuesday, March 30, 2021 made it clear that new actions, built on **President Joe Biden's executive order**, must be aimed at combating racism, xenophobia and violence against the Asian American . . .

Although the Middlesex County Superior Court of New Jersey and the Appellate Division may not be subjected to Biden's executive order, they are subjected to the laws the petitioner cited throughout this Petition; these are laws the Courts ignored and violated.

The Petitioner asserts that she is a victim of anti-Asian racism by the Defendants and the Middlesex County Superior Court of New Jersey and that the Court's action is (1) in violation of constitutional provisions, (2) Made upon unlawful procedures,

(3) affected by errors of laws, (4) unsupported by competent, material, and substantial evidence in view of the entire record as made on reviewed, (5) arbitrary, capricious, unreasonable, and a Violation of the Equal Protection Clause

The Petitioner claims a plausible Equal Protection Clause violation in that the Middlesex County Superior Court of New Jersey racially, national origin, and sexually discriminated against her; the Plaintiff alleges federal constitutional claims under 42 U.S.C. 1983: violation of her rights protected by the United States Constitution or created by federal statute; and that this deprivation was caused by the conduct of a person acting under color of state law. *West v. Atkin*, 487 U.S. 42, 48 (1988); *Buckley v. Barlow*, 997 F.2d 494, 495 (8th Cir. 1993). “The Equal Protection Clause of the Fourteenth Amendment requires that States treat similarly situated persons alike.” *Creason v. City of Washington*, 435 F.3d 820, 823 (8th Cir. 2006). The Middlesex County Superior Court of New Jersey’s actions had both a discriminatory effect and was motivated by a discriminatory purpose. See *United States v. Armstrong*, 517 U.S. 456, 465 (1996).

In this case, the Petitioner’s complaint was dismissed based on her race, national origin, and sex; this is **discriminatory**, a deprivation of the petitioner’s civil rights.

Because the Middlesex County Superior Court of New Jersey dismissed my complaint, Docket No. L7984-18, based on my wrongful conviction, this Court must allow my complaint to proceed due to **ongoing false accusations preventing me from pursuing justice** (See

Pa391–Pa409 Lena Lasher’s September 23, 4 2021 “ . . . Motion to reverse Honorable Judge Buchwald’s August 26, 2021 Memorandum Order . . .).

INTRODUCTION

The plaintiff, an **ASIAN VIETNAMESE** female, was, and still is, a **victim of IDENTITY THEFT**, committed by the **DEFENDANTS** Peter Riccio and Laura Hishmeh. The Plaintiff also asserts that **ANTI-ASIAN RACISM, a HATE CRIME, was committed against her, by the Defendants.**

Instead of focusing on evidence of their misconduct against the Plaintiff, the Defendants distracted the Court by shifting the attention to the Plaintiff’s conviction. Defendants’ claim of the Plaintiff’s conviction as the reason to dismiss this civil action, is obviously nothing but conjecture and a Red Herring fallacy on their part, conjecture meant to distract attention away from the matter at hand: their conduct. The matter at hand is this civil action to expose perjury and misconduct by the Defendants. **Perjuries should never be protected nor rewarded and should always be challenged.** Perjury should be taken seriously and not seen as an inconvenience, and **pursuing justice when one is wronged by perjury is not harassing one who chooses to commit perjury.** **EXPOSING WRONG DOINGS** committed by the Defendants against the Plaintiff is **SEEKING JUSTICE.** The Plaintiff is addressing misconduct and if it is found to be misconduct then that’s justice. The proper place to pursue that is civil court; this is what the Plaintiff is doing.

FACTS AND ANSWERS TO QUESTIONS PRESENTED

I. IDENTITY THEFT—Is Identity Theft an exceptional circumstance to reinstate a complaint?

The Plaintiff accused Riccio and Hishmeh of committing identity theft against the Plaintiff. In fact, the **newly discovered evidence, thousands of checks forged by Defendant Hishmeh** (See Pa110–Pa121 a small sample of Laura’s forging signatures) were not provided to the Plaintiff until **after her release from prison in July 2018**, proving the Defendants’ misconduct against her. **Hishmeh forged the Plaintiff’s signature on pharmacy contracts** clearly gave the false impression that the Plaintiff was an owner of one or more of the Riccio pharmacies and that she was in control of the bank accounts referencing her name clearly.

Further, Defendants Riccio and Hishmeh forged the Plaintiff’s signature on bank and credit card documents as well as pharmacy contracts, that gave the false impression that she was an owner of one or more of the Riccio pharmacies, and that she was in control of the bank accounts referencing her name.

Identity theft is so bad because **identity thieves**, in this case, **Defendants Riccio and Hishmeh**, also stole the Plaintiff’s **Social Security number (SSN)**, opens new accounts in the Plaintiff’s name to obtain credits (Pa110–Pa121 a small sample of Laura’s forging signatures).

It is very important to note that throughout this case, **Defendants Riccio and Hishmeh NEVER denied they**

forged the Plaintiff's signatures, because they did; Defendants Riccio and Hishmeh NEVER denied they committed identity theft against the plaintiff, because they did.

The difficulty in prosecuting the Plaintiff case against the perpetrators who committed identity theft against her was due to the statute of limitation; the Plaintiff was unable to go after the identity thieves due to the statute of limitation (Exh. 2—Lena Congtang police report, and Exh. 3—Lena Congtang completed police report).

Thus, Identity Theft is an exceptional circumstance to reinstate a complaint.

II. Did the Appellate Division err in finding no error by the Middlesex County Superior Court of New Jersey in NOT granting Lena's complaint of IDENTITY THEFT and ANTI-ASIAN RACISM, a HATE CRIME, thus denying the Plaintiff her constitutional guaranteed right to pursue the First, Fifth and Fourteenth Amendment rights?

A. Middlesex County Superior Court of New Jersey

(1) Defendants Riccio and Hishmeh committed identity theft against the Plaintiff; the court dismissed her complaint against defendants without addressing the issue of identity theft.

The Middlesex County Superior Court of New Jersey heard defendants' arguments on Plaintiff's conviction but refused to hear the Plaintiff's complaint of identity theft,

which was the basis of this complaint (1T); Middlesex County Superior Court of New Jersey at the February 7, 2020 hearing only talk of the Plaintiff's conviction.

The Middlesex County Superior Court of New Jersey held that Plaintiff was a convicted felon and so she has no right to the Court; the Court is hiding the dismissal of Plaintiff's argument behind a fallacious reasoning in that the Plaintiff being convicted of a crime strips her from her civil right to the Court. If the court is saying the Plaintiff's conviction is why she can't pursue this civil action, their reasoning is flawed and the Plaintiff is quite certain everyone has a right to use the courts and convictions do not change that.

The Middlesex County Superior Court of New Jersey was biased by refusing to hear the Plaintiff's complaint of identity theft, which was **the basis of this complaint**; Middlesex County Superior Court of New Jersey at the February 7, 2020 hearing only talk of the Plaintiff's conviction. However, the Plaintiff maintains her innocence in that **she did not commit a crime**. The Plaintiff **plead innocent to her criminal trial**, which is still under appeal. Further, the Court's decision is wrong as a matter of law because **identity theft is both a federal and state crime**. Because the **Defendants committed identity theft against the Plaintiff**, an **ASIAN VIETNAMESE FEMALE**, the Plaintiff was indicted, convicted, and sentenced for acts she did not commit.

The amended complaint addresses the very real crimes of **identity theft, fraud, and forgeries**, and the **evidence for these crimes were found ONLY in Defendant Hishmeh's desk by the federal government**

and included in discovery materials provided by the federal government.

Hishmeh forged the Plaintiff's signature on bank and credit card documents as well as pharmacy contracts, that gave the false impression that she was an owner of one or more of the Riccio pharmacies, and that she was in control of the bank accounts referencing her name.

Identity theft is so bad because **identity thieves**, in this case, **Defendants Riccio and Hishmeh**, also stole the Plaintiff's **Social Security number (SSN)**, opens new accounts in the Plaintiff's name to obtain credits (See Pa112).

Even if this Court agrees that the Plaintiff was a convicted felon, it should allow this case to proceed to allow plaintiff to be made whole because the Defendants victimized the Plaintiff, an ASIAN VIETNAMESE FEMALE.

Therefore, plaintiff asks this court to reverse the state courts's decision dismissing Plaintiff's amended complaint and to remand the case back to the court for a trial on damages.

B. Comments With Respect To The Appellate Division Opinion

(1) The Court of Appeals erred in finding no error by the Middlesex County Superior Court of New Jersey in NOT granting Lena's complaint of IDENTITY THEFT and ANTI-ASIAN RACISM, a HATE CRIME

committed by Defendants Peter Riccio and Laura Hishmeh against Plaintiff.

Plaintiff's complaint was unconstitutional denied by the Middlesex county Superior Court of New Jersey on February 14, 2020. The Middlesex county Superior Court of New Jersey **FAILED TO ADDRESS NOR HEAR THE ISSUE OF IDENTITY THEFT (1T14, 1T17, 1T40-T41) committed against her by Defendants Peter Riccio and Laura HISHMEH, WHICH WAS THE BASIS OF THIS COMPLAINT.** Instead, the Middlesex county Superior Court of New Jersey **denied the Plaintiff's complaint** based on her conviction, **which was the result of misinformation and perjury, as documented in suppressed exculpatory video recordings, proving the Court's action was in violation of constitutional provisions as well as an Anti-Asian racism, a HATE CRIME.**

The Middlesex County Superior Court of New Jersey *must be reviewed for an abuse of discretion, holding* that the Plaintiff was a convicted felon and so she has no right to the Court. This Court must take "actions" to combat the Middlesex county Superior Court of New Jersey's actions which were in **violation of constitutional provisions**, unsupported by competent, material, and substantial evidence in view of the entire record as made on reviewed at the Plaintiff's hearing on February 7, 2020. Further, the Court's decision is wrong as a matter of law because **identity theft is both a federal and state crime.** Because the **Defendants committed identity theft against the Plaintiff; an ASIAN VIETNAMESE FEMALE, the Plaintiff was indicted, convicted, and sentenced for acts she did not commit.** Even if this Court agrees that

the Plaintiff was a convicted felon, it should allow this case to proceed to allow plaintiff to be made whole because the Defendants victimized the Plaintiff, an ASIAN VIETNAMESE FEMALE.

Thus, the Appellate Division denied the Plaintiff her constitutional right by denying her CIVIL ACTION without addressing the District Court's Deprivation of Plaintiff's Rights under the Due Process and the Equal Protection Clauses via FRAUD, NEGLIGENCE, DISCRIMINATION, IDENTITY THEFT, and PERJURIES, using Plaintiff's wrongful conviction. Specifically, Lasher asserted she was treated extremely less favorably by the lower courts than her white defendants; the lower Courts FAILED TO ADDRESS NOR HEAR THE ISSUE OF IDENTITY THEFT committed against her by Defendants Peter Riccio and Laura HISHMEH, WHICH WAS THE BASIS OF THIS COMPLAINT; this is clearly DISCRIMINATION, RACISM, and SEXISM.

III. Did the Appellate Division err in dismissing Plaintiff's case on ground of failure to prosecute when it was Plaintiff's attorney who not only failed to prosecute the case but also told the Plaintiff that he was prosecuting her case.

A. The Court of Appeals erred in denying Appellant's complaint for failure to provide discovery regarding her claims against Hishmeh.

Prior to going to prison, the Plaintiff paid Counsel, Attorney Michael Blacker (MID-L2691-16), \$13,000 to

prosecute this case in its entirety. The Plaintiff was **incarcerated from December 2015 to July 2018**. However, unbeknownst to her until after her release from prison in November 2018, she learned through the Court that Attorney Blacker failed to prosecute this case against the Defendants by failing to provide discoveries of Laura Hishmeh FORGING the Plaintiff's signatures, thus **heavily damaged** her case of **IDENTITY THEFT**, and thus causing the dismissal of Plaintiff's Complaint against Defendant Hishmch with prejudice; **all of this happened while Plaintiff was Incarcerated and without her knowledge.**

To reiterate, the Plaintiff was incarcerated from December 2015 until July 2018 and had no knowledge that her attorney failed to prosecute the case nor provide discovery responses. Under the Bureau of Prisons custody, the Plaintiff had no access to the Court; in fact, she had NO internet access. Therefore, *Albarran v. Lucas* and *Feinsod v. Noon* do not apply to the Plaintiff due to her incarceration and attorney Blacker's lack of effective action or involvement, representation, and his mishandling of the Plaintiff's case. *Bartram v. U.S. Bank, N.A.*, SC14-1265

Due to Attorney Blacker lack of effective action or involvement, representation, abandonment, and his mishandling of the Plaintiff's case, on November 28, 2019, the clerk of the Court informed the Plaintiff to file a new complaint because counsel has not withdrawn from the previous case. The Plaintiff complied and filed the complaint MID L 007984-18, with intentions to amend it once she was able to include more facts in each of the count from discoveries; she was newly released from prison and

needed time to go through the discoveries in order to amend the complaint.

Courts have the power to set aside a dismissal with prejudice if a mistake, fraud, or misconduct by the other party occurred during the lawsuit and those bad actions resulted in the dismissal with prejudice; in this case, Fraud and misconduct was clearly done by Defendant Hishmeh, as detailed throughout this case. Further, new evidence found, including identity theft, that was not previously discovered at the time of the dismissal is also grounds to reopen a case.

LEGAL ARGUMENT

A. Rule 1:13-7

Rule 1:13-7 seeks “to balance the institutional needs of the judiciary against the principle that a **just result should not be forfeited at the hands of an attorney’s lack of diligence.**” *Baskett, supra*, 422 N.J. Super. at 379. Because this case was clearly mishandled by her counsel Attorney Blacker and lack of his diligence, the Plaintiff is requesting for reinstatement of this case. Clearly Attorney Blacker did not and do not represent the Plaintiff, as she has previously requested him to withdrawn from her case.

Attorney Blacker’s lack of his diligence and Defendant Hishmeh’s actions **SHOCKED** the conscience, Plaintiff is requesting for reinstatement of this case as well as vacating the Defendant’s dismissal with prejudice (the Plaintiff learned of Defendant’s dismissal (June 9, 2017) via Defendant’s letter dated June 6, 2019) due to the discovery provided from the 13 Government, showing

that it was **Hishmeh herself**, and as well as under the direction of Riccio, as stated in the Amended Complaint, who forged the Plaintiff's signatures on bank and credit card documents, as well as on pharmacy contracts, that gave the false impression that she was an owner of one or more of the Riccio pharmacies, and that she was in control of the bank accounts referencing her name.

To establish a violation of substantive due process rights by Hishmeh, a plaintiff must show (1) that the Hishmeh violated one or more fundamental constitutional rights and (2) that the **conduct of Hishmeh was shocking to the contemporary conscience.**" *Truong v. Hassan*, 829 F.3d 627, 631 (8th Cir. 2016) (internal quotations and citations omitted). "To be conscience shocking, Hishmeh's action must be 'truly irrational, that is, something more than . . . arbitrary, capricious, or in violation of state law.'" *Draper v. City of Festus*, 782 F.3d 948, 953 (8th Cir. 2015) (quoting *Weiler v. Purkett*, 137 F.3d 1047, 105 (8th Cir. 1998) (en banc)).

Here, the amended complaint addresses the very real crimes of **identity theft, fraud, and forgeries**, and the **evidence for these crimes were found ONLY in Laura Hishmeh's desk by the federal government** and included in discovery materials provided by the federal government.

It should be noted that the Defendant was made fully aware of evidence in the Government's discovery, submitted to Defendant's counsel by letter (and exhibits of bank, credit card documents, and pharmacy contracts, as well as thousands of checks forged by Defendant Hishmeh (Pa110–Pa121 a small sample of Laura's

forging signatures) of June 29, 2019. **Hishmeh forged the Plaintiffs signature on pharmacy contracts** clearly gave the false impression that the Plaintiff was an owner of one or more of the Riccio pharmacies and that she was in control of the bank accounts referencing her name.

Identity theft is a crime, and no Court will take this lightly. Thus, **Hishmeh's actions rise to the “conscience shocking” level as a result of her forging Plaintiff’s signatures on pharmacy contracts** (Pa110–Pa121) as if she was the owner of the “Riccio’s pharmacies”, and Hishmeh herself was the “signatory” of the pharmacies; the **District Court wants a \$ 2.5 million forfeiture out of the signatory**, but that is Hishmeh, not Lasher.

B. Rule 1:13-7(a)

Rule 1:13-7(a) allows the court to issue a notice informing a party that dismissal of a pending action, which has languished for four months without complying with “required proceeding[s],” will occur in sixty days. Apt to this matter, one “required proceeding” is filing proof the complaint had been served upon the defendant. R. 1:13-7(b)(1). **Once dismissed, a complaint may be reinstated.** R. 1:13-7(a). To do so, a plaintiff must file a motion, which “shall be granted on good cause shown if filed within 90 days of the order of dismissal, and thereafter shall be granted only on a showing of exceptional circumstances.” R. 1:13-7(a). Here, the Plaintiff, as detailed throughout this brief that her civil action **IS PROCEDURALLY PROPER** in that she has **DEMONSTRATED EXCEPTIONAL CIRCUMSTANCES; NEWLY DISCOVERED EVIDENCE** of identity theft and misconduct committed by the Defendants against the Plaintiff, as depicted

by the pharmacy paper trail and exculpatory video recording evidence, which caused her wrongful conviction are EXCEPTIONAL CIRCUMSTANCES to reinstate the original complaint”

Clearly, a \$2.5 million dollars forfeiture by the Trial Court showed that Defendant Hishmeh has a humongous role, if not among the largest role in this civil case in that she **forged the Plaintiff’s signatures onto pharmacy contracts to make it look like the Plaintiff was the owner of the Riccio’s pharmacies.** Shockingly, Newly discovered evidence showed that **Hishmeh GOT BONUSES from Riccio, for FORGING the Plaintiff’s signatures** (Pa110–Pa121). In fact, Defendant Hishmeh did not deny forging plaintiff signatures nor denied receiving bonuses for forging plaintiff’s signatures.

Hishmeh ALSO stole Plaintiff’s Social Security number (SSN), opened new accounts in Plaintiff’s name to apply for credits (Pa104–Pa128). Thus, IDENTITY THEFT and a \$ 2.5 million FRAUD are EXCEPTIONAL CIRCUMSTANCES to proceed with the Plaintiff’s complaint (Amended Complaint).

This is the very real crime of identity theft, fraud, and forgeries, and the evidence for these crimes were found ONLY in Laura Hishmeh’s desk by the federal government and included in discovery materials provided by the federal government—majority of these discoveries were turned over to the Plaintiff AFTER her release from prison, which was in July 2018. Thus The aforementioned NEWLY DISCOVERED EVIDENCE of identity theft, \$2.5 million dollars forfeiture whereas the Defendant Hishmeh forged plaintiff’s signature on bank and credit

card documents, as well as pharmacy contracts, that gave the false impression that plaintiff was an owner of one or more of the Riccio pharmacies (Pa110–Pa121), when in fact, she never had any ownership interest in any of them, and misconduct committed by the Defendants against the Plaintiff which caused her wrongful indictment and conviction are clearly EXCEPTIONAL CIRCUMSTANCES to proceed with this civil action, to protect the integrity of the Court

C. Did the Court of Appeals erred in dismissing Appellant's case because the "Appellant did not serve summons upon Defendants Riccio and Defendants Della-Ventura, because the appellant did."

The Court of Appeals erred in dismissing Appellant's case because the "Appellant did not serve summons upon Defendants Riccio and Defendants Della-Ventura, because the **appellant did.**"

In fact, Defendant Riccio was served on July 4, 2019 and Defendant Della-Ventura was served on June 5, 2019 (on file with the Superior Court of New Jersey Law Division)

Had the Superior Court of New Jersey Appellate division properly considered the evidence, it would have reversed the Middlesex County Superior Court of New Jersey's February 14, 2020 Order.

On appeal to this court, Congtang challenges the NJ Supreme Court's orders, as well as the district and Appellate court's orders of dismissing her complaint.

REASONS FOR GRANTING THE WRIT

- I. Not only that the decision of the lower courts is erroneous, but the national importance of having the Supreme Court decide the question involved. The importance of the case is not only to the Plaintiff but to others similarly situated.**

The United States Supreme Court stresses that one's due process rights are violated when one is denied the **Fourteenth Amendment Due Process and the Equal Protection Clauses**

“Procedural due process” concerns the procedures that the government must follow before it deprives an individual of **life, liberty, or property.**”

The equal protection clause does not leave any wiggle room nor exceptions to allow the Court to deny the Plaintiff her right to pursue her complaint; the State Courts are not citing Amendments 1, 5, and 14 that the Plaintiff is using to pursue this civil action because the amendments 1, 5, and 14 do not leave any room to allow any abridgment of her right to pursue her civil action.

Amendments 1, 5, and 14 allow the Plaintiff the right to have access to the courts to redress her grievances; it does not abridge that right so as to allow people who lied at the Plaintiff’s trial and cheated her at the trial to use that conviction that they cheated to obtain a conviction and then turn around and say she cannot pursue her rights against them for lying about her and her activities at the trial where they convicted her wrongfully by being liars.

There has been no law passed that limits a person's pursuit of their rights under Amendments 1, 5, and 14

The State Courts is hiding the dismissal of Plaintiff's argument behind a fallacious reasoning in that the Plaintiff being convicted of a crime strips her from her civil right to the Court. However, the Plaintiff asserted she never committed the crime; the Plaintiff declares under penalty of perjury that her criminal prosecution was **FLAWED** and that she was **FRAMED**. (See *Lena Lasher v. USA* 21-762)

The Defendants used the conviction to bias the Plaintiff in the Courtroom; they failed to state that the Plaintiff's wrongful conviction was for "misbranding" prescription drugs, **butalbital, a drug that NEVER existed in the pharmacies** the Plaintiff was employed at; the Plaintiff maintains her innocence.

Further, at trial, the issue of being a signatory was never mentioned because the Government knew that the Plaintiff never signed any check nor had any control over any bank accounts. The 2 signatories who signed checks and controlled bank accounts were Defendant Peter Riccio (owner) and his office manager Defendant Laura Hishmeh. Mr. Riccio told the Plaintiff that he took her off the accounts as a signatory, and made Laura Hishmeh the signatory; this was why the Plaintiff believed she was not a signatory. However, after the Indictment, the Plaintiff was shocked to learn that Mr. Riccio was not forthcoming; he kept the Plaintiff as a signatory and never added Hishmeh as one. This civil action was filed against both Riccio and Hishmeh to address the very real crimes of **identity theft, fraud, and forgeries**, and the **evidence for these crimes were found ONLY in Laura Hishmeh's**

desk by the federal government and included in discovery materials provided by the federal government. Identity theft is so bad because **identity thieves**, in this case, **Defendants Riccio and Hishmeh, ALSO** stole the Plaintiff's **Social Security number** (SSN), opened new accounts in Plaintiff's name to obtain credits.

It should be noted that Defendants Riccio and Hishmeh were made fully aware of evidence in the Government's discovery, submitted to Defendants' counsel by letter (and exhibits of bank, credit card documents, and pharmacy contracts, as well as **thousands of checks forged by Defendant Hishmeh**) of June 29, 2019. **Hishmeh forged the Plaintiff signature on pharmacy contracts** that clearly gave the false impression that the Plaintiff was an owner of one or more of the Riccio pharmacies and that the Plaintiff was in control of the bank accounts referencing my name.

It is very important for this Court to know that **Defendant Peter Riccio pled guilty to "narcotics conspiracy"**, **Defendant Della-Ventura was fired from Rite Aid for "THEFT"**. All Defendants in this civil action victimized the Plaintiff, an **ASIAN VIETNAMESE FEMALE**, as detailed in this brief.

Instead of focusing on evidence of their misconduct against the Plaintiff, the Defendants distracted the Court by shifting the attention to the Plaintiff's conviction. The Defendants' claim of the Plaintiff's conviction as the reason to dismiss this civil action, is obviously nothing but conjecture and a Red Herring fallacy on their part, conjecture meant to distract attention away from the matter at hand: their conduct. The matter at hand is this civil action to expose perjury and misconduct by the

Defendants. **EXPOSING WRONG DOINGS** committed by the Defendants against the Plaintiff is **SEEKING JUSTICE**. The Plaintiff is addressing misconduct and if it is found to be misconduct then that's justice. The proper place to pursue that is civil court; this is what the Plaintiff is doing.

If the court is saying the Plaintiff's conviction is why she can't pursue this civil action, their reasoning is flawed and the Plaintiff is quite certain everyone has a right to use the courts and convictions do not change that.

Also, as detailed in trial briefs (Pa141–Pa230), per rule R2:6-1(a)(2), these briefs are important because they show that the Plaintiff's **IDENTITY THEFT** civil action has **NOTHING** to do with her federal conviction.

II. Not only that the decision of the lower courts is erroneous, but the national Importance of having the Supreme Court decide the question involved. The importance of the case is not only to the Plaintiff but to others similarly situated.

Identity Theft is an exceptional circumstance to reinstate a complaint

Due to the **newly discovered evidence** provided to the Plaintiff after her release from prison in July 2018, proving the Defendants' misconduct against her; the Plaintiff, on November 28, 2018, which was **within four months of the newly discovered evidence**, filed her civil action, thus **complied with N.J.S.A. 2A:14-2 requiring the Plaintiff to file within 2 years of the newly discovered evidence**. Therefore, Plaintiff's motion is **procedurally**

proper. Further, Plaintiff has demonstrated **exceptional circumstances**—newly discovered evidence of identity theft, fraud, forgeries, and misconduct committed by the Defendants against the Plaintiff, as depicted by the forged documents and exculpatory video recording evidence, which caused her wrongful indictment and conviction are **EXCEPTIONAL CIRCUMSTANCES** to reinstate the original complaint (Pa141-11 Pa 230).

To reiterate, the **evidence** for these “crimes” were found in **Laura Hishmeh’s desk by the federal government** and included in discovery materials provided by the federal government, majority of which were **not turned over to the Plaintiff until after her release from prison, which was in July 2018**, thus prompted her to file the civil action in November 2018, which is within 4 months of the newly discovered evidence, thus complied with N.J.S.A. 2A:14-2 requiring the Plaintiff to file within 2 years of the newly discovered evidence.

Further, the exculpatory, yet previously suppressed, video recordings, which was not turned over to the Plaintiff until after the Plaintiff’s release from prison, which was in July 2018, depicted the Defendants’ **misconduct against the Plaintiff**, which caused her **indictment and conviction** and thus reasons for these civil actions.

The aforementioned of **NEWLY DISCOVERED EVIDENCE** of identity theft, \$2.5 million dollars forfeiture whereas the Defendant Hishmeh forged plaintiff’s signature on bank and credit card documents, as well as pharmacy contracts, that gave the false impression that plaintiff was an owner of one or more of the Riccio pharmacies, when in fact, Plaintiff was never

an owner of any pharmacy, and misconduct committed by the Defendants against the Plaintiff which caused her wrongful indictment and conviction are clearly **EXCEPTIONAL CIRCUMSTANCES** to reinstate the original complaint.

To date, the Defendants, Peter Riccio and Laura Hishmeh, have **not denied** forging the Plaintiff's signature nor denied they stole Plaintiff's Social Security number (SSN), opened new accounts in Plaintiff's name to apply for credits. Further, new evidence found, including identity theft, that was not previously discovered at the time of the dismissal is also grounds to reopen a case.

III. Not only that the decision of the lower courts is erroneous, but the national importance of having the Supreme Court decide the question involved. The importance of the case is not only to the Plaintiff but to others similarly situated.

Fraud and misconduct are exceptional circumstances to reinstate a complaint

The State Courts denied the Plaintiff her constitutional right to the Court as guaranteed under the equal protection clause

1. BECAUSE TRIAL COURT FAILED TO ADDRESS NOR HEAR THE ISSUE OF IDENTITY THEFT (1T14, 1T17, 1T40-T41), WHICH WAS THE BASIS OF THIS COMPLAINT

AND

2. BASED ON N.J.S.A. 2A:14-2; HOWEVER, PLAINTIFF TIMELY FILED THE COMPLAINT WITHIN THE TWO YEARS STATUTE OF LIMITATION BASED ON THE DATES WHEN NEWLY DISCOVERED EVIDENCE WAS DISCOVERED

It is of national importance to address this matter, because these new unchecked, usurped, powers of courts and their unification together behind those usurpations and their eschewing of independence must either be further codified for all to see or rejected.

On November 28, 2018, the Plaintiff filed a “Complaint (STATEMENT of CLAIMS) and JURY DEMAND” to the Middlesex County Superior Court of New Jersey MID L 007984-18 (Pa 11-Pa25),

- a. Which was within four months of the newly discovered evidence, thus complied with N.J.S.A. 2A:14-2 requiring her to file within 2 years of the newly discovered evidence (Pa11-Pa25).**
- b. On March 6, 2019, due to more newly discovered evidence, the Plaintiff filed her Amended Complaint MID L 007984-18 (Pa26-Pa34)**

A supposed issues over the Plaintiff’s conviction and trial raised by Defendant Hishmeh is irrelevant, but also it is subterfuge because the jury did not address anything with regard to the Plaintiff’s accusations against Hishmeh. Defendant Hishmeh is trying to change the subject and distract the Court from the issues in the

Plaintiff's complaint. The issue is not the forfeiture; though the forfeiture is the result of the issue in the complaint in that the Government pinned the forfeiture on the Plaintiff because they assumed she was an owner and they only assumed that because of Defendant Hishmeh's actions.

The Amended Complaint MID L 007984-18, which was filed on March 6, 2019, is **different** from the one filed by her previous counsel, Attorney Michael Blacker (MID-L2691-16) in the following ways, including but not limited to (Pa182):

MID-L2691-16 stated in part that Defendant Laura Hishmeh, presumably at the direction of defendant Riccio, forged plaintiff's signature on bank and credit card documents, as well as pharmacy contracts, that gave the false impression that plaintiff was an owner of one or more of the Riccio pharmacies, when in fact, she never had any ownership interest in any of them.(Pa183)

However, MID L 007984-18 amended complaint allowed the Plaintiff to **include more facts** in that Defendant Laura Hishmeh **acted on her own** by forging:

- (1) hundreds, if not thousands, checks
- (2) Plaintiff's signature on bank and credit card documents, as well as
- (3) pharmacy contracts, that gave the false impression that plaintiff was an owner of one or more of the Riccio pharmacies, when in fact, she never had any ownership interest in any of the "Riccio's pharmacies".

Prior to going to prison, the Plaintiff paid Counsel, Attorney Michael Blacker (MID-L2691-16), \$13,000 to prosecute this case in its entirety. The Plaintiff was **incarcerated from December 2015 to July 2018**. However, unbeknownst to her until after her release from prison in November 2018, she learned through the Court that Attorney Blacker failed to prosecute this case against the Defendants by failing to provide discoveries of Laura Hishmeh FORGING the Plaintiff's signatures, thus **heavily damaged** her case of **IDENTITY THEFT**, and thus causing the dismissal of Plaintiff's Complaint against Defendant Hishmeh with prejudice; **all of this happened while Plaintiff was incarcerated and without her knowledge.**

To reiterate, the Plaintiff was incarcerated from **December 2015 until July 2018** and had no knowledge that her attorney failed to prosecute the case nor provide discovery responses. Under the Bureau of Prisons custody, the Plaintiff had no access to the Court; in fact, **she had NO Internet access**. Therefore, *Albarran v. Lucas* and *Feinsod v. Noon* do not apply to the Plaintiff due to her incarceration and attorney Blacker's lack of effective action or involvement, representation, and his mishandling of the Plaintiff's case. *Bartram v. U.S. Bank, MA.*, SC14-1265.

Due to Attorney Blacker lack of effective action or involvement, representation, abandonment, and his mishandling of the Plaintiff's case, on **November 28, 2019**, the clerk of the Court informed the Plaintiff to file a new complaint because counsel has not withdrawn from the previous case. The Plaintiff complied and filed the complaint **MID L 007984-18**, with intentions to amend

it **once** she was able to include more facts in each of the count from discoveries; she was newly released from prison and needed time to go through the discoveries in order to amend the complaint.

Courts have the power to set aside a dismissal with prejudice if a mistake, fraud, or misconduct by the other party occurred during the lawsuit and those bad actions resulted in the dismissal with prejudice; in this case, fraud and misconduct was clearly done by Defendant Hishmeh, as detailed throughout this case. Further, new evidence found, including identity theft, that was not previously discovered at the time of the dismissal is also grounds to reopen a case.

This civil action is about a wronged person seeking justice against those who wronged her. This Court, including but not limited to:

1. must rule on all the available and relevant evidence with the full understanding of the circumstances that bring this matter before them
2. Must be independent and separate from other Courts that have rule on the criminal matter which cause this matter to be brought before this court
3. Cannot be a rubber stamp with those previous courts otherwise there would be no need for a separate procedure for this matter; it is entirely within the jurisdiction of this court to access blames by the government and by the other courts.

These procedures are compartmentalize, which the Southern District of New York and Second Circuit are handling criminal aspects of this matter, and this Court is handling a separate aspect of this matter, because they are meant to be **check and balance to prevent the abuse of power and the compounding of injustice.**

For this matter **requiring the Plaintiff to overturn the conviction when that conviction is based on usurpation of authorities not granted to the Court is in fact legislating from the bench.** The usurpation in question are, including but not limited to editing the law:

- a. Making Tramadol a control substance 21 (twenty-one) months before the attorney general made it a controlled substance.
- b. Making Fioricet a control substance which the **attorney general never did,**
- c. Establishing the idea as precedent that the control substance list is not a complete list **and that there is no complete list of a federal control substances,**
- d. The deletion of the definition of drug in the law so that prosecutors can treat a drug as if it was any one of its ingredient not as a drug unto itself under the law,
- e. The deletion of the definition of “fixed combination drug” which further shows how a drug can not be reduced to any one of its component not scientifically and pharmacological nor even under the law itself,

f. The deletion of the governing pharmacy law as specifically prevent the shifting of blame that the prosecutors used and the federal judge allowed even though there is no federal statute that would allow such shifting of blame for self-confessed actions of one licensed professional somehow passed onto another licensed professional

g. The creation of an otherwise non existing standard for prescription standard called a **bonafide face to face which does not exist in the law or anywhere else,**

The law requires this court to handle this matter in a different court due to check and balance. If this court is to be a rubber stamp, then any notary can carry out this court action; it does not require legal power, authority or agent of a separate federal judge and a separate court if this is to be a rubber stamp. In this case, it is worse than just being a rubber stamp because it is further entrenching as legal precedent of usurpation of power that are central to this wrongful conviction in this matter. If the Federal Courts somehow think they:

a. Can call a drug by a different name in an indictment, i.e. calling butalbital, "Fioricet" when Fioricet and Butalbital are not interchangeable drug names. Fioricet is indicated for tension headache while butalbital is indicated for insomnia. Fioricet as a fixed combination drug is manufactured such that it has no potential for abuse, containing Butalbital 50mg, Acetaminophen 325mg, and

caffeine 40mg. Butalbital is not the same drug as Fioricet because in its raw state, Butalbital has a potential for abuse. When incorporated in Fioricet that potential for abuse is eliminated. Long before a patient could be addictive to Fioricet, he would be hospitalized for liver toxicity from the acetaminophen in the same way he would if he abused over the counter Tylenol because Tylenol's active ingredient is acetaminophen.

- b. Can treat one drug based on an ingredient
- c. Don't think that only the attorney general can decide that a drug is a control substance or
- d. Don't think that a controlled substance must be placed on the record,
- e. One licensed professional can be made responsible for other licensed professional self-confessed crimes because they do not want to be responsible for their own behaviors by the shifting of blame,

Then the federal court is concealing secret laws that no medical professional can hope to practice safely.

As this matter become public knowledge, it is impossible for any medical professional to afford malpractice insurance and other such insurances to protect them from such capricious behaviors as the second circuit has.

Further, the aforementioned violates the Plaintiff her equal protection and due process rights. A fair hearing would give the Defendants and the State Courts a chance to correct any error that may have been made as a result of any other false notions about the Plaintiff's actions.

Thus, not allowing the Plaintiff, an **ASIAN VIETNAMESE FEMALE**, to proceed with her amended complaint is a violation of the Plaintiff's equal protection and due process rights.

CONCLUSION

Because the Petitioner asserts that she is a victim of **anti-Asian racism** by the Defendants and the State Courts of New Jersey. The Middlesex county Superior Court of New Jersey's action is (1) in violation of constitutional provisions, (2) Made upon unlawful procedures, (3) affected by errors of laws, (4) unsupported by competent, material, and substantial evidence in view of the entire record as made on reviewed, (5) arbitrary, capricious, unreasonable, and a Violation of the Equal Protection Clause, for the foregoing reason, the Plaintiff prays the Supreme Court of the United States will grant this writ of certiorari, or any other remedy that this Court finds necessary, as duly deserved and earned through the submission of this motion. The evidence is pertinent for the correction of the civil judgment per the legal and factual basis within the body of this writ of certiorari.

To reiterate, much of what the Defendants and the Superior Court of New Jersey, Law Division, Middlesex County, said is 100% irrelevant and a distraction. They are making this civil action about the Plaintiff's conviction,

not about the Plaintiff, and they are doing this to hide their own misdeeds behind the smoke and mirrors of their own spurious claims about what the Plaintiff is doing and intending. The Plaintiff is trying to hold the defendants accountable for their misdeeds against the Plaintiff and that is all a jury will do. If their claims were true about the Plaintiff's intentions, they'd rush to get this to a jury. Their claims about the Plaintiff's intentions are all red herring arguments meant to distract attention away from their own misconduct.

The Plaintiff's contention that Defendant Hishmeh and Riccio stole her identity is NEW; thus clearly relevant for this civil action. To date, the Defendant **Hishmeh has not deny that she forged the Plaintiff's signature on credit applications, contracts, etc...** (See Pa110–Pa121); Hishmeh also did not deny that she **GOT BONUSES from Riccio, for FORGING the Plaintiff's signatures** (See Pa260). In this civil action, the Plaintiff asserted that Defendants Hishmeh, Riccio, and Della-Ventura **knowingly conducted Forgeries and FRAUD against the Plaintiff, an ASIAN VIETNAMESE FEMALE.** Throughout this case Defendants Riccio and Hishmeh **NEVER denied that they committed identity theft against the Plaintiff.** The Plaintiff also asserts that **ANTI-ASIAN RACISM, a HATE CRIME, was committed against her, by the Defendants.**

The Plaintiff, Lena Lasher, sincerely believes that she can justifiably rely on the US Supreme Court case *Haines v. Kerner*, 404 U.S. 519 (1972), which clearly states that "all Pro-Se litigants must be afforded the opportunity to present their evidence and that the Court should look to the substance of the" appeal "rather than the form."

Wherefore, for the foregoing reasons, Plaintiff Lena Lasher respectfully requests that this Court reverse ALL of the State Courts' orders, **hold Defendants accountable for FRAUD and ANTI-ASIAN RACISM, and GRANT** the Plaintiff's Amended Complaint in its entirety, to protect the integrity of the Court and to preserve justice.

The Plaintiff is also requesting that **this Court impose sanctions against Defendants Riccio and Della-Ventura and Hishmeh for PERJURIES! Making a knowingly false and material statement in a submission to a court exposes one potential criminal prosecution.**

One is reminded of the old legal adage that "justice delayed Is justice denied." Petitioner respectfully request that this Court gives Petitioner the justice that she deserves.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

For the foregoing reasons, Petitioner respectfully prays that the Court will grant her Petition for Writ of Certiorari.

Respectfully submitted,

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