

A1

**APPENDIX A**

17-3246 Docket

**General Docket  
Court of Appeals, 2nd Circuit**

**Court of Appeals Docket #:** 17-3246

**Docketed:** 10/11/2017

**Nature of Suit:** 3440 CIVIL RIGHTS-Other

**Termed:** 02/22/2018

Sun v. Supreme Court of the State of

**Appeal From:** EDNY (BROOKLYN)

**Fee Status:** Paid

**Case Type Information:**

- 1) Civil
- 2) Private
- 3) -

**Originating Court Information:**

**District:** 0207-1 : 17-cv-5063

**Trial Judge:** Eric N. Vitaliano, U.S. District Judge

**Trial Judge:** Lois Bloom, U.S. Magistrate Judge

**Date Filed:** 08/28/2017

**Date Order/Judgment:** 09/26/2017

**Date Order/Judgment EOD:** 09/26/2017

**Date NOA Filed:** 10/10/2017

**Date Rec'd COA:** 10/11/2017

**Prior Cases:** None

A2

**Current Cases:** None

**Panel Assignment:** Not available

|                                                                                                        |                                                                                          |
|--------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| Xiu Jian Sun, The Church<br>of Jesus Christ of Latter-<br>Day Saints, Servant<br>Plaintiff – Appellant | Xiu Jian Sun, -<br>[NTC Pro Se]<br>2nd Floor<br>54-25 153rd Street<br>Flushing, NY 11355 |
|--------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|

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|                                                                                           |                                                                                                                                            |
|-------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| Supreme Court of Queens<br>County, Preliminary<br>Conference Part<br>Defendant - Appellee | Oren L. Zeve, Esq., -<br>[COR LD NTC Government]<br>New York State Office of<br>the Attorney General<br>120 Broadway<br>New York, NY 10271 |
|-------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|

Xiu Jian Sun, The Church of Jesus  
Christ of Latter-Day Saints, Servant,  
Plaintiff - Appellant,

v.  
Supreme Court of Queens County,  
Preliminary Conference Part,  
Defendant - Appellee.

|                                       |                                                                                                                                                                                   |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/11/2017 <u>1</u><br>6 pg, 107.4 KB | NOTICE OF CIVIL APPEAL,<br>with district court docket, on<br>behalf of Appellant Xiu Jian<br>Sun, copy to pro se, FILED.<br>[2146215] [17-3246] [Entered:<br>10/12/2017 03:58 PM] |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                        |                                                     |
|----------------------------------------|-----------------------------------------------------|
| 10/11/2017 <u>2</u><br>1 pg, 35 .97 KB | PAYMENT OF DOCKETING<br>FEE, on behalf of Appellant |
|----------------------------------------|-----------------------------------------------------|

A3

Xiu Jian Sun, district court  
receipt #4653120150, FILED.  
[2146226] [17-3246] [Entered:  
10/12/2017 04:03 PM]

10/11/2017 3  
4 pg, 1.03 MB

DISTRICT COURT  
MEMORANDUM & ORDER,  
dated 09/22/2017, RECEIVED.  
[2146227] [17-3246] [Entered:  
10/12/2017 04:04 PM]

10/11/2017 4  
1 pg, 56.09 KB

DISTRICT COURT  
JUDGMENT, dated 09/25/  
2017, RECEIVED. [2146229]  
[17-3246] [Entered: 10/12/  
2017 04:05 PM]

10/11/2017 5  
4 pg, 60.96 KB

ELECTRONIC INDEX, in lieu  
of record, copy to pro se,  
FILED. [2146233] [17-3246]  
[Entered: 10/12/2017 04:05 PM]

10/12/2017 6  
1 pg, 9.27 KB

INSTRUCTIONAL FORMS,  
to Pro Se litigant, copy to pro  
se, SENT. [2146240] [17-3246]  
[Entered: 10/12/2017 04:07 PM].

10/23/2017 12  
2 pg, 177.48 KB

LR 31.2 SCHEDULING  
NOTIFICATION, on behalf of  
Appellant Xiu Jian Sun,

A4

informing Court of proposed  
due date 01/10/2018,  
RECEIVED. Service date  
10/19/2017 by US mail.  
[2158221] [17-3246] [Entered:  
10/27/2017 09:45 AM]

10/25/2017 10  
2 pg, 209 .65 KB

ACKNOWLEDGMENT AND  
NOTICE OF APPEARANCE  
FORM, on behalf of Appellant  
Xiu Jian Sun, FILED. Service  
date 10/19/2017 by US mail.  
[2158198] [17-3246] [Entered:  
10/27/2017 09:39 AM]

10/25/2017 11  
2 pg, 221 .97 KB

FORM D-P, on behalf of  
Appellant Xiu Jian Sun,  
FILED. Service date  
10/19/2017 by US mail.  
[2158214] [17-3246] [Entered:  
10/27/2017 09:42 AM]

10/27/2017 13  
1 pg, 9.75 KB

NOTICE, to Appellee Supreme  
Court of Queens County, for  
failure to file an appearance,  
SENT. [2158225] [17-3246]  
[Entered: 10/27/2017 09:46 AM]

10/27/2017 14  
2 pg, 95.3 6 KB

NOTICE OF APPEARANCE  
AS SUBSTITUTE COUNSEL,

A5

on behalf of Appellee Supreme Court of Queens County, FILED. Service date 10/27/2017 by US mail. [2159109] [17-3246] [Entered: 10/27/2017 04:22 PM]

10/27/2017 15 ATTORNEY, Oren L. Zeve, 14, in place of attorney Barbara D. Underwood, SUBSTITUTED. [2159178] [17-3246] [Entered: 10/27/2017 04:50 PM]

10/27/2017 16 ACKNOWLEDGMENT AND  
2 pg, 95.7 2 KB NOTICE OF APPEARANCE,  
on behalf of Appellee Supreme Court of Queens County, FILED. Service date 10/27/2017 by US mail. [2159184] [17-3246] [Entered: 10/27/2017 04:53 PM]

12/13/2017 20 NEW CASE MANAGER, Troy  
1 pg, 9.1 KB White, copy to Pro Se, ASSIGNED. [2193130] [17-3246] [Entered: 12/13/2017 10:15 AM]

01/02/2018 23 BRIEF, on behalf of Appellant Xiu Jian Sun, FILED. Service date 12/20/2017 by US mail.

A6

[2204634] [173246] [Entered:  
01/02/2018 04:07 PM]

|            |                              |                                                                                                                                                                         |
|------------|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01/02/2018 | <u>24</u>                    | APPENDIX, volume 1 of 1, (pp. 1-28), on behalf of Appellant Xiu Jian Sun, FILED. Service date 12/20/2017 by US mail. [2204637] [17-3246] [Entered: 01/02/2018 04:08 PM] |
| 01/03/2018 | <u>25</u><br>2 pg, 17.57 KB  | DEFECTIVE DOCUMENT, Brief and Appendix, [23], [24], on behalf of Appellant Xiu Jian Sun, copy to Pro Se, FILED. [2204939] [17-3246] [Entered: 01/03/2018 09:28 AM]      |
| 01/30/2018 | <u>28</u><br>1 pg, 60.25 KB  | ORDER, dated 01/30/2018, directing appellant to file motion for leave to appeal, copy to Pro Se, FILED. [2224572] [17-3246] [Entered: 01/30/2018 11:11 AM]              |
| 02/15/2018 | <u>29</u><br>4 pg, 124.81 KB | PAPERS, Copy of "Motion for leave to File Complaint" filed with the District Court, RECEIVED. [2239551] [17-3246] [Entered: 02/20/2018 04:28 PM]                        |
| 02/22/2018 | <u>32</u><br>1 pg, 9.12 KB   | NEW CASE MANAGER, Margaret Lain, ASSIGNED. [2241824] [17-3246] [Entered:                                                                                                |

A7

02/22/2018 04:48 PM]

02/22/2018      33      ORDER, [28] appeal dismissed  
for Appellant Xiu Jian Sun  
failure to file motion for leave  
to appeal, EFFECTIVE.  
[2241836] [17-3246] [Entered:  
02/22/2018 04:53 PM]

03/19/2018      34      CERTIFIED COPY OF  
1 pg, 552.62 KB      ORDER, dated 01/30/2018,  
determining the appeal to  
EDNY, copy to pro se, ISSUED.  
[Mandate][2259505] [17-3246]  
[Entered: 03/19/2018 11:02 AM]

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☐ Documents Only

☒ Include Page Numbers

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Transaction Receipt**

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Description: Docket Report (full)

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Billable Pages: 1

Cost: 0.10

[https://ecf.ca2.uscourts.gov/n/beam/servlet/](https://ecf.ca2.uscourts.gov/n/beam/servlet/TransportRoom)

TransportRoom

B1

**APPENDIX B**

Case 17-3246, Document 1-1, 10/11/2017, 2146215,  
Page 1 of 2

**United States Court of Appeals for the Second  
Circuit**

**Thurgood Marshall U.S. Courthouse  
40 Foley Square, New York, NY 10007**

**ROBERT A. KATZMANN**

**CHIEF JUDGE**

Date: October 12, 2017

Docket #: 17-3246

Short Title: Sun v. Supreme Court of the State of

**CATHERINE O'HAGAN WOLFE**

**CLERK OF COURT**

DC Docket #: 17-cv-5063

DC Court: EDNY (BROOKLYN)

DC Judge: Vitaliano

DC Judge: Bloom

**DOCKETING NOTICE**

A notice of appeal filed by Xiu Jian Sun in the above referenced case was docketed today as 17-3246. This number must appear on all documents related to this case that are filed in this Court. For pro se parties the docket sheet with the caption page, and an Acknowledgment and Notice of Appearance Form are enclosed. In counseled cases the docket sheet is

B2

available on PACER. Counsel must access the Acknowledgment and Notice of Appearance Form from this Court's website <http://www.ca2.uscourts.gov>.

The form must be completed and returned within 14 days of the date of this notice. The form requires the following information:

YOUR CORRECT CONTACT INFORMATION:

Review the party information on the docket sheet and note any incorrect information in writing on the Acknowledgment and Notice of Appearance Form.

The Court will contact one counsel per party or group of collectively represented parties when serving notice or issuing our order. Counsel must designate on the Acknowledgment and Notice of Appearance a lead attorney to accept all notices from this Court who, in turn will, be responsible for notifying any associated counsel.

CHANGE IN CONTACT INFORMATION: An attorney or pro se party who does not immediately notify the Court when contact information changes will not receive notices, documents and orders filed in the case.

An attorney and any pro se party who is permitted to file documents electronically in CM/ECF must notify the Court of a change to the user's mailing address, business address, telephone number, or e-mail. To update contact information, a Filing User must access PACER's Manage My Appellate Filer Account, <https://www.pacer.gov/psco/cgi-bin/cmecf/ea-login.pl>.

B3

The Court's records will be updated within 1 business day of a user entering the change in PACER.

A pro se party who is not permitted to file documents electronically must notify the Court of a change in mailing address or telephone number by filing a letter with the Clerk of Court.

CAPTION: In an appeal, the Court uses the district court caption pursuant to FRAP 12(a), 32(a). For a petition for review or original proceeding the Court uses a caption pursuant to FRAP 15(a) or 21(a), respectively. Please review the caption carefully and promptly advise this Court of any improper or inaccurate designations in writing on the Acknowledgment and Notice of Appearance form. If a party has been terminated from the case the caption may reflect that change only if the district court judge ordered that the caption be amended.

APPELLATE DESIGNATIONS: Please review whether appellant is listed correctly on the party listing page of the docket sheet and in the caption. If there is an error, please note on the Acknowledgment and Notice of Appearance Form. Timely submission of the Acknowledgment and Notice of Appearance Form will constitute compliance with the requirement to file a Representation Statement required by FRAP 12(b).

For additional information consult the Court's instructions posted on the website.

Inquiries regarding this case may be directed to 212-857-8653.

B4

Case 17-3246, Document 1-2, 10/11/2017, 2146215,  
Page1 of 4  
Case 1:17-cv-05063-ENV-LB Document 8  
Filed 10/10/17 Page 1 of 2 PageID #: 23

**UNITED STATES DISTRICT COURT EASTERN  
DISTRICT OF NEW YORK**

\_\_\_\_\_x  
THE CHURCH OF JESUS CHRIST 1:17-cv-5063-  
OF LATTER-DAY SAINTS, Servant: ENV-LB  
XIU JIAN SUN, THE SPIRITUAL ADAM  
Plaintiffs

v. **Notice of Appeal**  
SUPREME COURT OF THE STATE OF  
NEW YORK COUNTY OF QUEENS &  
PRELIMINARY CONFERENCE PART **RECEIVED**  
Defendants OCT 10 2017  
\_\_\_\_\_x **PRO SE OFFICE**

Notice is hereby given that Xiu Jian Sun, the  
spiritual Adam (plaintiff) in the above named case, \*  
hereby appeal to the United States Court of Appeals  
for the 2ND CIR, (from the final judgment) (from the  
order (describing it)) entered in this action on the 26  
day of September, 2017.

Dated: October 09, 2017  
Queens, New York

The Church of Jesus Christ of Latter-day saints  
Servant: Xiu Jian Sun, the spiritual Adam  
54-25 153<sup>rd</sup> St., 2F, Flushing, NY 11355  
646-675-0308  
Plaintiffs

B5

Case 17-3246, Document 1-2, 10/11/2017, 2146215,  
Page2 of 4

Case 17-3246, Document 2, 10/11/2017, 2146226,  
Page1 of 1

Case 1:17-cv-05063-ENV-LB Document 8  
Filed 10/10/17 Page 2 of 2 PageID #: 24

**FILED**  
**IN CLERK'S OFFICE**  
**US DISTRICT COURT E.O.N.Y.**  
**\* OCT 10 2017 \***  
**BROOKLYN OFFICE**

&%RPDUPLICATE

Court Name: Eastern District of New York

Division: 1

Receipt Number: 4653120150

Cashier ID: vjones

Transaction Date: 10/10/2017

Payer Name: Xiu Jian Sun

-----  
**NOTICE OF APPEAL/DOCKETING FEE**

For: Xiu Jian Sun

Case/Party: D-NYE-1-17-CV- 005063-001

Amount: \$505 .00

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**PAPER CHECK CONVERSION**

Amt Tendered: \$505.00

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Total Due: \$505. 00

Total Tendered: \$505.00

Change Amt: \$0.00

B6

Case 17-3246, Document 3, 10/11/2017, 2146227,  
Page 1 of 4  
Case 1:17-cv-05063-ENV-LB Document 6  
Filed 09/25/17 Page 1 of 4 PageID #: 18

UNITED STATES  
DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
US DISTRICT  
COURT E.D.N.Y.  
\* SEP 25 2017 \*  
**BROOKLYN OFFICE**

-----X  
XIU JIAN SUN,  
Plaintiff,

-against-  
SUPREME COURT OF THE  
STATE OF NEW YORK,  
COUNTY OF QUEENS &  
PRELIMINARY CONFERENCE PART,  
Defendant.

**MEMORANDUM  
& ORDER**  
17-cv-5063 (ENV) (LB)

-----X

VITALIAO, D.J.

On August 28, 2017, pro se plaintiff Xiu Jian Sun commenced this action against defendant Supreme Court of the State of New York, Queens County. Sun paid the statutory filing fee, but appears pro se. For the reasons set forth below, the action is dismissed with prejudice.

### **Background**

In the complaint, Sun identifies himself as "god's servant" and "the spiritual Adam." He does not, however, plead any facts concerning the defendant named in the caption, nor does he articulate any cognizable cause of action or request any relief aside

B7

from the appointment of a Mandarin Chinese interpreter for court proceedings. Rather, Sun states only the following:

Jehovah, -the Lord God of host, sent the messenger through angel said to spiritual Adam:  
'The daughter of prostitute family.'

Jehovah, -the Lord God of host, sent the messenger through angel said to spiritual Adam:  
"Language that disdain Israeli family's messenger."

Jehovah, - the Lord god of host gives the words to servant (Plaintiff) in the temple he made, "Trial with god's law. Apply for jury to prevent insult and unfair behavior."

Attached to the complaint are printouts listing appearances in four separate cases before the New York Supreme Court.

As a prefatory note, Sun has now filed seven similar complaints in this district against judges, judicial employees, lawyers, and government officials. All of the other actions have been dismissed, either as frivolous or for failure to prosecute. See *Sun v. City of New York Human Resources Administration*, No. 17-cv-5000, slip op. (E.D.N.Y. Sept. 22, 2017) (dismissed as frivolous); *Sun v. Pollak*, No. 17-cv-1570, slip op. (E.D.N.Y. Apr. 6, 2017) (same); *Sun v. Cheung*, No. 16-cv-5734, slip op. (E.D.N.Y. Apr. 6, 2017) (dismissed for failure to prosecute); *Sun v. Dillon*, No. 16-cv-5276, slip op. (E.D.N.Y. Oct. 5, 2016) (dismissed as frivolous); *Sun v. Katzmman*, No. 16-cv-3937, slip op. (E.D.N.Y.

Aug. 2, 2016) (same); *Sun v. Cavallo*, No. 16-cv-1083, slip op. (E.D.N.Y. Mar. 19, 2016) (same), appeal dismissed, No. 16-950 (2d Cir. Aug. 12, 2016).

#### Standard of Review

“[A] pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94, 127 S. Ct. 2197, 2200, 167 L. Ed. 2d 1081 (2007) (citation omitted). Pleadings submitted by a self-represented party should be “liberally construed,” *id.* (citation omitted), and “interpreted ‘to raise the strongest arguments that they suggest,’” *Graham v. Henderson*, 89 F.3d 75, 79 (2d Cir. 1996) (citation omitted). Nonetheless, a prose complaint must still “plead facts sufficient ‘to state a claim to relief that is plausible on its face.’” *Teichmann v. New York*, 769 F.3d 821, 825 (2d Cir. 2014) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 1949, 173 L. Ed. 2d 868 (2009)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678 (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556, 127 S. Ct. 1955, 1965, 167 L. Ed. 2d 929 (2007)). Although the complaint need not provide “detailed factual allegations,” it must include “more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Id.* (quoting *Twombly*, 550 U.S. at 555). As a corollary, a court generally should not dismiss a pro se complaint without granting leave to amend, so long as “a liberal reading of the complaint gives any indication that a valid claim might be stated.” *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000)

(quoting *Gomez v. USAA Fed. Sav. Bank*, 171 F.3d 794, 795 (2d Cir. 1999)).

These principles notwithstanding, a district court may dismiss a pro se action sua sponte-even if the plaintiff has paid the requisite filing fee-if it determines that the action is frivolous. See *Fitzgerald v. First East Seventh Street Tenants Corp.*, 221 F.3d 263, 363-64 (2d Cir. 2000). Put simply, “[a]n action is frivolous if it lacks an arguable basis in law or fact- i.e., where it is ‘based on an indisputably meritless legal theory’ or presents ‘factual contentions [that] are clearly baseless.’” *Scanlon v. Vermont*, 423 F. App’x 78, 79 (2d Cir. 2011) (quoting *Neitzke v. Williams*, 490 U.S. 319, 327, 109 S. Ct. 1827, 1833, 104 L. Ed. 2d 338 (1989)); see *Denton v. Hernandez*, 504 U.S. 25, 32-33, 112 S. Ct. 1728, 1733-34, 118 L. Ed. 2d 340 (1992); *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998).

#### Discussion

With these standards in mind, under even the most liberal review, the Court cannot discern what harm Sun supposedly suffered, what acts of defendant purportedly caused that harm, or what rights of his allegedly were infringed. While the complaint describes religious visions that Sun purports to have witnessed, it utterly fails to demonstrate any basis on which to proceed against the defendant named. “[A] finding of factual frivolousness is appropriate when,” as in this case, “the facts alleged rise to the level of the irrational or the wholly incredible.” *Denton*, 504 U.S. at 33.

Moreover, even if Sun's complaint alleged any facts that were not frivolous, it likely would, nonetheless, need to be dismissed on grounds of absolute judicial immunity, see, e.g., *Sun v. Pollak*, No. 17-cv-1570, slip op. (E.D.N.Y. Apr. 6, 2017) (dismissing, under doctrine of absolute judicial immunity, Sun's prior suit against federal magistrate judge), and Eleventh Amendment sovereign immunity, see, e.g., *Gollomp v. Spitzer*, 568 F. 3d 355, 366-67 (2d Cir. 2009)(New York State Unified Court System, of which county court is a part, is an "arm of the State," and, therefore, entitled to Eleventh Amendment immunity).

Conclusion

In line with the foregoing, Plaintiff's complaint is dismissed with prejudice, and without leave to amend.

Although Plaintiff paid the filing fee to commence this action, the Court certifies, pursuant to 28 U.S.C. & 1915 (a)(3), that any appeal would not be taken in good faith, and, therefore, in forma pauperis status is denied for the purpose of an appeal. See *Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 920-21, 8 L. Ed. 2d 21 (1962).

The Clerk of Court is directed to enter judgment accordingly, and to close this case.

So Ordered.

Dated: Brooklyn, New York  
September 22, 2017

/s/ USDJ ERIC N. VITALIANO

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ERIC N. VITALIANO  
United States District Judge

B11

Case 17-3246, Document 4, 10/11/2017, 2146229,  
Page1 of 1

Case 1:17-cv-05063-ENV-LB Document 7  
Filed 09/26/17 Page 1 of 1 PageID #: 22

|                  |                   |
|------------------|-------------------|
| UNITED STATES    | FILED             |
| DISTRICT COURT   | IN CLERK'S OFFICE |
| EASTERN DISTRICT | US DISTRICT       |
| OF NEW YORK      | COURT E.D.N.Y.    |
| -----X           | * SEP 26 2017 *   |
| XIU JIAN SUN,    | BROOKLYN OFFICE   |

Plaintiff,

-against-

|                              |                       |
|------------------------------|-----------------------|
| SUPREME COURT OF THE         | JUDGMENT              |
| STATE OF NEW YORK,           | 17-cv-5063 (ENV) (LB) |
| COUNTY OF QUEENS &           |                       |
| PRELIMINARY CONFERENCE PART, |                       |
| Defendants.                  |                       |

-----X

An Order of Honorable Eric N. Vitaliano, United States District Judge, having been filed on September 25, 2017, dismissing the plaintiffs complaint with prejudice, and without leave to amend; certifying pursuant to 28 U.S.C. §1915(a)(3), that any appeal would not be taken in good faith; denying in forma pauper is status for the purpose of an appeal, see *Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 920-921, 8 L. Ed. 2d 21 (1962); and directing Clerk of Court to enter judgment accordingly and to

B12

close this case; it is

ORDERED and ADJUDGED that the plaintiff's complaint is dismissed with prejudice, and without leave to amend; that in forma pauperis status for the purpose of an appeal is denied; and that this case is closed.

Dated: Brooklyn, NY

September 25, 2017

Douglas C. Palmer  
Clerk of Court

By: /s/Jalitza Poveda  
Deputy Clerk

B13

Case 17-3246, Document 5-1, 10/11/2017, 2146233,  
Page 1 of 1

**United States Court of Appeals for the Second  
Circuit**

**Thurgood Marshall U.S. Courthouse  
40 Foley Square, New York, NY 10007**

**ROBERT A. KATZMANN CHIEF JUDGE**

Date: October 12, 2017

Docket #: 17-3246

Short Title: Sun v. Supreme Court of the State of

**CATHERINE O'HAGAN WOLFE**

CLERK OF COURT

DC Docket #: 17-cv-5063

DC Court: EDNY (BROOKLYN)

DC Judge: Vitaliano

DC Judge: Bloom

**NOTICE OF RECORD ON APPEAL FILED**

In the above referenced case the document indicated  
below has been filed in the Court.

- ☐ Record on Appeal - Certified List
- ☐ Record on Appeal - CD ROM
- ☐ Record on Appeal - Paper Documents
- ☒ Record on Appeal - Electronic Index
- ☐ Record on Appeal - Paper Index

Inquiries regarding this case may be directed to 212-  
857-8653.

B14

Case 17-3246, Document 5-2, 10/11/2017, 2146233,  
Page1 of 3

Activity in Case 1:17-cv-05063-ENV-LB Sun v.  
Supreme Court of the State of New York County of  
Queens Electronic Index to Record on Appeal  
ecf\_bounces to: nobody 10/11/2017 12:50 PM

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However, if the referenced document is a transcript,  
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**U.S. District Court  
Eastern District of New York**

**Notice of Electronic Filing**

The following transaction was entered on 10/11/2017  
at 12:50 PM EDT and filed on 10/11/2017.

B15

**Case Name:** Sun v. Supreme Court of the State of  
New York County of Queens

**Case Number:** 1:17-cv-05063-ENV-LB

**Filer:**

**WARNING: CASE CLOSED on 09/26/2017**

**Document**

**Number:** No document attached

**Docket Text:**

Electronic Index to Record on Appeal sent to US Court of Appeals. [8] Notice of Appeal Documents are available via Pacer. For docket entries without a hyperlink or for documents under seal, contact the court and we'll arrange for the document(s) to be made available to you. (McGee, Mary Ann)

**1:17-cv-05063-ENV-LB Notice has been electronically mailed to:**

Michael John Siudzinski  
[michael.siudzinski@ag.ny.gov](mailto:michael.siudzinski@ag.ny.gov),  
[msiudzinski@gmail.com](mailto:msiudzinski@gmail.com), [oaglitd@ag.ny.gov](mailto:oaglitd@ag.ny.gov),  
[stephanie.rosenberg@ag.ny.gov](mailto:stephanie.rosenberg@ag.ny.gov)

**1:17-cv-05063-ENV-LB Notice will not be electronically mailed to:**

Xiu Jian Sun  
54-25 153<sup>rd</sup> Street

B16

Case 17-3246, Document 6, 10/12/2017, 2146240,  
Page1 of 1

United States Court of Appeals for the Second Circuit  
Thurgood Marshall U.S. Courthouse  
40 Foley Square, New York, NY 10007

ROBERT A. KATZMANN CHIEF JUDGE  
CATHERINE O'HAGAN WOLFE  
CLERK OF COURT

**Distribution of Instructions & Forms for Pro Se  
Parties in U.S & Private Civil Cases**

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- ☒ Docketing Notice
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- ☒ Form D-P
- ☒ T-1080 Form
- ☐ N/A Financial Affidavit
- ☐ N/A Local Rule 24.1 Statement
- ☒ Certificate of Service
- ☒ Format Motion
- ☒ Format Brief
- ☒ Format Appendix
- ☒ Pro Se Scheduling Notification
- ☒ Oral Argument Statement (Local Rule 34.1(a))
- ☒ Form 6 Certificate of compliance
- ☐ N/A Form 7 Declaration of Inmate Filing (only if  
detained/incarcerated)

B17

Case 17-3246, Document 10, 10/25/2017, 2158198, Page 1 of 2      RECEIVED  
2017 OCT 25 PM 3:25  
CLERK'S OFFICE  
ACKNOWLEDGMENT AND U.S. COURT OF  
NOTICE OF APPEARANCE APPEALS  
SECOND CIRCUIT

Short Title: XIU JIAN SUN, the spiritual Adam V.  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS & PRELIMINARY  
CONFERENCE PART

Docket No.: 17-3246

Lead Counsel of Record (name/firm) or Pro se Party  
(name): Xiu Jian Sun, the spiritual Adam  
Appearance for (party/designation): Xiu Jian Sun, the  
spiritual Adam

#### DOCKET SHEET

#### ACKNOWLEDGMENT/AMENDMENTS

Caption as indicated is:

x Correct

\_\_\_ Incorrect. See attached caption page with  
corrections.

Appellate Designation is:

X Correct

\_\_\_ Incorrect. The following parties do not wish to  
participate in this appeal: Parties: \_\_\_\_\_

\_\_\_ Incorrect. Please change the following parties'  
designations: Party Correct Designation

Contact Information for Lead Counsel/Pro Se Party is:

B18

☒ Correct

☐ Incorrect or Incomplete, and should be amended as follows:

Name: \_\_\_\_\_ Finn: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_ Email: \_\_\_\_\_

### RELATED CASES

☒ This case has not been before this Court previously.  
☐ This case has been before this Court previously. The short title, docket number, and citation are: \_\_\_\_\_  
☐ Matters related to this appeal or involving the same issue have been or presently are before this Court. The short titles, docket numbers, and citations are: \_\_\_\_\_

### CERTIFICATION

I certify that ☒ I am admitted to practice in this Court and, if required by LR 46.1(a)(Z), have renewed my admission on \_\_\_\_\_ OR that ☐ I applied for admission on \_\_\_\_\_ or renewal on \_\_\_\_\_.  
If the Court has not yet admitted me or approved my renewal, I have completed Addendum A.

Signature of Lead Counsel of Record: \_\_\_\_\_

Type or Print Name: \_\_\_\_\_ OR

Signature of pro se litigant: Xiu Jlan Sun, the spiritual Adam

Type or Print Name: Xiu Jlan Sun, the spiritual Adam  
(The Church of Jesus Christ of Latter-day saints)

☒ I am a pro se litigant who is not an attorney.

☐ I am an incarcerated pro se litigant.

B19

Case 17-3246, Document 11, 10/25/2017, 2158214,  
Page1 of 2

**UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT**

**CIVIL APPEAL TRANSCRIPT INFORMATION  
(FORM D-P) FOR PRO SE APPELLANTS**

A PRO SE APPELLANT MUST FILE THE ORIGINAL OF THIS FORM WITH THE CLERK OF THE SECOND CIRCUIT IN ALL CML APPEALS WITHIN 14 CALENDAR DAYS AFTER FILING A NOTICE OF APPEAL.

THIS SECTION MUST BE COMPLETED BY  
APPELANT

CASE TITLE:

The Church of Jesus Christ of Latter-day saints  
Servant: Xiu Jian Sun, the spiritual Adam

Plaintiff-Appellant Docket Number: 17-3246

v.

RECEIVED

SUPREME COURT OF  
THE COUNTY OF QUEENS  
& PRELIMINARY  
CONFERENCE PART

2017 OCT 25 PM 3:25  
CLERK'S OFFICE  
U.S. COURT OF  
APPEALS

Defendants-Appellees

SECOND CIRCUIT

---

DISTRICT: SECOND COURT

B20

JUDGE: ROBERT T. KATZMANN

COURT REPORTER \_\_\_\_\_

APPELLANT: Xiu Jian Sun, the spiritual Adam

PRO SE APPELLANT: 5425 153<sup>rd</sup> St., 2FL, Flushing,

NY 11355. 646-675-0308

Check the applicable provision:

☒ I am ordering a transcript.

☐ I am not ordering a transcript

Reason for not ordering a transcript:

☐ Copy is already available

☐ No transcribed proceedings

☐ Other (Specify in the space below):

PROVIDE A DESCRIPTION, INCLUDING DATES,  
OF THE PROCEEDINGS FOR WHICH A  
TRANSCRIPT IS REQUIRED (i.e., oral argument,  
order from the bench, etc.)

METHOD OF PAYMENT

☐ Funds

☐ CJA Voucher (CJA 21)

INSTRUCTIONS TO COURT REPORTER:

☐ PREPARE TRANSCRIPT OF PRE-TRIAL  
PROCEEDINGS

☐ PREPARE TRANSCRIPT OF TRIAL

☐ PREPARE TRANSCRIPT OF OTHER POST-  
TRIAL PROCEEDINGS

☐ OTHER (Specify In the space below):

B21

DELIVER TRANSCRIPT TO: (APPELLANT'S  
NAME, ADDRESS, TELEPHONE)

The Church of Jesus Christ of Latter-day saints  
Servant: Xiu Jian Sun, the spiritual Adam  
54-25 153rd St., 2FL, Flushing, NY 11355  
(646) 675-0308

I certify that I have made satisfactory arrangements  
with the court reporter for payment of the cost of the  
transcript. See FRAP 10(b). I understand that unless  
I have already ordered the transcript, I shall order its  
preparation at the time required by FRAP and the  
Local Rules.

APPELLANT'S SIGNATURE  
Xiu Jian Sun, the spiritual Adam

DATE

COURT REPORTER ACKNOWLEDGMENT: This  
section is to be completed by the court reporter. Return  
one copy to the Clerk of the Second Circuit. \_\_\_\_\_

DATE ORDER RECEIVED \_\_\_\_\_

ESTIMATED COMPLETION DATE \_\_\_\_\_

ESTIMATED NUMBER OF PAGES \_\_\_\_\_

SIGNATURE OF COURT REPORTER \_\_\_\_\_

DATE \_\_\_\_\_

B22

Case 17-3246, Document 12, 10/23/2017, 2158221,  
Page 1 of 2

**UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT**

**PRO SE SCHEDULING NOTIFICATION (NON -  
AGENCY CASE)**

**THIS SECTION MUST BE COMPLETED BY  
APPELLANT**

|                                |                     |
|--------------------------------|---------------------|
|                                | <b>RECEIVED</b>     |
| CASE TITLE:                    | 2017 OCT 25 PM 3:25 |
| The Church of Jesus Christ of  | CLERK'S OFFICE      |
| Latter-day saints Servant: Xiu | U.S. COURT OF       |
| Jian Sun, the spiritual Adam   | APPEALS             |
| Plaintiff-Appellant            | SECOND CIRCUIT      |

v.

**SUPREME COURT OF THE STATE  
OF NEW YORK COUNTY OF  
QUEENS & PRELIMINARY  
CONFERENCE PART**

Defendants-Appellees

USCA DOCKET NUMBER:  
DISTRICT: 0207-1:17-cv-5063  
DISTRICT/AGENCY NUMBER: \_\_\_\_\_  
APPELLANT: Xiu Jian Sun, The spiritual Adam,  
The Church of Jesus Christ of Latter-day saints  
APPELLANT'S ADDRESS: 5425 153<sup>rd</sup> St., 2FL,  
Flushing, NY 11355.

B23

APPELLANT'S PHONE NUMBER: 646-675-0308

Pursuant to Local Rule 31.2(a)(1)(A), I request that my brief and appendix be accepted for filing no later than 01/10/2018. This date is within 91 days of the later of (1) the receipt of the last transcript in my case or (2) when no transcript is ordered, the required filing date of my Form D-P with the Court.

I understand that if I fail to return this signed scheduling proposal as stated above, the Court will issue an order setting a 40-day deadline to file my brief. If I fail to file my brief, the case may be dismissed.

I also understand that in the absence of extraordinary circumstances, such as a personal illness or family death, the Court will not grant a motion to extend the time to file a brief.  
Local Rule 27.1.(f)(1).

---

Date

Xiu Jian Sun, the spiritual Adam  
Signature of Appellant/Petitioner  
Xiu Jian Sun, the spiritual Adam

Rev. May, 2011

B24

Case 17-3246, Document 12, 10/23/2017, 2158221,  
Page2 of 2

Case 17-3246, Document 10, 10/25/2017, 2158198,  
Page2 of 2

Case 17-3246, Document 11, 10/25/2017, 2158214,  
Page2 of 2

**UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT**

**CAPTION                      CERTIFICATE OF SERVICE**

---

THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, Servant:  
XIU JIAN SUN, THE SPIRITUAL ADAM  
Plaintiff - Appellant

v.

Docket Number: 17-3246

SUPREME COURT OF THE STATE OF  
NEW YORK COUNTY OF QUEENS &  
PRELIMINARY CONFERENCE PART  
Defendants - Appellees

---

I, Simon Chen, hereby certify under penalty of  
perjury that on Oct 19, 2017. I served a copy of 1)  
Scheduling Notification; 2) Form D-P; 3)  
Acknowledgment and Notice Appearance.

B25

by (select all applicable) • •

☐ Personal Delivery      ☒ United States Mail  
☐ Federal Express or other Overnight Courier  
☐ Commercial Carrier      ☐ E-Mail (on consent)

on the following parties:

| Name | Address | City | State | Zip | Code |
|------|---------|------|-------|-----|------|
|------|---------|------|-------|-----|------|

|                                                                                                           |  |  |  |  |  |
|-----------------------------------------------------------------------------------------------------------|--|--|--|--|--|
| Barbara D. Underwood<br>New York State Office of the Attorney General<br>120 Broadway, New York, NY 10271 |  |  |  |  |  |
|-----------------------------------------------------------------------------------------------------------|--|--|--|--|--|

• A party must serve a copy of each paper on the other parties, or their counsel, to the appeal or proceeding. The Court will reject papers for filing if a certificate of service is not simultaneously filed

• • If different methods of service have been used on different parties, please complete a separate certificate of service for each party.

Oct 19, 2017  
Today's Date

Simon Chen  
Signature

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2017 OCT 25 PM 3:25  
CLERK'S OFFICE  
U.S. COURT OF APPEALS  
SECOND CIRCUIT

Certificate of Service Form (Last Reviewed 12/2015)

B26

Case 17-3246, Document 13, 10/27/2017, 2158225,  
Page 1 of 1

**United States Court of Appeals for the Second  
Circuit Thurgood Marshall U.S. Courthouse  
40 Foley Square, New York, NY 10007**

**ROBERT A. KATZMANN** CHIEF JUDGE

Date: October 27, 2017

Docket #: 17-3246

Short Title: Sun v. Supreme Court of the State of

**CATHERINE O'HAGAN WOLFE**

CLERK OF COURT

DC Docket #: 17-cv-5063

DC Court: EDNY (BROOKLYN)

DC Judge: Vitaliano

DC Judge: Bloom

**ACKNOWLEDGMENT AND NOTICE OF  
APPEARANCE DEFAULT NOTICE**

Pursuant to Second Circuit Local Rule 12.3, the appellee's counsel Acknowledgment and Notice of Appearance was due on October 26, 2017. The Court has not received the Acknowledgment and Notice of Appearance on behalf of appellee's counsel.

If appellee's counsel does not file an Acknowledgment and Notice of Appearance within 14 days of the date of this notice, when the appeal is placed on the calendar, appellee's counsel will not be heard at oral argument except by permission of the Court.

Inquiries regarding this case may be directed to 212-857-8653.

B27

Case 17-3246, Document 14-1, 10/27/2017, 2159109,  
Page 1 of 1

NOTICE OF APPEARANCE FOR SUBSTITUTE,  
ADDITIONAL, OR AMICUS COUNSEL

Short Title: Sun v Supreme Court of the  
State of New York County of Queens  
Docket No.: 17-3246

Substitute, Additional, or Amicus Counsel's Contact  
Information is as follows:

Name: Oren L. Zeve  
Firm: NYS Office of the Attorney General  
Address: 120 Broadway, 25th Floor  
Telephone: 212-416-8882 Fax: 212-416-8962  
E-mail: oren.zeve@ag.ny.gov  
Appearance for: Appellee (party/designation)

Select One:

☐ Substitute counsel (replacing lead counsel: \_\_\_\_\_ )  
(name/firm)

☒ Substitute counsel (replacing other counsel:  
Barbara D. Underwood) (name/firm)

☐ Additional counsel (co-counsel with: \_\_\_\_\_)(name/firm)

☐ Amicus (in support of: \_\_\_\_\_ ) (party/designation)

---

B28

**CERTIFICATION**

I certify that:

X I am admitted to practice in this Court and, if required by Interim Local Rule 46.1(a)(2), have renewed

my admission on June 2014 OR

   I applied for admission on \_\_\_\_\_

Signature of Counsel: /s/ Oren L. Zeve

Type or Print Name: \_\_\_\_\_

B29

Case 17-3246, Document 16-1, 10/27/2017, 2159184,  
Page 1 of 1

**ACKNOWLEDGMENT AND NOTICE OF  
APPEARANCE**

Short Title: Sun v Supreme Court of the  
State of New York County of Queens

Docket No.: 17-3246

Lead Counsel of Record (name/firm) or Pro se Party  
(name): Oren L. Zeve, Assistant Solicitor General  
Appearance for (party/designation): Appellee

**DOCKET SHEET  
ACKNOWLEDGMENT/AMENDMENTS**

Caption as indicated is:

☒ Correct

☐ Incorrect. See attached caption page with  
corrections.

Appellate Designation is:

☒ Correct

☐ Incorrect. The following parties do not wish to  
participate in this appeal:

Parties: \_\_\_\_\_

☐ Incorrect. Please change the following parties'  
designations:

Party

Correct Designation

Contact Information for Lead Counsel/Pro Se Party is:

☒ Correct

☐ Incorrect or Incomplete, and should be amended  
as follows:

B30

Name: Oren L. Zeve  
Firm: NYS Office of the Attorney General  
Address: 120 Broadway, 25th Floor  
Telephone: 212-416-8882 Fax: 212-416-8962  
Email: oren.zeve@ag.ny.gov

---

### RELATED CASES

☐ This case has not been before this Court previously.  
☐ This case has been before this Court previously.  
The short title, docket number, and citation are: \_\_\_\_\_  
☒ Matters related to this appeal or involving the  
same issue have been or presently are before this  
Court. The short titles, docket numbers, and citations  
are: Sun v. Cavallo, 16-950; Sun v. Katzmman, 16-3103;  
Sun v. Dillon, 16-3557; Sun v. Pollak, 17-1217

---

### CERTIFICATION

I certify that ☒ I am admitted to practice in this  
Court and, if required by LR 46.1(a)(2), have renewed  
my admission on June 2014 OR that ☐ I applied for  
admission on \_\_\_\_\_ or renewal on \_\_\_\_\_. If  
the Court has not yet admitted me or approved my  
renewal, I have completed Addendum A.

Signature of Lead Counsel of Record: /s/ Oren L. Zeve

Type or Print Name: \_\_\_\_\_ OR

Signature of pro se litigant:

Type or Print Name:

☐ I am a pro se litigant who is not an attorney.

☐ I am an incarcerated pro se litigant.

B31

Case 17-3246, Document 16-2, 10/27/2017, 2159184,  
Page1 of 1

Case 17-3246, Document 14-2, 10/27/2017, 2159109,  
Page1 of 1

### **CERTIFICATE OF SERVICE**

I hereby certify that, on the 27th day of October, 2017, I served or caused to be served one copy of the appellee's Notice of Substitution and Notice of Appearance Acknowledgment forms by United States Postal Service first class/priority mail upon the following named person(s):

Xiu Jian Sun  
54-25 153rd Street, 2nd Flr.  
Flushing, NY 11355

/s/ Oren L. Zeve

B32

Case 17-3246, Document 20, 12/13/2017, 2193130,  
Page1 of 1

**United States Court of Appeals for the Second  
Circuit Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007**

**ROBERT A. KATZMANN**  
CHIEF JUDGE

Date: December 13, 2017

Docket #: 17-3246cv

Short Title: Sun v. Supreme Court of the State of

**CATHERINE O'HAGAN WOLFE**  
CLERK OF COURT  
DC Docket #: 17-cv-5063  
DC Court: EDNY (BROOKLYN)  
DC Judge: Vitaliano  
DC Judge: Bloom

**NOTICE OF CASE MANAGER CHANGE**

The case manager assigned to this matter has been changed.

Inquiries regarding this case may be directed to 212-857-8543.

B33

Case 17-3246, Document 25, 01/03/2018, 2204939,  
Page1 of 2

**United States Court of Appeals for the Second  
Circuit Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007**

ROBERT A. KATZMANN  
CHIEF JUDGE

Date: January 03, 2018  
Docket #: 17-3246cv  
Short Title: Sun v. Supreme Court of the State of

CATHERINE O'HAGAN WOLFE  
CLERK OF COURT  
DC Docket #: 17-cv-5063  
DC Court: EDNY (BROOKLYN)  
DC Judge: Vitaliano  
DC Judge: Bloom

**NOTICE OF DEFECTIVE FILING**

On January 2, 2018 the Brief and Appendix, on behalf of the Appellant Xiu Jian Sun, was submitted in the above referenced case. The document does not comply with the FRAP or the Court's Local Rules for the following reason(s):

\_\_\_\_\_ Failure to submit acknowledgment and notice of

- appearance (Local Rule 12.3)
- \_\_\_\_\_ Failure to file the Record on Appeal (FRAP 10, FRAP 11)
- \_\_\_\_\_ Missing motion information statement (T-1080 - Local Rule 27.1)
- \_\_\_\_\_ Missing supporting papers for motion (e.g, affidavit/affirmation/declaration) (FRAP 27)
- \_\_\_\_\_ Insufficient number of copies (Local Rules: 21.1, 27.1, 30.1, 31.1)
- \_\_\_\_\_ Improper proof of service (FRAP 25)
  - \_\_\_\_\_ Missing proof of service
  - \_\_\_\_\_ Served to an incorrect address
  - \_\_\_\_\_ Incomplete service (Anders v. California 386 U.S. 738 (1967))
- \_\_\_\_\_ Failure to submit document in digital format (Local Rule 25.1)
- \_\_\_\_\_ Not Text-Searchable (Local Rule 25.1, Local Rules 25.2), click [here](#) for instructions on how to make PDFs text searchable
- \_\_\_\_\_ Failure to file appendix on CD-ROM (Local Rule 25.1, Local Rules 25.2)
- \_\_\_\_\_ Failure to file special appendix (Local Rule 32.1)
- \_\_\_\_\_ Defective cover (FRAP 32)
  - \_\_\_\_\_ Incorrect caption (FRAP 32)
  - \_\_\_\_\_ Wrong color cover (FRAP 32)
  - \_\_\_\_\_ Docket number font too small (Local Rule 32.1)
- \_\_\_\_\_ Incorrect pagination, click [here](#) for instructions on how to paginate PDFs (Local Rule 32.1)
- \_\_\_\_\_ Incorrect font (FRAP 32)

B35

- \_\_\_\_ Oversized filing (FRAP 27 (motion), FRAP 32 (brief))
- \_\_\_\_ Missing Amicus Curiae filing or motion (Local Rule 29.1)
- \_\_\_\_ Untimely filing

\_\_\_\_ Incorrect Filing Event

**XXX Other: Pursuant to the order dated December 13, 2017 in docket number 16-3557, the appellant herein must seek leave of this Court before filing any appeals or other documents.**

Please cure the defect(s) and resubmit the document, with the required copies if necessary, no later than **January 24, 2018**. The resubmitted documents, if compliant with FRAP and the Local Rules, will be deemed timely filed.

Failure to cure the defect(s) by the date set forth above will result in the document being stricken. An appellant's failure to cure a defective filing may result in the dismissal of the appeal.

Inquiries regarding this case may be directed to 212-857-8543.

B36

Case 17-3246, Document 28, 01/30/2018, 2224572,  
Page1 of 1

Case 17-3246, Document 29, 02/15/2018, 2239551,  
Page1 of 4

**UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 30th day of January, two thousand and eighteen.

---

Xiu Jian Sun, The Church of Jesus  
Christ of Latter-Day Saints, Servant,  
Plaintiff - Appellant, ORDER  
v. Docket No. 17-3246  
Supreme Court of Queens County,  
Preliminary Conference Part,  
Defendant - Appellee.

---

On December 13, 2017, this Court entered an order in Sun v. Dillon, docket no. 16-3557, requiring Appellant to file a motion seeking leave of this Court prior to filing any future appeals or other documents.

B37

IT IS HEREBY ORDERED that this appeal is dismissed effective February 20, 2018, unless a motion seeking leave of this Court is filed by that date.

For the Court:  
Catherine O'Hagan Wolfe,  
Clerk of Court  
Catherine O'Hagan Wolfe

B38

Case 17-3246, Document 29, 02/15/2018, 2239551,  
Page2 of 4

**UNITED STATES DISTRICT COURT EASTERN  
DISTRICT OF NEW YORK**

X

THE CHURCH OF JESUS  
CHRIST OF LATTER-DAY  
SAINTS, SERVANT: XIU  
JIAN SUN, THE  
SPIRITUAL ADAM  
54-25 153rd St., 2FL,  
Flushing, NY 11355,  
646-675-0308.

Plaintiffs

Civil Action No.  
18-MC-375(AMD)  
Apply for jury  
to prevent insult  
and unfair behavior

**RECEIVED**

18 FED 15 PM 3: 24

v.

Livestock:

OREN L. ZEVE, (Managing  
Assistant Solicitor General)  
State of New York Office of  
The Attorney General  
120 Broadway, 25th Floor,  
New York, NY 10271-0332  
Phone: 212-416-8882, 212-416-8020,  
Fax: 212-416-8962

<http://www.ag.ny.gov>, [oren.zeve@ag.ny.gov](mailto:oren.zeve@ag.ny.gov).

Defendants

**RECEIVED**

FEB 06 2018  
PRO SE OFFICE

X

**COMPLAINT**

TO UNITED STATES DISTRICT COURT EASTERN  
DISTRICT OF NEW YORK

The complaint of the plaintiffs, -god's servant, Xiu Jian Sun, the spiritual Adam respectfully shows and alleges as follows.

1. On the date of December 29, 2017, when looking at the letter sent by the defendant's lawyer, -Oren L. Zeve, the Lord god of host Jehovah makes sound from the God's temple and says: "Livestock." (牲畜), (Docket #: 17-2314)
2. Jehovah, -the Lord god of host gives the words to servant (Plaintiff) in the temple he made, "Trial with god's law. Apply for jury to prevent insult and unfair behavior."
- 3.
83. And thus ye shall do in all cases which shall come before you.
84. And if a man or woman shall rob, he or she shall be delivered up unto the law of the land.
85. And if he or she shall steal, he or she shall be delivered up unto the law of the land.
86. And if he or she shall lie, he or she shall be delivered up unto the law of the land.
87. And if he or she do any manner of iniquity, he or she shall be delivered up unto the law, even that of God.
88. And if thy brother or sister offend thee, thou shalt take him or her between him or her and thee alone;

and if he or she confess thou shalt be reconciled.

89. And if he or she confess not thou shalt deliver him or her up unto the church, not to the members, but to the elders. And it shall be done in a meeting, and that not before the world.

90. And if thy brother or sister offend many, he or she shall be chastened before many.

4.

91. And if any one offend openly, he or she shall be rebuked openly, that he or she may be ashamed. And if he or she confess not, he or she shall be delivered up unto the law of God.

92. If any shall offend in secret, he or she shall be rebuked in secret, that he or she may have opportunity to confess in secret to him or her whom he or she has offended, and to God, that the church may not speak reproachfully of him or her.

93. And thus shall ye conduct in all things.

5. I (servant) would like to request a Mandarin Chinese court interpreter for my court day.

Dated: Queens, New York  
January 06, 2018

The Church of Jesus Christ of Latter-day saints  
Servant: Xiu Jian Sun, the spiritual Adam  
54-25 153rd St., 2FL, Flushing, NY 11355  
646-675-0308  
Plaintiffs

B41

Case 17-3246, Document 32, 02/22/2018, 2241824,  
Page1 of 1

**United States Court of Appeals for the Second  
Circuit Thurgood Marshall U.S. Courthouse  
40 Foley Square, New York, NY 10007**

**ROBERT A. KATZMANN** CHIEF JUDGE

Date: February 22, 2018

Docket #: 17-3246cv

Short Title: Sun v. Supreme Court of the State of

**CATHERINE O'HAGAN WOLFE**

CLERK OF COURT

DC Docket #: 17-cv-5063

DC Court: EDNY (BROOKLYN)

DC Judge: Vitaliano

DC Judge: Bloom

**NOTICE OF CASE MANAGER CHANGE**

The case manager assigned to this matter has been changed.

Inquiries regarding this case may be directed to 212-857-8560.

C1

**APPENDIX C**

Case 17-3246, Document 1-2, 10/11/2017, 2146215,  
Page3 of 4

Case 17-3246, Document 5-2, 10/11/2017, 2146233,  
Page2 of 3

Case: 1:17-cv-05063-ENV-LB As of 10/11/2017  
04:12 PM EDT 1 of 2

**Eastern District of New York - LIVE Database  
V6.1.1.2**

**APPEAL,NPROSE**

**U.S. District Court Eastern District of New York  
(Brooklyn) C IVIL DOCKET FOR CASE #:  
1:17-cv-05063-ENV-LB**

Sun v. Supreme Court of the State of New York County  
of Queens

Assigned to: Judge Eric N. Vitaliano

Referred to: Magistrate Judge Lois Bloom

related Cases: 1:16-cv-01083-ENV-CLP

1:16-cv- 03937-LDH-LB

1:16-cv-05734-ENV-CLP

1:17-cv-01570-ENV-LB

Date Filed: 08/28/2017

Date Terminated: 09/26/2017

Jury Demand: Plaintiff

Nature of Suit: 440 Civil Rights: Other Jurisdiction:

C2

Federal Question

Cause: 28:1331 Fed. Question

**Plaintiff**

**Xiu Jian Sun**, The Church of Jesus  
Christ of Latter-Day Saints, Servant

represented by **Xiu Jian Sun**

54-25 153rd Street, 2nd Flr.

Flushing, NY 11355

646-675-0308

PRO SE

V .

**Defendant**

**Supreme Court of the State of New  
York County of Queens**

Preliminary Conference Part

represented by **Michael John Siudzinski**

Office of the Attorney General of NY

120 Broadway, 24th Floor

New York, NY 10271

212-416-8552 Fax: 212-416-6009

Email: michael.siudzinski@ag.ny.gov

ATTORNEY TO BE NOTICED

| Date Filed | #        | Docket Text                                                                                                                                                   |
|------------|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 08/28/2017 | <u>1</u> | COMPLAINT against Supreme Court of the State of New York County of Queens & Preliminary Conference Part, filed by Xiu Jian Sun, The Church of Jesus Christ of |

C3

Latter-Day Saints. (Attachments:  
# 1 Civil Cover Sheet) (Bowens,  
Priscilla) (Entered: 08/29/2017)

08/28/2017     2     Summons Issued as to Supreme  
Court of the State of New York  
County of Queens. (Bowens,  
Priscilla) (Entered: 08/29/2017)

08/28/2017     FILING FEE: \$400, receipt  
number 4653118711 (Bowens,  
Priscilla) (Entered: 08/29/2017)

08/29/2017     3     In accordance with Rule 73 of the  
Federal Rules of Civil Procedure  
and Local Rule 73.1, the parties  
are notified that **if** all parties  
consent a United States  
magistrate judge of this court is  
available to conduct all  
proceedings in this civil action  
including a (jury or nonjury) trial  
and to order the entry of a final  
judgment. Attached to the Notice is  
a blank copy of the consent form  
that should be filled out, signed  
and filed electronically **only if all**  
parties wish to consent. The form  
may also be accessed at the  
following link:  
[http://www.uscourts.gov/uscourts/  
FormsAndFees/Forms/AO085.pdf](http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf)  
**You may withhold your  
consent without adverse**

**substantive consequences. Do NOT return or file the consent unless all parties have signed the consent.** (Bowens, Priscilla)  
(Entered: 08/29/2017)

- 09/11/2017     4     SUMMONS Returned Executed by Xiu Jian Sun. Supreme Court of the State of New York County of Queens served on 8/30/2017, answer due 9/20/2017. (Lee, Tiffeny)  
(Entered: 09/11/2017)
- 09/15/2017     5     MOTION for Extension of Time to File Answer or Otherwise Respond to the Complaint by Supreme Court of the State of New York County of Queens. (Siudzinski, Michael)  
(Entered: 09/15/2017)
- 09/19/2017     ORDER granting, in part, ECF Dkt. No. 5, Motion for Extension of Time to File Answer. Defendant's deadline to answer or otherwise respond to the complaint is tolled pending resolution of its request that the action be dismissed as frivolous, see id. at 1-2. Ordered by Judge Eric N. Vitaliano on 9/19/2017. (Penny, Matthew)  
(Entered: 09/19/2017)
- 09/25/2017     6     MEMORANDUM AND ORDER DISMISSING CASE, In line with

C5

the foregoing, pltff's complaint is dismissed with prejudice, and without leave to amend. Although pltff paid the filing fee to commence this action, the Court certifies, pursuant to 28 USC sec. 1915(a)(3), that any appeal would not be taken in good faith, and, therefore, in forma pauperis status is denied for the purpose of an appeal. The Clerk of Court is directed to enter judgment accordingly, and to close this case. (Ordered by Judge Eric N. Vitaliano on 9/22/2017) c/m Fwd. for Judgment. (Galeano, Sonia) (Entered: 09/25/2017)

09/26/2017     7     JUDGMENT in favor of Supreme Court of the State of New York County of Queens against Xiu Jian Sun. That the pltff's complaint is dismissed with prejudice, and without leave to amend; that in forma pauperis status for the purpose of an appeal is denied; and that this case is closed. (Ordered by Jalitza Poveda, Deputy Clerk on 9/25/2017) c/m (Galeano, Sonia) (Entered: 09/26/2017)

10/10/2017     8     NOTICE OF APPEAL as to 7 Judgment, 6 Order Dismissing Case, by Xiu Jian Sun. Filing fee

C6

\$505.00. Receipt #4653120150. Service done electronically. (McGee, Mary Ann) (Entered: 10/11/2017)

10/11/2017

Electronic Index to Record on Appeal sent to US Court of Appeals. 8 Notice of Appeal Documents are available via Pacer. For docket entries without a hyperlink or for documents under seal, contact the court and we'll arrange for the document(s) to be made available to you. (McGee, Mary Ann) (Entered: 10/11/2017)

**PACER Service Center  
Transaction Receipt  
11/06/2017 09:39:50**

PACER Login: xiujiansun:4869479:0  
Client Code: 4869479  
Description: Docket Report  
Search Criteria: 1:17-cv-05063ENV-LB  
Billable Pages: 2  
Cost: 0.20

C7

Case 1:17-cv-05063-ENV-LB Document 1

Filed 08/28/17 Page 1 of 6 PageID #: 1

ORIGINAL

UNITED STATES DISTRICT COURT EASTERN  
DISTRICT OF NEW YORK

RECEIVED

AUG 28 2017

PRO SE OFFICE

\_\_\_\_\_x

THE CHURCH OF JESUS CHRIST  
OF LATTER-DAY SAINTS, Servant: CV 17-5063  
XIU JIAN SUN, THE SPIRITUAL ADAM

Plaintiff

COMPLAINT

v.

VITALIANO, J.

SUPREME COURT OF THE  
STATE OF NEW YORK COUNTY  
OF QUEENS & PRELIMINARY  
CONFERENCE PART

BLOOM, M.J.

Apply for jury  
to prevent insult  
and unfair behavior

Defendant

\_\_\_\_\_x

TO UNITED STATES DISTRICT COURT EASTERN  
DISTRICT OF NEW YORK

The complaint of the plaintiff, -god's servant, Xiu Jian Sun, the spiritual Adam respectfully shows and alleges as follows.

1. At all times hereinafter mentioned, plaintiff, Xiu Jian Sun, the spiritual Adam, is a resident of the State of New York, living at 54-25 153rd S't., 2FL, Flushing NY 11355.
2. At all times hereinafter mentioned, defendant,

Preliminary Conference Part, Supreme Court of the State of New York County of Queens, located at 88-11 Supthin Blvd., Room 314, Jamaica, NY 11435, PC Hearing Room Phone: (718) 2981046, File No: 5409-2017, 7149-2017, 7155-2017, 7156-2017.

3. Jehovah, -the Lord God of host, sent the messenger through angel said to spiritual Adam: The daughter of prostitute family. (淫妇家的女儿) (On August 22th 2017 in the early morning).
4. Jehovah, -the Lord God of host, sent the messenger through angel said to spiritual Adam: "Language that disdain Israeli family's messenger." (蔑视以色列家使者的言语)
5. Jehovah, -the Lord god of host gives the words to servant (Plaintiff) in the temple he made, "Trial with god's law. Apply for jury to prevent insult and unfair behavior."
6. I (servant) would like to request a Mandarin Chinese court interpreter for my appeal court day.

Dated: August 28, 2017  
Queens, New York

The Church of Jesus Christ of Latter-day saints  
Servant: Xiu Jian Sun, the spiritual Adam  
54-25 153rd St., 2FL,  
Flushing, NY 11355  
646-675-0308  
Plaintiff

C9

Case 1:17-cv-05063-ENV-LB Document 1  
Filed 08/28/17 Page 3 of 6 PageID #: 3

**New York State Unified Court Detail (e COURT)**

**WebCivil Supreme – Appearance Detail**

Court: **Queens Supreme Court**

Index Number: 0005409/2017

Case Name: **SUN, XIU JIAN vs. CHEN, DAN DAN  
ANO**

Case Type: **OTHER SPECIAL PROCEEDINGS**

Track: **Standard**

**Appearance Information:**

| Appearance<br>Date                                               | Time | On For<br>Supreme<br>Trial            | Appearance<br>Outcome             |
|------------------------------------------------------------------|------|---------------------------------------|-----------------------------------|
| 01/08/2018                                                       |      |                                       |                                   |
| 07/12/2017                                                       |      | Supreme<br>Trial                      | PRELIMINARY<br>CONFERENCE<br>HELD |
| 06/21/2017                                                       |      | Supreme<br>Initial<br>(first time on) |                                   |
| Justice / Part: CHEREE A. BUGGS PRENOTE<br>COMPLIANCE CONFERENCE |      |                                       |                                   |
| Justice / Part: CHEREE A. BUGGS PT 30 PRELIM<br>CONF             |      |                                       |                                   |

Comments: \_\_\_\_\_

Motion Seq: \_\_\_\_\_

C10

Case 1:17-cv-05063-ENV-LB Document 1  
Filed 08/28/17 Page 4 of 6 PageID #: 4

**e COURT**

**WebCivil Supreme – Appearance Detail**

Court: **Queens Supreme Court**  
Index Number: **0007149/2017**  
Case Name: **THE CHURCH OF JESUS CHRIST**  
**vs. LAM, BETTY ANO**  
Case Type: **OTHER SPECIAL PROCEEDINGS**  
Track: **Standard**

**Appearance Information:**

| Appearance<br>Date | Time | On For<br>Supreme<br>Trial            | Appearance<br>Outcome |
|--------------------|------|---------------------------------------|-----------------------|
| 08/30/2017         |      |                                       |                       |
| 08/09/2017         |      | Supreme<br>Initial<br>(first time on) | ADJOURNED             |

Justice / Part: **ROBERT J. MCDONALD PT 34**  
**PRELIM CONF**  
Justice / Part: **ROBERT J. MCDONALD PT 34**  
**PRELIM CONF**

Comments: \_\_\_\_\_  
Motion Seq: \_\_\_\_\_

C11

Case 1:17-cv-05063-ENV-LB Document 1  
Filed 08/28/17 Page 5 of 6 PageID #: 5

**e COURT**

**WebCivil Supreme – Appearance Detail**

Court: **Queens Supreme Court**  
Index Number: 0007155/2017  
Case Name: **THE CHURCH OF JESUS CHRIST  
vs. YU, JIAN BIAO ANO**  
Case Type: **OTHER SPECIAL PROCEEDINGS**  
Track: **Standard**

**Appearance Information:**

| Appearance<br>Date | Time | On For<br>Supreme<br>Trial            | Appearance<br>Outcome |
|--------------------|------|---------------------------------------|-----------------------|
| 09/14/2017         |      |                                       |                       |
| 08/124/2017        |      | Supreme<br>Trial                      | ADJOURNED             |
| 08/10/2017         |      | Supreme<br>Initial<br>(first time on) | ADJOURNED             |

Justice / Part: CARMEN VELASQUEZ PT 38  
PRELIM CONF

Justice / Part: CARMEN VELASQUEZ PT 38  
PRELIM CONF

Comments: \_\_\_\_\_

Motion Seq: \_\_\_\_\_

C12

Case 1:17-cv-05063-ENV-LB Document 1  
Filed 08/28/17 Page 6 of 6 PageID #: 6

**e COURT**

**WebCivil Supreme – Appearance Detail**

Court: **Queens Supreme Court**  
Index Number: **0007156/2017**  
Case Name: **THE CHURCH OF JESUS CHRIST  
vs. FUNG, YUK Y ETAL**  
Case Type: **OTHER SPECIAL PROCEEDINGS**  
Track: **Standard**

**Appearance Information:**

| Appearance<br>Date | Time | On For                             | Appearance<br>Outcome |
|--------------------|------|------------------------------------|-----------------------|
| 09/18/2017         |      | Supreme Trial                      |                       |
| 08/21/2017         |      | Supreme Trial                      | ADJOURNED             |
| 08/07/2017         |      | Supreme<br>Initial (first time on) | ADJOURNED             |

Justice / Part: **DARRELL L. GAVRIN PT 27 PRELIM  
CONF**  
Justice / Part: **DARRELL L. GAVRIN PT 27 PRELIM  
CONF**

Comments: \_\_\_\_\_  
Motion Seq: \_\_\_\_\_

C13

Case 1:17-cv-05063-ENV-LB Document 1-1  
Filed 08/28/17 Page 1 of 2 PageID #: 7  
ORIGINAL

**CIVIL COVER SHEET**

JS 44 (Rev. 1/2013)

CV 17-5063

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEAT PAGE OF THIS FORM)

1. (a) PLAINTIFFS

Xiu Jian Sun, The Church of Jesus Christ of  
Latter-day saints, Servant  
54-25 153rd Street 2nd Fl. Flushing. NY 11355.  
646-675-0308

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorneys (Firm Name Address, and Telephone  
Number)

Pro Se: See Above

**VITALIANO, J. BLOOM, M.J.**  
**SUMMONS ISSUED**

DEFFNDANTS: Supreme Court of the State of New  
York County of Queens & Preliminary Conference

Part,

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE  
THE LOCATION OF THE TRACT OF LAND  
INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One  
Box Only)

☐ 1 U.S. Government Plaintiff

☐ 2 U.S. Government Defendant

☒ 3 Federal Question (U.S. Government Not a Party)

☐ 4 Diversity (Indicate Citizenship of Parts in Item  
III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**

(Place an "X" in One Box for Plaintiff and One Box  
for Defendant)

|                                                                  | PTF                        | DEF                        |
|------------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State                                            | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 |
| Citizen of Another State                                         | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 |
| Citizen of Subject of a Foreign Country                          | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 |
| Incorporated or Principal Place<br>of Business In Another State  | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Incorporated and Principal Place<br>of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Foreign Nation                                                   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

# C15

| CONTRACT                        | TORTS                  |
|---------------------------------|------------------------|
| __ 110 Insurance                | RSOSAL INJURY          |
| __ 120 Marine                   | __ 310 Airplane        |
| __ 130 Miller Act               | __ 315 Airplane        |
| __ 140 Negotiable Instrument    | Product Liability      |
| __ 150 Recovery of              | __ 320 Assault Libel   |
| Overpayment &                   | & Slander              |
| Enforcement Judgment            | __ 330 Federal         |
| __ 151 Medicate Act             | Employees Liability    |
| __ 152 Recovery of Defaulted    | __ 340 Marine          |
| Student Loans (Excludes         | __ 345 Marine Product  |
| Veterans)                       | Liability              |
| __ 153 Recovery of              | __ 350 Motor Vehicle   |
| Overpayment of                  | __ 355 Motor Vehicle   |
| Veteran's Benefits              | Product Liability      |
| __ 160 Stockholders Suits       | __ 360 Other           |
| __ 190 Other Contract           | Personal Injury        |
| __ 195 Contact Product          | __ 362 Personal Injury |
| Liability                       | Medical Malpractice    |
| __ 196 Franchise                |                        |
|                                 | RSOSAL INJURY          |
| REAL PROPERTY                   | __ 365 Personal Injury |
| __ 210 Land Condemnation        | Product Liability      |
| __ 220 Foreclosure              | __ 367 Health Card     |
| __ 230 Rent Lease               | Pharmaceutical         |
| __ 240 Torts to Land            | Personal Injury        |
| __ 245 Tort Product Liability   | Product Liability      |
| __ 290 All Other Real Property  | __ 368 Asbestos        |
|                                 | __ Personal Injury     |
|                                 | Product Liability      |
|                                 | RSOSAL                 |
| CIVIL RIGHTS                    | PROPERTY               |
| <u>x</u> 440 Other Civil Rights | __ 370 Other Fraud     |

C16

|                         |                        |
|-------------------------|------------------------|
| ___ 441 Voting          | ___ 371 Truth in       |
| ___ 442 Employment      | Lending                |
| ___ 443 Housing /       | ___ 380 Other Personal |
| Accommodations          | Property Damage        |
| ___ 445 Amer w /        | ___ 385 Property       |
| Disabilities-Employment | Damage Product         |
| ___ 446 Amer w /        | Liability              |
| Disabilities-Other      |                        |
| ___ 448 Education       |                        |

FORFEITURE/PENALTY

|                      |
|----------------------|
| ___ 625 Drug Related |
| Seizure of Property  |
| 21 USC 881           |
| ___ 690 Other        |

BANKRUPTCY

|                       |
|-----------------------|
| ___ 422 Appeal 28 USC |
| 158                   |
| ___ 423 Withdrawal 28 |
| USC 157               |

OTHER STATUTES

|                                          |
|------------------------------------------|
| ___ 375 False Claims Act                 |
| ___ 376 Qui Tarn (31 USC 3729(a))        |
| ___ 400 State Reappointment              |
| ___ 410 Antitrust                        |
| ___ 430 Banks and Banking                |
| ___ 450 Commerce                         |
| ___ 460 Deportation                      |
| ___ 470 Racketeer Influenced and Corrupt |
| Organizations                            |
| ___ 480 Consumer Credit                  |
| ___ 490 Cable/Sat TV                     |
| ___ 850 Securities Commodities Exchange  |
| ___ 890 Other Statutory Actions          |
| ___ 891 Agricultural Acts                |
| ___ 893 Environmental Mailers            |
| ___ 895 Freedom of Information Act       |
| ___ 896 Arbitration                      |

C17

- ☐ 899 Administrative Procedure Act / Review of  
Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

PROPERTY RIGHTS

- ☐ 820 Copyrights
- ☐ 830 Patient
- ☐ 840 Trademark

SOCIAL SECURITY

- ☐ 861 HIA (1395(F))
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

LABOR

PETITIONS

- ☐ 710 Fair Labor  
Standards Act
- ☐ 720 Labor/  
Management Relations
- ☐ 740 Railway  
Labor Act
- ☐ 751 Family and  
Medical Leave Act
- ☐ 790 Other Labor  
Litigation
- ☐ 791 Employee  
Retirement Income  
Security Act

PRISONER

- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate  
Sentence
- ☐ 530 General
- ☐ 535 Death Penalty  
Other
- ☐ 540 Mandamus &  
Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee  
Conditions of  
Confinement

FEDERAL TAX SUITS

- ☐ 870 Taxes (U.S.  
Plaintiff or Defendant)
- ☐ 871 IRS-Third  
Party 26 USC 7609

IMMIGRATION

- ☐ 462 Naturalization  
Application
- ☐ 465 Other  
Immigration Actions

**V. ORIGIN** (Place an "X" in One Box Only)

C18

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing  
(Do not cite Jurisdictional statutes unless diversity):

Brief description of cause:

Civil Action Pursuant To "Apply for jury to prevent  
insult and unfair behavior"

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION  
UNDER RULE 23. F.R. Cv P

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY (See instructions):**

JUDGE: ENV/LB

DOCKET NUMBER: 17cv1570, 16cv5734,

SIGNATURE OF ATTORNEY OF RECORD

DATE: 08/28/2017 16cv3937, 16cv1083

FOR OFFICE USE ONLY

RECEIPT# \_\_\_\_\_

AMOUNT \_\_\_\_\_

JUDGE \_\_\_\_\_

APPLYING IFF \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

4653118711 \$400

C19

Case 1:17-cv-05063-ENV-LB Document 1-1  
Filed 08/28/17 Page 2 of 2 PageID #: 8

**CERTIFICATION OF ARBITRATION**  
**ELIGIBILITY**

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, \_\_\_\_\_, counsel for \_\_\_\_\_, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☐ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☐ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT- FEDERAL RULES**  
**CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**RELATED CASE STATEMENT Section VIII on**  
**the Front of this Form**

Please list all cases that are arguably related pursuant to Division or Business Rule 50.3,1 in Section VIII on the front of this form. Rule 50.3.1(a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3. 1 (b) provides that "A civil case shall not be deemed " related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County: **NO**
- 2.) If you answered "no" above:
  - a) Did the events or omissions giving rise to the claim, or claims, or a substantial part thereof, occur in Nassau or Suffolk County? **NO**
  - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? **YES**

C21

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? \_\_\_\_\_

(Note; A corporation shall be considered n resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.     \_\_\_ Yes     \_\_\_ No

Are you currently the subject of any disciplinary action {s} in this or any other state or federal court?

\_\_\_ Yes (If yes, please explain)     \_\_\_ No

I certify the accuracy of all information provided above

Signature: \_\_\_\_\_

C22

Case 1:17-cv-05063-ENV-LB Document 2  
Filed 08/28/17 Page 1 of 2 PageID #: 9

Case 1:17-cv-05063-ENV-LB Document 4  
Filed 09/11/17 Page 1 of 2 PageID #: 13

**ORIGINAL**

AO 440 (Rev. 06/12) Summons in a Civil Action

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**UNITED STATES DISTRICT COURT  
for the Eastern District of New York**

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|                                                                                                              |                               |
|--------------------------------------------------------------------------------------------------------------|-------------------------------|
| The Church of Jesus Christ of<br>Latter-Day Saints, Servant<br>Xiu Jian Sun, The Spiritual Adam<br>Plaintiff | Civil Action No.<br>CV17-5063 |
| v.                                                                                                           | VITALIANO, J.                 |
| Supreme Court of the State of<br>New York, County of Queens<br>Defendants                                    | BLOOM, M.J.                   |

---

**SUMMONS IN A CIVIL ACTION**

To: (Defendant's name and address)  
Supreme Court of the State of New York,  
County of Queens  
88-11 Sutphin Blvd., Room 314  
Jamaica, NY 11435

A lawsuit has been filed against you.

C23

Within 21 days after service of this summons on you (not counting the day you received it)— or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3)--you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Pro Se:

Xiu Jian Sun, The Church of Jesus  
Christ of Latter-Day Saints, Servant  
54-25 153rd Street, 2nd Floor,  
Flushing, NY 11355

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: AUG 28, 2017

CLERK OF COURT

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

C24

Case 1:17-cv-05063-ENV-LB Document 2  
Filed 08/28/17 Page 2 of 2 PageID #: 10

Case 1:17-cv-05063-ENV-LB Document 4  
Filed 09/11/17 Page 1 of 2 PageID #: 14

AO 440 (Rev. 12/9) Summons in a Civil Action (Page 2)

---

Civil Action No.

**PROOF OF SERVICE**

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (I))

This summons for (name of individual and title, if any)  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS & PRELIMINARY  
CONFERENCE PART was received by me on (date)

\_\_\_\_\_

\_\_\_ I personally served the summons on the individual  
at (place)\_\_\_\_\_, on (date)\_\_\_\_\_; or

\_\_\_ I left the summons at the individual's residence or  
usual place of abode with (name) \_\_\_\_\_, a person  
of suitable age and discretion who resides there, on  
(date)\_\_\_\_\_, and mailed a copy to the individual's  
last known address; or

\_\_\_ I served the summons on (name of individual) \_\_\_\_\_,  
who is designated by law to accept service of process  
on behalf of (name of organization)\_\_\_ on (date) \_\_\_\_; or

\_\_\_ I returned the summons unexecuted because \_\_\_\_; or

C25

x Other (specify):

Postal mail Certified & Return Receipt  
88-11 Supthin Blvd., Jamaica, NY 11435

My foes are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_  
for services, for a total of \$ 0.00

I declare under penalty of perjury that this  
information is true.

Date: 08/30/2017

Simon Chen  
Simon Chen  
169-51 25<sup>th</sup> Ave.  
Whitestone, NY 11357

Additional information regarding attempted service,  
etc:

C26

Case 1:17-cv-05063-ENV-LB Document 3  
Filed 08/29/17 Page 1 of 2 PageID #: 11

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORK

Douglas C Palmer Clerk of Court  
Brenna B. Mahoney Chief Deputy  
Corey Nguyen Chief Deputy  
Carol McMahon Chief Deputy

Theodore Roosevelt Federal Courthouse Emanuel  
Cellar Federal Courthouse  
225 Cadman Plaza East, Brooklyn, NY 11201  
(718) 613-2270

Alfonse D'Amato Federal Courthouse  
100 Federal Plaza, Central Islip, NY 11722  
(718) 613-2270

NOTICE

In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that if all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. You may consent to the magistrate judge who has been assigned to this case or to a new magistrate judge selected at random. Attached is a blank copy of the consent form that should be signed and filed electronically only if all parties wish to consent and it is signed by all parties. A consent form

C27

may also be accessed at the following link:  
<http://www.uscourts.gov/uscourts/FormsAndFees/Forms/A0085.pdf>

You may withhold your consent without adverse substantive consequences.

Do NOT return or file the consent unless all parties have signed the consent.

C28

Case 1:17-cv-05063-ENV-LB Document 3  
Filed 08/29/17 Page 2 of 2 PageID #: 12

AO 85 (Rev. EDNY 8/3/2012) Notice, Consent, and  
Reference of a Civil Action to a Magistrate Judge

**UNITED STATES DISTRICT COURT for the  
EASTERN DISTRICT OF NEW YORK**

|           |                  |
|-----------|------------------|
| Plaintiff | Civil Action No. |
| v.        |                  |
| Defendant |                  |

**NOTICE, CONSENT, AND REFERENCE OF A  
CIVIL ACTION TO A MAGISTRATE JUDGE**

Notice of a magistrate judge's availability. A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent. You may consent to the magistrate judge assigned to this case or to a new magistrate judge selected at random.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed

C29

to any judge who may otherwise be involved with your case.

Consent to a magistrate judge's authority. The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

Select one: The parties consent to

\_\_\_ the magistrate judge who is assigned to this case  
\_\_\_ a new magistrate judge selected at random.

Parties' printed names \_\_\_\_\_

Signatures of parties or attorneys \_\_\_\_\_

Dates \_\_\_\_\_

In order for the Consent to be valid, all parties must sign this form and agree to the selection of the magistrate judge.

### Reference Order

**IT IS ORDERED:** This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. §636(c) and Fed. R. Civ. P. 73.

Date: \_\_\_\_\_  
District Judge's signature

\_\_\_\_\_  
Printed name and title

Note: Do not return the form to the Clerk of Court or file it on ECF unless all parties have consented to the exercise of jurisdiction by a United States Magistrate Judge. Do not return this form to a Judge

C30

Case 1:17-cv-05063-ENV-LB Document 5  
Filed 09/15/17 Page 1 of 3 PageID #: 15

**STATE OF NEW YORK OFFICE OF THE  
ATTORNEY GENERAL**

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**WRITER'S DIRECT DIAL**

(212) 416-8552      September 15, 2017

Honorable Eric N. Vitaliano  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East, Brooklyn, NY 10601

Re: Sun v. Supreme Court of the State of New York  
County of Queens  
E.D.N.Y. Case No. 17 CV 282 (ENV)(LB)

Dear Judge Vitaliano,

This Office represents the New York State  
Supreme Court, Queens County (hereinafter "State

Defendant”) in the above-referenced action. In accordance with the Court’s rules, we write to request that the Court dismiss this action without further litigation or otherwise grant State Defendant an extension of time to answer or otherwise respond to the complaint.

Plaintiff Xiu Jian Sun, pro se, commenced this action by a complaint dated August 28, 2017. This is the fifth action before this Court in which plaintiff has attempted to bring a suit against New York State courts and their employees, including State court judges. In each instance the Court has dismissed plaintiff’s complaint sua sponte. See Docket Nos. 16-cv-1083; 16-cv-3937; 16-cv-5734; and 17-cv-1570. The complaint in this action is substantially identical to the complaints in plaintiff’s prior actions before the Court.

If necessary, State Defendant anticipates making a motion to dismiss the action on the grounds that plaintiff’s claims are barred by, inter alia, the Eleventh Amendment to the United States Constitution, the doctrine of absolute judicial immunity, the Younger abstention doctrine, and because the complaint fails to state any facts, much less facts sufficient to state a claim against the State Defendant.

The Eleventh Amendment bars federal actions

against the state courts. See Richards v. State of New York, 597 F. Supp. 692, 693 (E.D.N.Y. 1984), aff'd, 767 F.2d 908 (2d Cir. 1985), cert. denied, 474 U.S. 1066 (1986) (a state court is immune from suit under the Eleventh Amendment); Zuckerman v. Appellate Division, Second Department, Supreme Court of New York, 421 F.2d 625, 626 (2d Cir. 1970) (courts are the judicial arm of "the State of New York"); Humphreys v. Nager, 962 F. Supp. 347, 354 (E.D.N.Y. 1997); Sassower v. Mangano, 927 F. Supp. 113, 120 (E.D.N.Y. 1996) (suit against presiding and associate justices of the Supreme Court of New York, Appellate Division, Second Department barred); Mathis v. Clerk of the First Department, Appellate Division, 631 F. Supp. 232, 234 (S.D.N.Y. 1986) ("a state court . . . is not amenable to suit under 42 U.S.C. § 1983 . . . on the grounds that it is immune from suit by virtue of the Eleventh Amendment . . .").

Furthermore, "[f]ew doctrines were more solidly established at common law than the immunity of judges from liability for damages for acts committed within their judicial jurisdiction, as this Court recognized when it adopted the doctrine in Bradley v. Fisher, 13 Wall. 35 (1872)." Pierson v. Ray, 386 U.S. 547, 553-554 (1967); see also Mireles v. Waco, 502 U.S. 9 (1991); Stump v. Sparkman, 435 U.S. 349 (1978); Tucker v. Outwater, 118 F.3d 930, 932 (2d Cir. 1997). Judicial immunity applies unless the judge acted in the clear absence of all jurisdiction and or performed a

non-judicial act. *Mireles*, 502 U.S. at 11-12; *Stump*, 435 U.S. at 359, 362; *Pierson*, 386 U.S. at 553-54. Plaintiff does not, and cannot make any such showing here.

Although the complaint does not state that there is an ongoing underlying state court action, to the extent plaintiff attempts to challenge any aspect of an ongoing state proceeding, this federal action is barred by the *Younger* abstention doctrine. “Federal courts are generally required to abstain from taking jurisdiction over federal constitutional claims that involve or call into question ongoing state proceedings.” *Diamond “D” Construction Corp. v. McGowan*, 282 F.3d 191, 198 (2d Cir. 2002), citing *Younger v. Harris*, 401 U.S. 37, 43-44 (1971). See also *Kaufman v. Kaye*, 466 F.3d 83, 86-88 (2d Cir. 2006) (dismissal on abstention grounds is required where a federal court is asked to intrude into the internal workings of state courts).

Finally, the complaint is subject to dismissal because it does not contain any factual allegations, much less factual allegations sufficient to state a claim on which relief could be granted.

To the extent that the Court declines to dismiss the suit as frivolous, State Defendant respectfully requests an adjournment of time to answer or otherwise respond to the complaint. Currently, State

C34

Defendant's answer is due on September 20, 2017. State Defendant proposes an extension of time until October 13, 2017 to serve the proposed motion to dismiss, with plaintiff's response due on or before November 13, 2017, and State Defendant's reply, if necessary, to be served on or before November 20, 2017.

This Office attempted to contact plaintiff by telephone yesterday and again today. During the call today, the individual who answered the phone stated that he did not speak English and hung up. Accordingly, we have not been able to discuss the proposed briefing schedule with Mr. Sun.

Thank you for your consideration of this matter.

Respectfully Submitted,

/S/

Michael J. Siudzinski  
Charles F. Sanders A  
ssistant Attorneys General

cc: Plaintiff, by USPS

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