No. 17-

IN THE
SUPREME COURT OF THE UNITED STATES

YAN SUI; PEI-YU YANG *Petitioners*

v.

WELLS FARGO BANK, N.A. ET AL

Respondent

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit
Ninth Circuit Case No.: 17-56323
District Court Case No.: 8:13-cv-01607-JAK-AJW

PETITION FOR A WRIT OF CERTIORARI

Yan Sui; Pei-yu Yang
Petitioners in pro se
P. O. Box 4732
Mission Viejo, CA92690
(949)- 903-6378
Email:dancalm@sbcglobal.net

QUESTION(S) PRESENTED

(1) When petitioner sought remedy under discharge injunction against Wells Fargo Bank, N.A, Ninth Circuit denied. It directed petitioners to seek remedy under civil right as sanction in an "ongoing litigation." When petitioners sought that remedy, Ninth Circuit denied again based on "insubstantial question." Did Ninth Circuit improperly take away the latter remedy which is likewise guaranteed under federal laws?

(2) Whether "judicial estoppel" could be applied as an exception to foreclose Ninth Circuit's Order contradictorily deeming such remedy "insubstantial?"

STATEMENT OF RELATED PETITIONS

Petitioners would inform Court that the following petitions are related to this petition:

- 17-851 Re: Ninth Circuit's affirming district court dismissal of 8:15-cv-00059-JAK-AJW on "abusive litigation practices;"
- 16- 1522 Re: Ninth Circuit's dismissal of Sui's appeal from BAP's Affirmance of bankruptcy court order denying Sui's motion to hold Trustee et al in contempt of discharge injunction on interlocutory order.

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 this Court whose judgment is the subject of this petition is as follows:

1. Marshack Hays LLP – law firm owned by Richard A. Marshack & Edward D. Hays;
2. Richard A. Marshack, Chapter 7 trustee
3. Pickford Real Estate Co., dba Berkshire Hathaway Real Estate Co., with its agent;
4. Clarence Yoshikane;
5. 2176 Pacific Homeowners Association
6. Office of United States Trustees

TABLE OF CONTENTS

LIST OF APPENDICES

////////

TABLE OF AUTHORITIES

Federal Cases

Federal Statutes

Other Authority

California Cases

California Statutes

/////

PETITION FOR A WRIT OF CERTIORARI

Petitioners Yan Sui ("Sui") and Pei-yu Yang ("Yang") respectfully petition this Court to grant the petition for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit, or in the alternative, vacates the order if petition is denied. This writ pursues remedy for relief as against Wells Fargo Bank, N.A only.

OPINIONS BELOW

The Order of the Ninth Circuit (hereafter - "Order") of 2/23/2018 is unpublished (App. 1). Order was based on its prior order of 9/6/2017 (App. 2-3), which is also unpublished. District Court order to strike petitioners' motion to reopen case to seek continuing sanctions against violation of discharge injunction of 8/1/2017 is unpublished (App. 4-5). Unpublished orders of United States bankruptcy court, district court and of Ninth Circuit relevant to the petition are included into the Appendices for reference.

JURISDICTION

The Order was entered on Feb. 23, 2018. This Court has jurisdiction to review the Order of the Ninth Circuit pursuant 28 *U.S. Code* § 1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourth Amendment to the United States Constitution provides:

> "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. . . ."

42 *U.S.C* § 1983 provides in pertinent part:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress..."

11 *U. S. Code* § 524 (a) (2) provides:

> "A discharge in a case under this title - operates as an injunction against the commencement or continuation of an action, the employment of process, or

> an act, to collect, recover or offset any such debt as a personal liability of the debtor, whether or not discharge of such debt is waived."

18 *U. S. Code* § 3771 (a) provides:

> "Rights of Crime Victims - a crime victim has the following rights: (6) the right to full and timely restitution as provided in law;"

STATEMENT OF THE CASE

This case arises from the dispute over the relief granted by the discharge order under 11 *U.S. Code* § 727. Wells Fargo Bank, N. A., ("WF") used Chapter 7 trustee of Sui's bankruptcy estate ("Trustee") to collect Sui's debt in the mortgage loan, which was discharged under federal and California laws. In the collection, WF collected the non-delinquent mortgage balance over which, co-borrower petitioner Yang had been timely paying. The collection culminated the eviction of petitioners, their children and the sale of the house. Lower courts didn't provide remedy on discharge injunction. Ninth Circuit issued the order to construe petitioner Sui's appeal over the denial of "contempt" as a "sanction" in an ongoing litigation. Accordingly, petitioners moved district court for an order to re-open lawsuit to seek sanctions against WF et al. District court ordered the motion striken (P.

App. 4-5). Petitioners appealed. Ninth Circuit summarily affirmed after petitioners showed the cause why it should not (App. 1).

1. *Factual background.*

(A) WF's POC Caused the Eviction and Sale

Petitioners Yan Sui ("Sui"), a contracted interpreter for multiple agencies, including LionBridge Technologies, who provided services to United States Immigration Court and ICE, and Pei-yu Yang ("Yang") a house wife are dislocated owners of the property commonly known as 2176 Pacific Ave., #C, Costa Mesa, CA92627 ("house"). Sui filed for Chapter 7, but Yang didn't. Sui paid off all Chapter 7 debts and got the § 727 discharge order on 3/29/2013. Yang had been timely paying on the mortgage.

WF filed a POC of $118,093.23 in the converted Chapter 13. Petitioners contested and WF replied on 8/15/2013, that its POC became null and void when Chapter 13 was reconverted back to 7. Between 8/15/2013 and 5/6/2015, WF refused to withdraw its POC as requested.

(B) District Court Granted Contempt against Petitioners

Petitioners filed a second lawsuit. District court placed it in "inactive" status pending the outcome of trustee's contempt against petitioners because it was filed without leave of BC. District court ordered the second lawsuit dismissed and awarded $30,319.50 fees to trustee (App. 22 ¶ 3).

Petitioners appealed. Ninth Circuit affirmed the first dismissal based on "leave to sue" (App. 25-28) and the second on "abusive litigation practices" (App. 29-30).

Throughout the proceedings, they didn't state or decide discharge injunction (App. 6-14).

(C) Petitioners Sought Stay of the Eviction

Trustee moved bankruptcy court ("BC") for a writ of assistance from United States Marshals ("Marshals") to evict. BC grated (App. 40-45).

Petitioners filed an ex parte application to stay eviction at district court who denied (App. 35-37). Petitioners filed an "emergency petition for writ of prohibition" with Ninth Circuit to stay the eviction, who denied (App. 39).

Meanwhile, petitioners wrote to Marshals, told them that trustee violated the discharge injunction and urged them not to evict. Marshals evicted anyway (App. 36 ¶ 1).

2. Bankruptcy Judges Denied Sui's Relief under Discharge Injunction

Sui noticed and served on WF, among others a motion for an order to show cause why WF et al should not be held in contempt of discharge injunction. WF didn't oppose (App. 53). BC denied the relief by stating "You don't have standing" (App. 73 ¶ 2). Sui appealed to BAP, who found that BC erred on "standing" (App. 78 ¶ 2). BAP knew that

WF waived its right to defend (App. 76-77). BAP denied relief and totally forgot WF. BAP affirmed.

In their decisions, they didn't stated why WF could collect its null and void proof of claim (App. 72 ¶ 4). They didn't stated why the pre-petition claims of the association and Scottsdale, why the interim fees and expenses could be used to eviction without the allowance process.

Sui appealed to Ninth Circuit, who construed it as "a motion for sanctions brought by a party to ongoing litigation is not immediately appealable. *See Mc Cright v. Santoki,* 976 F. 2d 568, 569 - 70 (9th Cir. 1992)" ("Construction Order") (App. 31-32).

3. Petitioners Moved for Sanctions after Appeal

Petitioners were led by the construction order to believe that the lawsuit is such "ongoing litigation on the record." Petitioners moved district court for an order to reopen case to seek continuing sanctions against WF et al. In the motion, petitioners cited authorities decided by bankruptcy court of in multiple circuits imposing sanctions on discharge injunction contemnors.

To prevail on a claim for injunction violation against WF, petitioners California case law of *In re the Marriage of Delila Louise and Herbert Gardner* [it is now firmly established in California law that certain types of debts arising from a division of community property on dissolution are properly dischargeable in bankruptcy] and *In the Matter of:*

Blendheim 803 F.3d 477 (9th Cir. 2015) [the Bankruptcy Code authorizes debtors to receive a discharge of ....secured debt (such as a mortgage on a home)] to show that Sui's debt under the mortgage has been discharged.

In its order, district court recited the dismissals of the lawsuits and mandate of (App. 25-28) and stated: "notwithstanding that this case is closed, the Court reviewed the Motion. It has determined that the issues raised have either been addressed previously in a more detailed order or have no merit. No basis has been identified for the reopening of this case. In light of the foregoing, the Court orders the Motion to be **STRICKEN**." (App. 4-5). Petitioners appealed.

4. Proceedings at Ninth Circuit

In open brief, petitioners stated that trustee sold the house for $480,000 to the buyer. The buyer added $160,000 and resold for $640,000. WF got rid of petitioners' mortgage balance of $92,358.59 and lent out $628,408 to the second buyer, Krusey, Paul M & Jessica L Krusey (OB, p. 10).

Petitioner Sui moved for Rule 8 injunction to bar the resale of the house with Ninth Circuit, who denied on 1/6/2016 (App. 91).

Following the construction of Ninth Circuit that Sui's appeal being a sanction in a civil right lawsuit like *McCright v. Santoki,* 976 F. 2d 568, 569 - 70 (9th Cir. 1992), petitioners cited *Pinard v. Clatskanie Sch.*

Dist. 6J, 467 F.3d 755 (9th Cir. 2006) to sanction trustee because his contempt retaliated against petitioners because of the lawsuits against him based on its standard that ["[a] plaintiff must show that (1) he was engaged in a constitutionally protected activity, (2) the defendant's actions would chill a person of ordinary firmness from continuing to engage in the protected activity and (3) the protected activity was a substantial or motivating factor in the defendant's conduct"].

In the open brief, petitioners alleged a Fourth Amendment violation because Marshals evicted without a search warrant. Authority cited was *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971).

Ninth Circuit didn't consider. Rather, it vaguely presumes that "the questions raised in this appeal are so insubstantial as not to require further argument" (App. 2) (quoting *United States v. Hooton,* 693 F. 2d 857, 858 (9th Cir. 1982).

With respect to "insubstantial," petitioners showed the cause why the appealed order should not be summarily affirmed. In the cause, petitioners argued to Ninth Circuit that constitutional violation has occurred and the discharge injunction violation is the aggravating factor.

Ninth Circuit granted trustee's request for 30 days extension to file his brief. Ninth Circuit also ordered WF et al to file their briefs by 3/9/2018.

On 2/23/2018, Ninth Circuit summarily affirmed (App.1).

REASONS FOR GRANTING THE WRIT

Petitioners shouldn't be deprived of the legal recourse to seek remedies guaranteed under federal laws. Petitioners' claims based on constitutional violations should not be deemed as "insubstantial." Claims filed with register of bankruptcy court and the "first interim fees" of the trustee and of his attorney must be allowed first under 11 *U. S. Code* § 502 before they could be demanded for payment or to be evicted. WF's POC must be limited to the Chapter 7 debt and allowed before it could be demanded for payment under *In the Matter of: Blendheim* WL 5730015 (9th Cir. 2015).

WF's POC must be examined by and rejected by the trustee under holding in *Midland Funding, LLC v. Johnson* 581 U.S. (2017). Demanding payment before an allowance proceeding violated the due process of Fifth Amendment. Evicting without a search warrant violated the Fourth Amendment under *Bivens v. Six Unknown Fed. Narcotics Agents* 403 U.S. 388 (1971).

Ninth Circuit deemed this lawsuit as "ongoing litigation," Ninth Circuit panel should be estopped to make a contradictory ruling and summarily affirm on vague term of "insubstantial questions in appeal." Under the construction of Ninth Circuit, this lawsuit should be "ongoing" and petitioners have ground to seek sanction. "Reopen" is unnecessary. Trustee filed the post-dismissal contempt without reopening case. Petitioners' motion for contempt sanction is proper on equity.

Ninth Circuit created a loop-hole and should fix it with meaningful remedy. Stating "insubstantial" itself is "insubstantial" to cover up constitutional violations by respondents. Ninth Circuit should also stick to the doctrine of "judicial estoppels" in order to safeguard the integrity of judicial proceeding. Asking parties to abide by but sidestepping it is a bad precedence.

Petitioner Sui does not lose the constitutional protection simply because being entrapped in Chapter 7 after the discharge. Petitioner Yang does not lose the same simply because of her association with Sui.

If the Order not brought under legal scrutiny by this Court, Ninth Circuit could vindicate constitutional violations by vaguely declaring that "questions in appeal is so insubstantial." It would encourage court to make contradictory rulings to shield law offenders from being redressed. It invokes injustice.

ARGUMENT

I. Fourth Amendment Forbids the Eviction without a Search Warrant

Petitioners stated in the open brief that the eviction was carried out without a search warrant (OB, p. 6). It violated Court case of *Bivens v. Six Unknown Fed. Narcotics Agents* 403 U.S. 388 (1971) "Petitioner's complaint alleged...agents of the Federal Bureau of Narcotics, acting under color of federal authority, made a warrantless entry of his apartment, searched the apartment....Petitioner's complaint states a federal cause of action under the Fourth Amendment."

(A) "House" is not Bankrupt Estate

"House" in the context of Fourth Amendment is petitioners' "house" and not a "house" of bankrupt estate. Court denied Yang's petition under 14-5738 and didn't decide that trustee's first complaint is not invalid. *F. R. Bankr. Proc.* Rule 9011(a) and *F.R.Civ. Proc.* Rule 11(a) control as a matter of law that the complaint must be striken. It has no legal effect to turn the house as part of bankrupt estate. Trustee's claims against the house and Yang's defense related back to his first complaint *Guerrero v. RJM Acquisitions LLC*, 499 F.3d 926 (9th Cir. 2007). Trustee's second complaint filed based on his first is invalid. Ninth Circuit ruling that "Yang's contention on the invalidity is unpersuasive" in 14-5738 does not alter the result compelled under Rule 11(a).

The invalidity was judicially admitted by Ninth Circuit in 15-56130 (App. 29-30). Ninth Circuit didn't state in that decision that the bankruptcy judge has absolute immunity. Had the first complaint been valid, bankruptcy judge would have such immunity because she was performing her judicial duty. She would have such immunity. But the first complaint is invalid, Ninth Circuit cannot possibly state that the bankruptcy judge has such immunity. Ninth Circuit didn't dispute the fact and the law. It constituted judicial admission *Myers v. Trendwest Resorts, Inc.*, (2009) 178 Cal. App. 4th 735.

Because of the invalidity of the complaints, bankruptcy court lacks *in rem* jurisdiction over the house and *in personam* jurisdiction over Petitioner Yang (OB, p. 14).

The writ of assistance issued under the second is invalid.

(B) Bankruptcy Court Lacks Jurisdiction to Adjudicate Personal Property

To begin with, the first complaint didn't arise under Title 11. Trustee abandoned 11 *U.S. Code* §544, § 548, §550 carrying two-year limitation. He averts to *Cal. Civ. Code* §3439.04 and §3439.07. Bankruptcy court lacks statutory authority under analysis of *Northern Pipeline v. Marathon* 458 U.S. 50 (1982), in which Court ruled:

> "Eliminating the distinction between "summary" and "plenary" jurisdiction, the Act grants the new courts jurisdiction over all "civil proceedings arising under title 11 [the Bankruptcy title] or arising in or *related to* cases under title

11." 28 U.S.C. § 1471(b)."

The first complaint fails the test of this case because Title 11 codes were untimely. When it was invalid *ab initio,* California statute had no application. This complaint became legally baseless. Even in the event that Court doesn't consider the invalidity, *Cal. Civ. Code* §3439.04 and §3439.07 has no application in Chapter 7 by the limitation set forth in *Cal. Civ. Code* §3439.01(a) sets forth:

"(1) 'Asset' means property of a debtor, but the term does not include, the following: Property to the extent it is encumbered by a valid lien." Sui's assets encumbered by the WF mortgage loan of the size of $118,093.23/2 = $59,046.62 is not asset of Sui that belongs to "bankrupt estate." WF has no ground to request that to be paid in Chapter 7.

"(2) Property to the extent it is generally exempt under nonbankruptcy law." Sui's total unsecured personal debt was $23,418. 83. BAP found that the Chapter 7 is a "bare-bones" petition. BAP also found that "The record is unclear as to whether Ms. Yang is Mr. Sui's current or former spouse." (*See* CC-13-1572, memorandum, p. 2:15-24). The debt is exempted under *Cal. Civ. Code* §747.730 (a) (3) under the "wild card homestead exemption of $75,000. *Diaz v. Kosmala (In re Diaz)* CC-15-1219 (9th Cir. BAP 2016).

As such, Chapter 7 was improperly maintained open for the purpose that WF collects the mortgage loan on one hand.

On the other hand, the house was, remains to be the personal property of petitioners. Bankruptcy court has no jurisdiction over it. In order to evict, Marshals should get a search warrant beforehand. The writ of assistance is a legal nullity. Petitioners' rights protected under the Fourth Amendment have been violated.

II. Eviction was Wrongful and without Probable Cause

Facts clearly demonstrate that the eviction was unlawful because United States has no claim whatsoever against the house (OB, 35). United States has no claim that petitioners leave the house so that WF could collect the mortgage balance. United States has no such authority. After the discharge, there was no Chapter 7 debt or claim to justify the eviction.

Collecting the null and void POC of WF is not the probable cause. Trustee must establish claim first before moving in the Marshals. WF must prove that its POC could be paid through Chapter 7. Before such a showing was made, the eviction was wrongful. It served the purpose of collecting discharged debt.

Under the circumstance, petitioners have right of action to pursue United States who waived the sovereign immunity under 28 *U. S. Code* § 2410 [foreclosed on a mortgage or other lien upon]; 28 *U.S. Code* § 2409 (a) [claim an interest in the house]; 28

U.S. Code § 2674 [liable for tort claims] arising from the eviction (OB, p.14).

Such rights were created under *Federal Tort Claims Act* (28 U.S.C. §§ 1346(b), 4201(b), 2671, et seq. Lower courts should have granted the remedy and not denied.

III. Eviction and Collection Violated the Fifth Amendment

Ninth Circuit has ruled in *In the Matter of: Marshall* 721 F.3d 1032, 1048 (9th Cir. 2013) [Fifth Amendment is a limitation on the scope of bankruptcy...if fall outside the Bankruptcy Code ..we assume that the law would violate some constitutional provision].

This means among other things that the Bankruptcy Code has its limitation – to govern bankruptcy estate and not petitioners' personal property. This assumption would require that:

(A) WF Should Limit Its POC to Chapter 7

Hypothetically, if WF had concern that Sui's portion of the $118,093. 23, totaling $59,046.62, be discharged in Chapter 7 and petitioner Yang couldn't pay that portion, WF could arguably request Sui for an accelerated payment of this amount. Sui would have no problem to pay. Then, Yang would continue to pay her portion of the remaining $59,046.62. Lumping the dischargable and non-dischargable portions together and demanding payment violated the Fifth Amendment.

(B) Trustee Examine the Proof of Claims

Trustee is empowered and limited by Title 11. When his first complaint was not created under Title 11, trustee has no power at all. *Arguendo* for purpose of argument that the complaint is not invalid, trustee acted beyond the scope Bankruptcy Code.

Court has ruled in *Midland Funding, LLC v. Johnson* 581 U.S. (2017) [the trustee must examine the proof of claim under §§704(a)(5)]. The holding of this case is clear that only allowable claims should be paid and not every claim filed with bankruptcy court. Trustee has the duty and obligation to distinguish.

He failed his duty and demanded payment for not only WF POC as a whole. He demanded payment for discharged, tossed-out and interim claims. Only after the examination, the proper size of bankrupt estate could be established and to request Sui to pay on it and to pay his admin fees. Petitioner Sui would have not problem with it. If Sui owed $100, Sui would pay.

If Sui owed $10,000, Sui would pay. Trustee has no authority to evict and to sell the house without any Chapter 7 debt. He has no authority to evict and sell the house for speculative amount of "allowable unsecured claims." He violated the Fifth Amendment.

(C) Bankruptcy Court has the Duty to Determine the Size of Bankrupt Estate

Under the limitation of the Fifth Amendment, bankruptcy court has the duty to determine the size of bankrupt estate after the discharge. If $100 debt was found, the bankrupt estate should only be $100. If $10,000 debt is found, the estate size should only be $10,000. Bankruptcy court could order Sui to pay $10,000. No problem. Bankruptcy court should not order the eviction and the sale of the house before a debt was determined owing. Bankruptcy court does not have jurisdiction order that Yang's mortgaged debt irrelevant to Chapter 7 paid through Chapter 7.

(D) United States is Responsible for the Acts of the Marshals and Trustee

On the issue of violating the Fifth Amendment, the "Tucker Act," petitioners have viable claim as against United States because Marshals evicted to cause petitioners lose the house with the then resale value of $640,000 on 1/22/2016. Petitioners are eligible for mandatory monetary relief under Tucker Act *United States v. Navajo Nation*, 556 U.S. 287, 289–90 (2009) from United States.

Under the *respondeat superior*, Office of United States Trustees ("UST") is responsible for the acts of the trustee under California's agency theory. UST should supervise the trustee pursuant to 28 *U.S. Code* § 586 (a) (1). UST failed its supervisory duty. When trustee knew that WF's POC is null and void for Chapter 7, trustee must object under *Mid-land Funding, LLC v. Johnson* 581 U.S. (2017). Had he objected, the eviction and the subsequent sale couldn't have happened. But for his failure, petitioners suffered the damages and personal injuries. Trustee's master, UST is liable for the total resale value. [1]

With regard to violating the discharge injunction, Marshals should be liable for the personal injuries as a non-party under *Institute of Cetacean Research v. Sea Shepherd Conservation Society* 725 F.3d 940 (9th Cir. 2014) [holding non-party liable for aiding violating an injunction] (O.B, p. 13).

(E) Fifth Amendment Due Process was Violated

(1) WF POC Failed to be Allowed

WF violated the due process right of petitioners. In order to be paid through Chapter 7, WF should have requested an order from bankrupt court to allow its POC to be paid. This is the "claim allowance" process under *In the Matter of: Blendheim* WL 5730015 (9th Cir. 2015) [every claim must go through the allowance process set forth in 11 U.S.C. § 502 before the claim holder is entitled to participate in the distribution of estate assets].

---

1. Petitioners served the process on UST through United States Certified Mail with domestic return. Petitioners filed the "proof of service" with district court. Ninth Circuit unfounded stated that "plaintiffs had no demonstrated that they served the Trustee with the summons and complaint" (App. 27). Trustee sold the house for $480,000 to the first buyer, the latter resold for $640,000 to the second buyer.

This allowance is not only a procedural matter, but of substance: it determines exactly how much WF POC should be paid through Chapter 7. When it was not allowed through allowance process, the eviction and sale of the house violated the due process.

(2) Sale Order Failed to be Validated

Trustee, as the plaintiff, did not sign the first complaint. It remains as a must-be-striken under Rule 11(a) of *F. R. Civ. Proc.* and Rule 9011 (a) of *F. R. Bankr. Proc.* His second filed on it is invalid. Sale order issued under is invalid. Sale order was not affirmed. Sale order has no legal binding force. Sale order failed to establish due process to evict. Lower courts failed to enforce these statutes.

Trustee failed to cite authority to validate these complaints. They remained invalid although lower court affirmed the summary adjudication in first complaint under California case of *311 South Spring Street Co., v. Department of General Services* (2009) 178 Cal. App. 4th 1009 *citing Rochin v. Pat Johnson Manuf'ng Co.,*(1998) 67 Cal. App. 45th 1228, 1239-40 [the affirmance of a void judgment upon appeal imparts no validity to the judgment, but is in itself void by reason of the nullity of the judgment appealed from].

First complaint involves substantive state law on property. This state authority controls.

Evicting and selling based on the void sale order violated the due process provision of Fifth Amendment.

(3) Objected, Tossed-Out Claims and "First Interim Fees" Failed to be Allowed before Eviction

In addition to WF POC, trustee demanded payment on the objected, tossed-out claims and their "first interim fees" as prerequisite to avoid the eviction. These claimants must move for an allowance to obtain an order by bankruptcy court allowing them to be paid. Evicting based on these claims violated the due process under Fifth Amendment.

IV. Petitioners have Guaranteed Rights for Remedy under 42 U. S. Code §1983 and Federal Criminal Codes

(A) 42 U. S. Code §1983

Ninth Circuit directed petitioners' attention to a sanction under a 42 *U. S. Code* § 1983 civil right lawsuit of *McCright v. Santoki,* 976 F. 2d 568, 569 - 70 (9th Cir. 1992). Ninth Circuit further treated this lawsuit as an "ongoing" litigation (App. 31).

In open brief, petitioners alleged discharge injunction against Wells Fargo Bank, N.A. Peti-tioners supported with cases of (1) *Walls v. Wells Fargo Bank, N. A.* 276 F.3d 502 (9th Cir. 2002) [here, as Wells Fargo acknowledges, compensatory civil contempt allows an aggrieved debtor to obtain compensatory damages, attorneys fees, and the offending creditor's compliance with the discharge injunction]; (2) *In re Adams* 04-003875-5-SWH

(Bankr. Ct. Ed. NC 2010) [order finding Ocwen Loan Servicing LLC in contempt of discharge injunction, imposing compensatory and punitive damages, plus daily $100 fine until compliance]; (3) *In re Nordlund* 494 B. R.507 (Bankr. Ct. E.Ca 2011) [sanctions Bank of American for violating discharge injunction when communicating with debtor to collect the debt]; (4) *In re Meyers* 05-18208 (Bankr. Ed. PA 2006) [sanctioning GM for violating discharge injunction and awarding lost wages, attorney fees and emotional distress damages to debtor] (OB, p. 32).

The ultimate facts support an inquiry under section 1983. This lawsuit involves substantive state issues and not federal laws: (1) "nature of the suit" of trustee's first complaint was checked "this case involves substantive state law issue;" (2) trustee's first complaint was based on state statutes of *Cal. Civ. Code* §§3439.04; 3439. 07 and not federal statutes which were untimely on their two-year limitation; (3) "null-and-void for Chapter 7 purpose" confession makes the issue a contract claim governed under state law and not federal law.

In seeking remedy under civil rights violation against Wells Fargo Bank, N.A, petitioners cited in open brief cases of: *Bourne Valley Trust v. Wells Fargo Bank, N.A* 15-15233 (9th Cir. 2016), providing: "[we think the "state action" requirement has been met. A "state action requires *both* an alleged constitutional deprivation caused by the exercise of some right or privilege created by the State ...*and* that the party charged with the deprivation must be a person who may fairly be said to be a state actor." *Am. Mfrs. Mut. Ins. Co. v. Sullivan,* 526 U.S. 40, 50 (1999)" (OB, p. 39).

Petitioners requested sanctions against WF and consider violating discharge injunction as aggravating factor in determining sanction amount *Winterton v. Humitech of N. Cal. LLC (In re Blue Pine Group, Inc.)* 457 B.R. 64, 75 (B.A.P. 9th Cir. 2011 (OB, p. 44).

Although it is true that Ninth Circuit ruled in *Walls v. Wells Fargo Bank, N. A.* 276 F.3d 502 (9th Cir. 2002) that an aggrieved debtor has no private right of action under section 524(a) (2). It left a non-bankrupt out of the scenario. Petitioner Yang is not a Chapter 7 debtor. Yang is not foreclosed of her right under section 1983 against WF. Congress didn't enact a statute to foreclose Yang's rights against WF for violating 524(a) (2) *Blessing v. Freestone* 520 U.S. 329, 340-340 (1997). Therefore, lower courts should have granted the remedy to petitioner Yang.

In *Dennis v. Higgins,* 498 U.S. 439 (1991), Court provides:

> "As respondents argue, the "prime focus" of § 1983 and related provisions was to ensure "a right of action to enforce the protections of the Fourteenth Amendment and the federal laws enacted

> pursuant thereto," *Chapman v. Houston Welfare Rights Organization,* 441 U.S. 600, 441 U.S. 611 (1979), but the Court has never restricted the section's scope to the effectuation of that goal. Rather, we have given full effect to its broad language, recognizing that § 1983 " provide[s] a remedy, to be broadly construed, against all forms of official violation of federally protected rights." *Monell, supra,* at 436 U.S. 700-701. Thus, for example, we have refused to limit the phrase "and laws" in § 1983 to civil rights or equal protection laws. *See Maine v. Thiboutot,* 448 U.S. 1, 448 U.S.4, 448 U.S. 6-8 (1980)."

Under the guidance of this case, petitioners cite federal penal codes that WF offended. These codes can be encompassed into the phrase "and laws" and apply them as follows:

(B) Federal Penal Codes

In addition to remedy under civil contempt under discharge injunction, petitioners are victims of WF who violated these federal penal codes:

• 18 *U.S.C.*§152 (4) ["a person who - knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11for its provision against knowing and fraudulent filing of any false claim for proof against the estate of a debtor].

WF is such a "person" under *Cal. Corp. Code* §18 ["person" includes a corporation as well as a natural person]; *Cal. Labor Code* § 18 ["person" means any person, association, organization, partnership, business trust, limited liability company, or corporation].

In bankruptcy context, a "claim" is a right for payment under 11 *U. S. Code* § 101(5).

Under this section, WF has no right to demand petitioners to pay its POC when it was been timely paid. Petitioners have the contractual right to pay off by 6/1/2033. Its POC is false under subd. 11 *U.S.C.* § 502 (b) (1) [such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured]. POC should be paid off fully not until June 1, 2033 under the mortgage agreement. It is not enforceable any date before that date. POC is contingent on petitioner's failure to pay. When it is being paid on, it's not enforceable through Chapter 7. POC is unmatured as of 2015 when the eviction occurred. It is unmatured as of 2018 when WF was paid.

WF POC is void under bankruptcy law. In the case of *In the Matter of: Blendheim* 803 F.3d 477 (9th Cir. 2015), Ninth Circuit ruled: [§506(d) states: To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void....].

Bankruptcy court didn't issue an order to allow that WF POC be paid in Chapter 7. Such lien is void. This legal holding coincidentally agrees with WF concession of its voidness. WF's refusal to withdraw evinced its presentation of a false claim.

WF knew from day one when its POC was filed POC was only for Chapter 13 purpose. WF refused to withdraw on petitioners' request. Its intention to collect it is knowing and not an accident.

• 18 *U.S.C.*§156 [knowing disregard bankruptcy law or rule]. WF knowingly disregarded the 11 *U. S. Code* § 524(a) (2) by collecting the discharged debt on its assumption that the whole of its POC be paid through Chapter 7.

One of such law and rule is *F. R. Bankr. Proc.* 3002. It is noteworthy for Court to know that WF was indicted by the U.S. Trustee Program for viola-ting *Bankruptcy Rule* 3002.1 [requires mortgage creditors to file and serve a notice 21 days before adjusting a Chapter 13 debtor's monthly mortgage payment] (App. 85). The indictment was issued under *Public Law Section* 109-162 for the provisions preventing [violence against woman and elder abuse].

Petitioners cited this federal law in open brief (OB, p. 21).

WF didn't notify and serve any notice on Sui when it filed its POC in Chapter 13; didn't state why it should be paid in Chapter 7 when it became null and void.

On the issue of filing a POC in Chapter 7, WF violated *F. R. Bankr. Proc.* Rule § 3002 (c). This Rule presumably allows filing after the discharge order of 3/29/2013. It presumably disallow a pre-discharge filing on 3/12/2012. WF filed in a manner violative of the automatic stay provision under 11 *U.S.C.* § 362 (a)(1).

WF offended these penal codes and victimized petitioners. It is also noteworthy for Court to know that WF committed these criminal acts while it was under criminal investigation.

(C) California Penal Codes

In addition to violating the above federal codes, WF violated these California Penal Codes:

(1) *Cal. Penal Code* 186.2 "(a) Criminal profiteering activity" means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sect's:

- Extortion, as defined in (6) Section 518 [Extortion is the obtaining of property from another, with his consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right].

WF got rid of petitioners' mortgage loan through Chapter 7 and obtained a 6-times the size of a new mortgage loan from the second buyer of the house.

Interest made from petitioners' mortgage of $92,358. 59, is undoubtedly much less that those from a mortgaged loan of $628,408, the latter would gene-rate much more interest than from petitioners' mortgage. WF gained substantial gain. WF got the house from petitioners aided by the official acts of Marshals. The eviction is wrongful use of force.

(2) "Solicitation of crimes, as defined in *Cal. Penal Code* § 653f (a), providing:

"every person who, with the intent that the crime be committed, solicits another to offer, accept, or join in the offer or acceptance of a bribe, or to commit or join in the commission of carjacking, robbery, burglary, grand theft, receiving stolen property, extortion, perjury, subornation of perjury].

WF's filing of an unnecessary POC and refusal to withdraw evinces its soliciting the trustee to collect for it. WF presumably offered trustee with incentive that trustee could earn his statutory commission under 11 U.S.C. § 326 or § 330 for trustee's attorneys based on the collected amount. Trustee readily accepted and moved BC to collect the POC. In the transaction between WF and the trustee, trustee offered service to collect through Chapter 7 and WF readily accepted. They conspired to offend not only the afore-mentioned penal codes, they also violated *Cal. Penal Code* § 422.6 (a):

No person, whether or not acting under

> color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55."

These conspirators acted to violate petitioners' rights secured under Fourth, Fifth Amendments. They violated the California state constitution carrying the similar provisions.

(D) Petitioners Should Recover Criminal Restitution from WF

"Victim" means a "crime victim" as defined in 18 *U.S.C.* §3771:

> "(d) Enforcement and Limitations. (1) Rights - the crime viction or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.

Under this provision, petitioners have standing to bring WF before district court. WF may not obtain any relief, including but not limited to: (1) dismissal based on "Barton doctrine;" (2) dismissal based on "failure to state a claim;" (3) any order from bankruptcy courts; (4) any order from Ninth Circuit.

Petitioners appropriately brought WF before district court in the underlying motion. District court should have adjudicated the motion from both civil and criminal aspects under 42 *U.S.C.* § 1988 (a):

> "Applicability of Statutory and Common Law. The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of titles 13, 24, and 70 of the Revised Statutes for the protection of all persons in the United States in their civil rights, and for their vindication....."

District court should have reinstated petitioners' rights under subd. (a) of 18 *U.S.C.* §3771 (1) - "the right to be reasonably protected from the accused" to the effect that WF should not further harass petitioners; (3) "the right not to be excluded from any such public court proceeding" to the effect that district court not to strike the underlying motion but docket it; (4) "the right to be reasonably heard at any public proceeding in the district court" to the effect that a hearing be set to hear from both petitioners and WF; (5) "the reasonable right to confer with the attorney for the Government in the case" to the effect that district courts orders U.S. Attorney's Office to prosecute the matter if petitioners cannot; (6) "the right to full and timely restitution as provided in law" to the effect that district court orders WF reinstate the mortgage loan, buy back the house from the second buyer and re-conveys it to petitioners.

These civil and penal codes can be reasonably construed that petitioners have guaranteed rights for remedy as against WF.

V. Petitioners' Rights for Remedy are not "Insubstantial"

Ninth Circuit's adoption of "insubstantial" is legally disturbing that it deprived petitioners' rights for remedy. Its base is unknown. Ninth Circuit didn't want to disclose what exactly is that "insubstantial." Based on the following reasons, petitioners respectfully pray that Court rejects the adoption.

(A) "Reopen Case" could be Unnecessary

In the context of holding contemnors in contempt of the discharge injunction, an aggrieved debtor can reopen a case at bankruptcy court under *Desert Pine Villas Homeowners Association v. Kabiling (In re Kabiling)* NV-15-1380 (9th Cir. BAP 2016). Petitioner Sui didn't have to do that because the Chapter 7 was been kept open by trustee.

It was Ninth Circuit who construes BAP order denying Sui motion to hold WF et al in contempt of as "order denying a motion for sanctions brought by a party to ongoing litigation" and cited a civil right lawsuit by a pro se litigant *McCright v. Santoki,* 976 F. 2d 568, 569 - 70 (9th Cir. 1992) (App. 31).

Ninth Circuit apparently regards this lawsuit as that "ongoing litigation" based on its "A review of the record" (App. 31). A logical inference of the dictum would find that "re-open" is unnecessary because of the "ongoing." This lawsuit is evidently on its record as of the date of 8/17/2016. It was an ongoing litigation until Ninth Circuit's affirmance on 8/18/2017 (App. 25). It is ongoing until Court's denial of the petition on 1/16/2018 (17-851, App. 1-4).

As such, district court erred by striking the motion of petitioner's on 8/1/2017.

(B) Equity Does not Need "Reopen"

Petitioners filed the motion on an equitable ground. Trustee didn't request open lawsuit but requested post-dismissal contempt against petitioners. District court entertained and awarded fees (App. 22). Petitioners filed the post-dismissal contempt motion against WF. On equitable ground, district court should not strike. It should consider the arguments from parties and decide on merit. To the extent that district court deemed the motion "no merit," it is unfounded because factual base come from the Ninth Circuit order (App. 31). Legal base was established by the cases laws granting contempt sanction against contemnors of discharge injunction.

Petitioners argued to Ninth Circuit on "equity" (OB, p. 32). After reading the open brief, Ninth Circuit summarily affirms on "insubstantial" (App. 1). Order would fail on the "reopen" being considered as "insubstantial." This appeal is not about "reopen" or not. It is about substantive remedy available under bankruptcy and civil right laws.

(C) Remedies under Constitutional Violations are not "Insubstantial"

If Court reviews the cited case of *United States v. Hooton,* 693 F. 2d 857, 858 (9th Cir. 1982) (App. 1), it couldn't possibly relate to constitutional violations. This case dealt with the appellant, a federal inmate who filed a one-page brief requesting to reduce his sentence after United States was granted summary adjudication. Appellant Hooton's "insubs-tantiality of the appeal appears from the face of appellant's brief" *Id.* 2.

Ninth Circuit erred. Impliedly treating innocent petitioners' as federal inmates to seek less punishment contravenes 18 *U. S. Code* § 3771 (a) (8) [the right to be treated with fairness and with respect for the victim's dignity and privacy]. Petitioners have the statutory and substantive rights for remedy. Inmate Hooton has no such right. Ninth Circuit mixes apples with oranges.

Other cases on "insubstantiality" would disapprove Ninth Circuit panel:

(1) Court ruled in *Steel Co. v. Citizens for Better Environment* 523 U.S. 83 (1998) [only when the claim is "so insubstantial, implausible, foreclosed by prior decisions of this Court, or otherwise completely devoid of merit as not to involve a federal contro-

versy."]

First and foremost, district court didn't decide the issue of discharge injunction which is presumably to an issue before bankruptcy court. Its order striking the motion on "more detailed order" is not supported by fact (App. 5). Petitioners submit all orders of district court (App. 6-24; 35-37). None of them decided discharge injunction. Ninth Circuit didn't decide it in 15-55708 (App. 25-28). In that appeal, petitioners argued to Ninth Circuit why trustee's second complaint is not barred by discharge injunction (15-55708, OB, p. 29). Ninth Circuit didn't state and decide.

Ninth Circuit didn't foreclose the issue in 16-60038 (App. 31-32). To the contrary, that order deems WF violated and subjects to be sanctioned in this ongoing lawsuit. How could Ninth Circuit panel suddenly turn around and state that the violation is "so insubstantial?"

(2) *Bell v. Hood* 327 U.S. 678 (1946) [Respondents' contention does not show that petitioners' cause is insubstantial or frivolous.....the issue of law is whether damages...have been suffered as a result of federal officers violating the Fourth and Fifth Amendments].

This case is on the point to reverse the Order: respondents didn't contend that petitioners' remedy is insubstantial or frivolous. The issue of law is damages has been suffered as a result of federal officers violating the Fourth Amendment and WF violated the Fifth Amendment.

(3) Second Circuit ruled and determined "insubstantiality" in *Kalson v. Paterson* 542 F.3d 281, 287 (2d Cir. 2008) [Supreme Court..."insubstantial" claim as one "obviously without merit or clearly concluded by this Court's previous decisions."*McLucas* 421 U.S. at 28.]

(4) Court ruled in *Goosby v. Osser,* 409 U.S. 512 (1973) ["Constitutional insubstantiality" for this purpose has been equated with such concepts as "essentially fictitious," *Bailey v. Patterson,* 369 U.S. at 369 U.S. 33; "wholly insubstantial," *ibid.;* "obviously frivolous," *Hannis Distilling Co. v. Baltimore,* 216 U.S. 285, 216 U.S. 288(1910); and "obviously without merit," *Ex parte Poresky,* 290 U.S. 30, 290 U.S. (1933). The limiting words "wholly" and "obviously" have cogent legal significance].

Petitioners' motion is supported by facts and the laws. They specifically pertain to claims under discharge injunction, civil rights encompassing actual damages and punitive damages. The factual merit of the motion is construction order that Ninth Circuit issued. District court's "have no merit" (App. 5 ¶ 2) itself is meritless.

In open brief, petitioners stated claims under constitutional violations. They are not insubstantial."

VI. "Judicial Estoppel" should be Applied to the Order

Ninth Circuit construction order and the Order is not only inconsistent. They are contradictory. They served the purpose to bar petitioners to seek remedy under discharge injunction as a sanction in this lawsuit.

Petitioners respectfully pray that Court applies "judicial estoppel" to disapprove the Order.

Court laid down scenario where "judicial estoppel" could be applied in *New Hampshire v. Maine,* 532 U.S. 742, 750-51. Court ruled that:

> ""In enumerating these factors, we do not establish inflexible prerequisites or an exhaustive formula for determining the applicability of judicial estoppel. Additional considerations may inform the doctrine's application in specific factual contexts."

Court didn't rule in this case that "judicial estoppel" does not apply to a court. This case does not require that petitioners exhaust certain proceedings before requesting the application of this doctrine.

Ninth Circuit committed the same type of error that it corrected in *Russell v. Rolfs,* 893 F.2d 1033, 1037 (9th Cir. 1990) when it stated:

> "In Russell the state of Washington opposed a prisoner's federal habeas corpus petition by arguing that the prisoner had "adequate and available" remedies in state court, which the Ninth Circuit held was "tantamount to

> advising the federal district court that [the prisoner] would be given a hearing in state court. Once in state court, the state disregarded its previous representation in in federal court and argued that petition was procedurally barred because Russell had raised the same issues on direct appeal."

Petitioners' case has so striking similarity with *Russell, supra* with regard to contradictory orders.

On its face, construction order is tantamount to "you cannot appeal from an order denying contempt sanction in an ongoing lawsuit." Its implication is: "you'd better move district court to enforce discharge injunction in this civil right lawsuit." Petitioners were led to believe such remedy is available and raised the issue in open brief: District court should enforce 11 *U. S. Code* § 524 (a) (2) under construction order. (OB, p. 1).

If Court reviews *Russell, supra* and petitioners' case, they have striking similarity: Ninth Circuit told Sui that remedy for discharge injunction violation is available and adequate in this lawsuit. In the Order, Ninth Circuit told petitioners that motion is procedurally barred because this lawsuit is closed and district court didn't grant the re-opening. Based on such, the motion is "so insubstantial" that it didn't need further argument.

These two orders are not only inconsistent. They contradict each other. Their vagueness intended to deny any remedy on one hand. On the other hand, they defeat each other if they imputed with any meaning in the context of the case. "Reopening" is considered to be an "insubstantial" issue on equity, as it is now, appeal should proceed and further arguments are required.

Under the specific set of facts, "judicial estoppels" could be prayed to this Court to disapprove the Order.

To begin with, petitioners disagree with Ninth Circuit for its holding that "judicial estoppels" does not apply to a court in *United States v. John Doe* WL 4191523 (9th Cir. 2016) *citing New Hampshire* in an amended order.

To the contrary, holdings in this case warrant the application:

(A) "But this is not a case where estoppel would compromise a governmental interest in enforcing the law."

This holding states to the effect that "judicial estoppels" should not be applied to inconsistent rulings if the application would compromise enforcing the law. In other words, if enforcement of the law is interest of government, "judicial estoppels" should be applied.

Petitioners tried to enforce the discharge injunction on respondents. Judicial estoppels should be applied to bar any order that hinders, delays or interferes with the enforcement.

(B) "Nor is this a case where the shift in the government's position is "the result of a change in public policy," *United States* v. *Owens,* 54 F. 3d 271, 75 (CA6 1995)."

This holding states to the effect that "judicial estoppel" should not be applied to inconsistent rulings if government had to change its prior ruling as a result of change in public policy.

Public policy secures citizens to their house and requires court to enjoin unlawful acts, redress the unlawful taking of the house. This policy has not changed. To achieve that end, "judicial estoppels" should be applied to disapprove the Order that hinders, bars and interfere with the redress.

(C) "*Montana* v. *United States,* 440 U. S. 147, 159 (1979) ("changes in facts essential to a judgment will render collateral estoppel inapplicable in a subsequent action raising the same issues"). Instead, it is a case between two States, in which each owes the other a full measure of respect. What has changed between 1976 and today is New Hampshire's interpretation."

This holding states to the effect that collateral estoppels should not be applied if essential facts changed in a subsequent lawsuit raising the same issue.

Petitioners raised the same facts from the prior appeals to district court under the direction of construction order. Petitioners raised the same facts before bankruptcy judges to district court. Facts didn't change. What changed is the interpretation of Ninth Circuit panel on discharge injunction violation and the remedy available.

District court issued orders that are judicially estopped. District court neglected the fact that WF collected discharged debt in its order denying petitioners' leave to amend. It used "trustee" when WF was not a "trustee defendant. It made judicially estopped rulings in this lawsuit.

On one hand, district court deemed the FAC being "duplicative" to the second lawsuit (Petition 17-851, App. 88). The denial is tantamount to stating that "you have adequate remedy through the second. Your FAC is therefore duplicative." On the other hand, district court didn't intend the second to proceed by placing the second in "inactive status" (Petition 17-851, App. 94).

While it is true that "judicial estoppels" usually applies to a party, when "ongoing litigation" and "insubstantial" was not raised by any respondent, but by Ninth Circuit *sua sponte,* could this doctrine be applied as an exception to estop the Order. Such application serves the same goal to protect the integrity of judicial process. If the Order is above "judicial estoppels," integrity of judicial process could not be protected when a court "deliberately changes positions according to the exigencies of the moment" *New Hampshire, Id.* at 749-50.

Although Court didn't rule that court order could be estopped, the whole holding would tilt to the application when facts, public policy has not changed. When enforcing the law is the goal, application is justified.

Petitioners understand that Court may not be persuaded to apply the doctrine because construction order didn't specify which lawsuit is that "ongoing litigation" and Order didn't specify what question is "so insubstantial." Maybe, a government amicus curia brief could assist a decision on merit.

Petitioners had an uphill task before Court. When construction order was presented in 16-1522, Court might think: "petitioners may have opportunity to seek sanction in an ongoing lawsuit if they draft their paper well to convince the district court. We don't have to intervene." Construction achieved its goal of defeating Sui's appeal first. Then, Order took away such opportunity with "insubstantial" ruling and left with no remedy.

Authorities show that "judicial estoppel" is called "equitable estoppel." "Judicial estoppel" could be applied to achieve the equity." "A district court may not "do inequity in the name of equity"*27A AM. JUR. 2D EQUITY* § 84 (2012). An alternative term makes sense that district court must treated peti-tioners in the same way that it treated trustee. Its ultimate goal is to achieve equity. Bankruptcy proceedings are based on equity. Petitioners equitable relief after district court entertaining post-dismissal contempton equitable basis.

VIII. CONCLUSION

For the fore-going reasons, petitioners respectfully pray this Court to vacate or reverse the Order for the sake of justice.

DATED: May 10, 2018	Respectfully submitted
By: / s / Yan Sui	By: / s / Pei-yu Yang
YAN SUI	PEI-YU YANG
Petitioner in pro se	Petitioner in pro se