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JIFENG LI ([redacted])

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JIFENG LI,
Petitioner-Plaintiff,
vs.

MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, in his official capacity;

DAVID J. VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement, in his official capacity;

PATRICK DIVVER, San Diego Field Office Director, U.S. Immigration and Customs Enforcement, in his official capacity;

CHRISTOPHER J. LaROSE, Senior Warden, Otay Mesa Detention Center, in his official capacity;

TODD BLANCHE, Acting Attorney General of the United States, in his official capacity,

Respondents-Defendants.

Case No.: **'26CV4705 DMS VET**

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241; 8 U.S.C. § 1226(a); FIFTH AMENDMENT; APA 5 U.S.C. § 706; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Petitioner Detained At:
Otay Mesa Detention Center
7488 Calzada de la Fuente, San Diego, CA 92154
(San Diego County)

[redacted]

I. INTRODUCTION

1. Petitioner Jifeng Li is a 30-year-old citizen of China who holds a Master's degree from Fordham University and has worked lawfully in the United States as a software developer since 2022. On July 28, 2026, Petitioner flew from New York to San Diego, California to sit for a scheduled aptitude test with the Electrical Training Institute of San Diego and Imperial Counties, the next step toward an apprenticeship as an Inside Wireman, a deliberate, lawful career change she had been pursuing for months, including attendance at intake and orientation sessions for tradeswomen in New York. (Exhibit 1) Immigration and Customs Enforcement ("ICE") officers arrested her the moment she landed at San Diego International Airport. She never made it to her test.

2. Petitioner has a timely, pending application for asylum and withholding of removal, and for protection under the Convention Against Torture, based on [redacted] She has no criminal history. She was admitted to the United States as an F-1 nonimmigrant student and is charged only with an overstay of that status under INA § 237(a)(1)(B), 8 U.S.C. § 1227(a)(1)(B), a ground that places her detention squarely within the discretionary bond framework of 8 U.S.C. § 1226(a), not the mandatory or arriving-alien detention provisions of 8 U.S.C. §§ 1226(c) or 1225(b).

3. Thirteen days into her detention at the Otay Mesa Detention Center, Petitioner has received no bond hearing, no individualized custody determination, and no disclosed assessment of flight risk or danger despite presenting neither. On August 10, 2026, Petitioner's counsel filed an Emergency Motion to Expedite Custody Redetermination (Bond) Hearing with the Otay Mesa Immigration Court, but that motion remains pending, unopposed, and without any scheduled hearing date. Respondents' own counsel has separately notified the Immigration Court that Petitioner is a member of the class certified in *Franco-Gonzalez v. Holder*, No. CV 10-2211 DMG (DTBx) (C.D. Cal.), entitled to enhanced procedural protections, but has tied any accelerated review of that status to a 180-day detention threshold Petitioner has not approached. Meanwhile, Petitioner's own custodial medical records created by the detention facility itself within 48 hours of her arrest document that she reported active suicidal ideation, was assessed as an emergency mental-health priority, and was referred for urgent psychiatric evaluation. Continued detention without any hearing, for a person in Petitioner's documented psychological state, cannot be reconciled with the Fifth Amendment's guarantee of due process.

4. Petitioner respectfully requests that this Court issue a writ of habeas corpus directing her immediate release or, in the alternative, a prompt individualized bond hearing before a neutral decision-maker consistent with 8 U.S.C. § 1226(a); declare that her continued detention without any hearing violates 8 U.S.C. § 1226(a), the Fifth Amendment, and the Administrative Procedure Act; and grant emergency injunctive relief preserving her access to counsel, her presence within this Court's jurisdiction, and immediate attention to the psychiatric emergency documented in her own custodial records.

II. JURISDICTION

5. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241(c)(3), which authorizes habeas relief for any person held "in custody in violation of the Constitution or laws or treaties of the United States," and under 28 U.S.C. § 1331. The Suspension Clause, U.S. Const. art. I, § 9, cl. 2, guarantees Petitioner's right to seek habeas review of the fact and duration of her physical confinement. *Boumediene v. Bush*, 553 U.S. 723, 745 (2008); *Hamdi v. Rumsfeld*, 542 U.S. 507, 525–26 (2004) (habeas review available to any person detained in the United States).

6. Petitioner does not seek review of the merits of her removability or of her pending asylum application; she challenges only the legality of her continued civil detention without any bond hearing and the process or absence of process by which Respondents have continued to hold her. These are claims collateral to, and independent of, the merits of her removal proceedings, and are squarely reviewable on habeas notwithstanding the pendency of those proceedings. *INS v. St. Cyr*, 533 U.S. 289, 300 (2001); *Martinez v. Clark*, 124 F.4th 775, 779–85 (9th Cir. 2024) (8 U.S.C. § 1226(e) does not bar habeas review of constitutional claims or questions of law concerning the fact of detention); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011); *Jennings v. Rodriguez*, 583 U.S. 281, 296–300 (2018).

III. VENUE AND CUSTODY

7. This Court has jurisdiction over Petitioner's immediate custodian because Petitioner is physically confined at the Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, California 92154, within this District. 28 U.S.C. § 2241(a); *Rumsfeld v. Padilla*, 542 U.S. 426, 442–43 (2004) (habeas petition must be filed in the district of confinement, against the immediate custodian).

8. Venue is proper in this Court under 28 U.S.C. § 1391(e), a venue provision distinct from, and not itself a source of, this Court's custodial jurisdiction, which arises instead under 28 U.S.C. § 2241(a) and *Rumsfeld v. Padilla*.

IV. REQUIREMENTS OF 28 U.S.C. §§ 2241 AND 2243

9. Section 2243 requires that the writ be granted "forthwith" and contemplates a return within three days, subject to extension by the Court for good cause. 28 U.S.C. § 2243. The Great Writ demands a remedy appropriate to the emergency nature of physical confinement. *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Boumediene*, 553 U.S. at 745.

V. PARTIES

10. Petitioner Jifeng Li ([redacted]) is a native and citizen of the People's Republic of China, born [redacted], in Hulunbuir City, Inner Mongolia. She was lawfully admitted to the United States at New York on January 11, 2020, as an F-1 nonimmigrant student and holds a Master's degree from Fordham University. She has no criminal history. She is currently detained at the Otay Mesa Detention Center in San Diego, California.

11. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security and is sued in his official capacity. He is responsible for the administration and enforcement of the immigration laws, including the detention of noncitizens such as Petitioner.

12. Respondent David J. Venturella is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity.

13. Respondent Patrick Divver is the San Diego Field Office Director of ICE and is sued in his official capacity. He has direct supervisory authority over the ICE officers who arrested Petitioner on July 28, 2026 and who continue to hold her in custody.

14. Respondent Christopher J. LaRose is the Senior Warden of the Otay Mesa Detention Center and is Petitioner's immediate custodian, sued in his official capacity.

15. Respondent Todd Blanche is the Acting Attorney General of the United States and is sued in his official capacity.

VI. LEGAL FRAMEWORK

A. Petitioner Is Detained Under 8 U.S.C. § 1226(a), Not the Arriving-Alien or Mandatory-Detention Provisions of the INA.

16. Petitioner's Notice to Appear charges her only with remaining in the United States beyond her authorized period of admission as an F-1 nonimmigrant student, INA § 237(a)(1)(B),

8 U.S.C. § 1227(a)(1)(B). The Notice to Appear itself reflects that she "has been admitted to the United States"; she is not an arriving alien within the meaning of 8 U.S.C. § 1225(b), and she has no criminal conviction that would subject her to mandatory detention under 8 U.S.C. § 1226(c). Her detention is therefore governed exclusively by 8 U.S.C. § 1226(a), under which the Attorney General "may release the alien on bond . . . or conditional parole," and a detainee is ordinarily entitled to seek a custody redetermination before an Immigration Judge under 8 C.F.R. § 1003.19. *Prieto-Romero v. Clark*, 534 F.3d 1053, 1058–59 (9th Cir. 2008) (describing § 1226(a) bond-hearing framework).

17. For this reason, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), has no bearing on this case in any event. That decision holds that Immigration Judges lack bond jurisdiction over noncitizens who are present in the United States without having been admitted, that is, applicants for admission under 8 U.S.C. § 1225(b)(2)(A) regardless of how long they resided in the United States before apprehension. Petitioner is not such a person: she was lawfully admitted to the United States as an F-1 student and is charged solely with an overstay under § 1227(a)(1)(B). Nothing in the record reflects that Respondents have invoked *Yajure Hurtado* against her, and Petitioner raises this only to forestall any suggestion that it might apply.

B. Due Process Requires an Individualized Custody Determination, and No Hearing of Any Kind Has Occurred.

18. The Fifth Amendment's Due Process Clause applies to all persons within the United States, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Reno v. Flores*, 507 U.S. 292, 306 (1993). Freedom from bodily restraint is central to the liberty the Due Process Clause protects. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Addington v. Texas*, 441 U.S. 418, 425 (1979) (civil confinement is a significant deprivation of liberty requiring due process). Applying *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), Petitioner's private liberty interest is substantial and is heightened by the acute psychiatric crisis documented in her own custodial intake records, described in Part VIII.E below; the risk of an erroneous deprivation is high where, as here, Respondents have provided no individualized hearing of any kind in the thirteen days of her detention, notwithstanding Petitioner's now-pending Emergency Motion to Expedite Custody Redetermination (Bond) Hearing before the Otay Mesa Immigration Court; and the government's interest in categorically withholding a bond hearing from a nonviolent nonimmigrant with no criminal history is minimal.

19. Petitioner has now been detained for thirteen days as of the filing of this Petition. Petitioner does not presently press a claim under *Zadvydas v. Davis*'s six-month presumptively reasonable period, which in any event addresses post-removal-order detention under 8 U.S.C. § 1231(a)(6) rather than the pre-order, pending-proceedings detention at issue here. Petitioner's claim is narrower and more immediate: due process is violated by the total absence of any bond hearing or individualized custody determination for a § 1226(a) detainee, particularly one in documented psychiatric crisis, regardless of whether six months have elapsed.

C. Petitioner's Franco-Gonzalez Class Membership and Documented Psychiatric Crisis Require Prompt Attention Independent of Any 180-Day Threshold.

20. On July 31, 2026, Respondents' counsel filed a Notice of *Franco-Gonzalez* Class Membership in Petitioner's bond proceedings, acknowledging that Petitioner, if unrepresented is a member of the class certified in *Franco-Gonzalez v. Holder*, No. CV 10-2211 DMG (DTBx) (C.D. Cal. 2011, 2014), and is entitled to procedural protections under that Court's injunction. Respondents' notice states that, for class members detained 180 days, the Immigration Court must schedule a bond hearing complying with *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011), within fifteen days of identification. Petitioner has been detained only thirteen days; Respondents' own framework therefore does not presently provide her any avenue to a hearing at all, let alone a prompt one under that 180-day provision, independent of the Emergency Motion to Expedite described below.

21. The premise of the *Franco-Gonzalez* class that certain detained noncitizens require heightened procedural safeguards because of mental incompetency or serious mental illness is not an abstraction for Petitioner. Within forty-eight hours of her arrest, Otay Mesa's own medical staff documented that Petitioner reported active suicidal ideation, including a specific plan, and rated her as an emergency ("EMERGENT") mental-health priority requiring immediate referral. (Exhibit 2) A detainee in that documented condition, who has been identified by Respondents themselves as a *Franco-Gonzalez* class member, cannot lawfully be left for months without any hearing simply because 180 days have not yet elapsed. Even where the Ninth Circuit has not mandated a specific timeline for every class member's initial review, district courts retain authority through habeas review to impose the constitutionally required procedural safeguards that the emergency circumstances here demand.

VII. EXHAUSTION

22. No adequate administrative remedy is presently available to Petitioner on a timeline that accounts for the emergency circumstances described above. On August 10, 2026, Petitioner's counsel filed an Emergency Motion to Expedite Custody Redetermination (Bond) Hearing with the Otay Mesa Immigration Court, requesting that Immigration Judge Robinson calendar a prompt bond hearing under the ordinary preponderance-of-the-evidence standard of Matter of Guerra, 24 I&N Dec. 37 (BIA 2006), and consistent with the Executive Office for Immigration Review's directive that bond-hearing requests be scheduled "for the earliest possible date." EOIR Policy Manual, Pt. II, ch. 8.3(d). That motion remains pending, with no ruling or hearing date yet set, and its filing does not divest this Court of habeas jurisdiction: the Immigration Court's calendar is discretionary and non-self-executing, and nothing guarantees resolution before the risk of serious harm documented in Petitioner's own medical records materializes. Respondents' own *Franco-Gonzalez* framework confirms that no accelerated administrative review is presently available to her at all. Awaiting the uncertain outcome of the ordinary administrative process, without any interim safeguard, would risk irreparable harm and renders that process an inadequate remedy for the emergency now presented, independent of whether it is also characterized as futile. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (recognizing exceptions to exhaustion for inadequacy of the administrative remedy, futility, and irreparable injury); to the extent exhaustion is required at all on these facts, it is in any event excused. *McCarthy v. Madigan*, 503 U.S. 140, 147–48 (1992); *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004); *Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 881 (9th Cir. 2003).

VIII. STATEMENT OF FACTS

A. Background, Education, and Employment.

23. Petitioner Jifeng Li was born [redacted] in Hulunbuir City, Inner Mongolia, China. She first entered the United States as an F-1 nonimmigrant student on September 13, 2019, and was last admitted at New York on January 11, 2020, again as an F-1 student. She earned a Master's degree from Fordham University in New York, completed in December 2022, and has since worked as a software developer, most recently as a full-stack developer for MarLabs LLC in Piscataway, New Jersey from April 2023 through the date of her arrest. She is single, has no children, and has no criminal history of any kind.

B. Petitioner's Pending Asylum Application.

[redacted] a changed circumstance arising more than a year after her 2019 entry, materially affects her eligibility for asylum and excuses the one-year filing deadline. Her application describes her well-founded fear that [redacted]. That application remains pending before the Immigration Court.

C. The July 28, 2026 Arrest at San Diego International Airport.

25. In the months before her arrest, Petitioner had been actively pursuing a career change into the electrical trades. She attended an "Intro to NEW" orientation session through Nontraditional Employment for Women in New York as part of that process, and, on July 9, 2026, she was notified that she had met the minimum requirements for the Inside Wireman apprenticeship program administered by the Electrical Training Institute of San Diego and Imperial Counties, with an aptitude test appointment scheduled for July 30, 2026 at 8:30 a.m. at the Institute's San Diego office.

26. On July 28, 2026, Petitioner flew from New York to San Diego for that appointment. She was arrested by ICE officers immediately upon landing at San Diego International Airport. She never attended the July 30 aptitude test. Petitioner used her own identity, traveled openly on a commercial flight through federal security screening, and made no attempt to evade immigration authorities; her arrest occurred solely because she came to the attention of ICE while traveling for a lawful, unrelated purpose.

D. Notice to Appear, Removal Proceedings, and the Absence of Any Bond Hearing.

27. Petitioner was served with a Notice to Appear dated July 29, 2026, charging her with removability under INA § 237(a)(1)(B), 8 U.S.C. § 1227(a)(1)(B), for remaining in the United States after her F-1 status expired on April 2, 2025. The Notice to Appear reflects that Petitioner has been admitted to the United States; she is not charged as an arriving alien. Removal

proceedings were calendared before Immigration Judge Eugene H. Robinson, Jr. at the Otay Mesa Immigration Court.

28. On July 31, 2026, Respondents' counsel filed a Notice of *Franco-Gonzalez* Class Membership in a separate bond-proceedings docket before Immigration Judge Robinson, acknowledging Petitioner's class membership but tying any accelerated bond-hearing right to 180 days of detention. As of the filing of this Petition, Petitioner has not received, and has no scheduled date for, any bond hearing or individualized custody determination of any kind. On August 10, 2026, Petitioner's counsel filed an Emergency Motion to Expedite Custody Redetermination (Bond) Hearing with the Otay Mesa Immigration Court, invoking the ordinary 8 U.S.C. § 1226(a) bond framework rather than the 180-day Franco-Gonzalez Sub-Class Two provision; that motion remains pending, with no hearing date set.

E. Petitioner's Documented Psychiatric Crisis in Custody.

29. Otay Mesa Detention Center conducted an initial intake health screening of Petitioner on July 30, 2026. In that screening, Petitioner reported that she was currently thinking about harming or killing herself, describing a specific plan; the screening record documents this response as an "EMERGENT" priority requiring immediate referral. The same and related intake records reflect a prior history of suicidal ideation, observations of abnormal, sad, and hopeless affect, and a Priority Level 1 ("urgent, time-sensitive medical needs") disposition requiring immediate referral for mental-health evaluation. These are Respondents' own custodial records, created within forty-eight hours of Petitioner's arrest and detention.

IX. CLAIMS FOR RELIEF

COUNT I

Unlawful Detention Without a Bond Hearing Under 8 U.S.C. § 1226(a) (28 U.S.C. § 2241; 8 U.S.C. § 1226(a))

30. Petitioner incorporates by reference all preceding paragraphs.

31. Petitioner is detained under the discretionary bond framework of 8 U.S.C. § 1226(a), which authorizes detention subject to a detainee's ability to obtain a custody redetermination hearing before an Immigration Judge upon request, 8 C.F.R. §§ 1003.19(a), 1236.1(d)(1), not the mandatory-detention or arriving-alien provisions of the INA. Petitioner has now invoked that process, filing an Emergency Motion to Expedite Custody Redetermination (Bond) Hearing with the Otay Mesa Immigration Court on August 10, 2026. Under the ordinary preponderance-of-the-evidence standard she would bear at that hearing, *Matter of Guerra*, 24 I&N Dec. 37, 40

(BIA 2006), Petitioner presents no flight risk and no danger to the community: she has no criminal history, voluntarily traveled through federal security screening under her own identity, has a fixed address, and has a timely, pending application for asylum. Respondents' continued detention of Petitioner for thirteen days, with no individualized custody determination of any kind and no disclosed timeline for acting on her now-pending request, is not consistent with the procedural framework 8 U.S.C. § 1226(a) contemplates, particularly in light of the acute psychiatric emergency documented in Respondents' own custodial records. *Prieto-Romero v. Clark*, 534 F.3d 1053, 1058–59 (9th Cir. 2008).

COUNT II
Fifth Amendment Due Process — Total Absence of Any Bond Hearing
(U.S. Const. amend. V)

32. Petitioner incorporates by reference all preceding paragraphs.

33. Due process requires, at minimum, an individualized custody determination before a neutral decision-maker, particularly where, as here, Petitioner has a substantial liberty interest, no criminal history, a documented psychiatric emergency, and a timely pending asylum claim, and the government has disclosed no justification whatsoever for her continued detention. The total absence of any bond hearing thirteen days into Petitioner's detention violates the Fifth Amendment irrespective of whether any prolonged-detention threshold has been reached, and is not cured by the mere filing of a motion whose disposition and timing remain entirely within the Immigration Court's discretion. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690–92 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

COUNT III
Habeas Corpus — No Adequate Alternative Remedy
(28 U.S.C. § 2241)

34. Petitioner incorporates by reference all preceding paragraphs.

35. Although a Notice to Appear has been filed and removal proceedings are pending, and although Petitioner's counsel has now filed an Emergency Motion to Expedite Custody Redetermination (Bond) Hearing with the Otay Mesa Immigration Court, no bond hearing has been scheduled or held, that motion remains pending with no assured ruling or hearing date, and Respondents' own *Franco-Gonzalez* framework confirms that no accelerated administrative review is available to Petitioner absent 180 days of detention which is a threshold she has not approached. The ordinary administrative process, addressed to the Immigration Court's regular calendar, cannot adequately or promptly address the acute psychiatric emergency documented in

Petitioner's own custodial records. Nor does the pendency of Petitioner's Emergency Motion to Expedite supply an adequate alternative remedy: whether and when to grant that motion lies within the Immigration Court's discretion, and no rule requires a ruling, let alone a hearing, within any fixed period. Habeas corpus is the only presently available avenue for immediate review of the fact of Petitioner's unreviewed detention. *Boumediene v. Bush*, 553 U.S. 723, 745 (2008); *Fay v. Noia*, 372 U.S. 391, 400 (1963).

COUNT IV

Denial of Required Competency Safeguards for a Detainee with Documented Indicia of Incompetency

(Fifth Amendment; APA 5 U.S.C. § 706)

36. Petitioner incorporates by reference all preceding paragraphs.

37. Where the record contains indicia that a respondent in removal proceedings may be incompetent to represent her own interests, due process and the framework set out in *Matter of M-A-M-*, 25 I&N Dec. 474, 479–84 (BIA 2011), require further inquiry and, if warranted, appropriate safeguards. *Calderon-Rodriguez v. Sessions*, 878 F.3d 1179, 1182 (9th Cir. 2018) (applying the *M-A-M-* framework). Respondents' own Notice of *Franco-Gonzalez* Class Membership, filed July 31, 2026, and Respondents' own custodial medical records documenting Petitioner's active suicidal ideation, EMERGENT mental-health classification, and referral for urgent psychiatric evaluation within forty-eight hours of her arrest, together constitute indicia of incompetency sufficient to trigger that obligation. Respondents have disclosed no inquiry, competency evaluation, or safeguard of any kind in response to this record. Respondents' position that no inquiry or safeguard is required until Petitioner has accumulated 180 days of detention under the distinct *Franco-Gonzalez* Sub-Class Two bond provision is arbitrary and capricious and contrary to the purpose of the *M-A-M-* framework and the *Franco-Gonzalez* injunction, and independently violates due process.

X. PRAYER FOR RELIEF

1. Assume jurisdiction over this Petition;

2. Order Respondents to show cause why the writ should not be granted, and to file a return within three (3) days, or within such additional time as the Court permits for good cause, as provided by 28 U.S.C. § 2243;

3. Issue a writ of habeas corpus directing Petitioner's immediate release from custody;

4. In the alternative, order Respondents to provide Petitioner a prompt, individualized custody hearing before a neutral decision-maker within seven (7) days, consistent with 8 U.S.C. § 1226(a) and the ordinary preponderance-of-the-evidence standard of Matter of Guerra, 24 I&N Dec. 37 (BIA 2006), and Rodriguez Diaz v. Garland, 53 F.4th 1189, 1197 (9th Cir. 2022);

5. Declare that Petitioner's continued detention without any bond hearing or individualized custody determination violates 8 U.S.C. § 1226(a), the Fifth Amendment, and 5 U.S.C. § 706(2)(A);

6. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court, so as to preserve this Court's jurisdiction over Petitioner's immediate custodian and her access to counsel;

7. Order Respondents to provide Petitioner immediate and confidential access to counsel;

8. Award Petitioner reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, should she be a prevailing party;

9. Grant such other and further relief as this Court deems just and proper.

Dated: August 10, 2026

Respectfully submitted,

TEZ LAW FIRM, A Professional Corporation

By: JJ Zhang
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JJ Zhang, Esq. (SBN 326666)

Attorney for Petitioner-Plaintiff Jifeng Li