

**STATE OF NEW YORK SUPREME COURT
COUNTY OF WESTCHESTER**

In the Matter of the Application of
MONICA ZHU & YONGMIN ZHU

Index No.:

for an Order Directing the Retrieval of
Genetic Material

PETITION

STATE OF NEW YORK)
) SS.:
COUNTY OF WESTCHESTER)

Petitioners, **MONICA ZHU** and **YONGMIN ZHU**, respectfully allege as follows:

1. Petitioner, **MONICA ZHU**, resides at 5267 Crystal Ranch Drive, Concord, California 94521.
2. Petitioner, **YONGMIN ZHU**, resides at 5267 Crystal Ranch Drive, Concord, California 94521.
3. We are the biological parents of **PETER ZHU** (D.O.B.: 06/20/1997).
4. Our son Peter was a cadet at West Point Military Academy in West Point, New York.
5. Last Saturday, February 23, 2019, Peter went skiing at the West Point ski slope. While skiing, Peter was involved in a very bad accident. Peter was found unconscious and not breathing. Rescuers performed CPR on Peter for approximately 15 minutes until they were able to detect a heartbeat.
6. Peter was taken to the West Point Army Hospital for examination and was then air-lifted to Westchester Medical Center to receive emergency medical treatment.
7. Unfortunately, Peter had suffered significant fractures to his spinal cord, which cut off the flow of oxygen to his brain. As a result, Peter stopped breathing and was declared brain dead on Wednesday afternoon, February 27, 2019.
8. That afternoon, our entire world collapsed around us. We cannot even begin to put into words the pain we felt, and continue to feel, seeing our son lying lifeless in his hospital bed.

9. Peter was only 21 years old, and had an incredible, bright future ahead of him. Peter was the kindest, most loving and caring young man that you could ever meet.
10. Before Peter's accident, he decided that he wanted to become an organ donor, so if anything ever happened to him, his organs and other bodily tissue could be used to help those in need. **Please see EXHIBIT A.**
11. Peter is currently being kept alive at Westchester Medical Center via life support because of his desire to donate his organs.
12. Upon information and belief, Peter is scheduled for an organ donation removal procedure **today** (March 1, 2019) at 3:00PM.
13. In addition to retrieving Peter's organs to donate to others in need, we are seeking to retrieve sperm from Peter's body in order to preserve Peter's reproductive genetic material.
14. In order to do this, **the sperm retrieval proceeding must take place before the organ removal surgery, which is scheduled to occur at 3:00PM today.**
15. It is extremely important that a sperm retrieval take place, for the following reasons:
 - a. When Peter was alive, he often told us how he wanted children of his own one day, and that he wanted to give us grandchildren.
 - b. Peter told us that he wanted to have five children, and that his dream was to live on a ranch with his family and raise horses. We often joked that it would be expensive to raise five children, but Peter was adamant that he wanted a large family.
 - c. There was never any question or doubt that Peter intended to become a father.
 - d. Tragically, Peter's life was cut short before he was able to realize this lifelong dream.
 - e. Without obtaining sperm from Peter's body, we will never be able to help Peter realize this dream of bringing a child into the world. This is our one and only chance of fulfilling Peter's wishes and preserving his incredible legacy.
 - f. We are absolutely devastated by the loss of our son, and the pain of watching your child's life fade away before your eyes is something that no parent should ever have to experience.
 - g. Peter was the love of our lives. He has brought us more joy, pride and happiness than words can say.

- h. Peter's death was a horrific, tragic and sudden nightmare that neither of us could have prepared for.
 - i. We are desperate to have a small piece of Peter that might live on and continue to spread the joy and happiness that Peter brought to all of our lives.
 - j. It is also important to carry on Peter's legacy for deeply personal cultural reasons as well.
 - k. Our family comes from China and an extremely important part of our Chinese culture is the tradition of carrying on our family lineage.
 - l. Petitioner, Yongmin Zhu (hereinafter, "the Father") has two brothers. Due in large part to China's "one-child" policy, each of these brothers only has a single daughter.
 - m. In Chinese culture, only a son can carry on his family's name. Peter is the only male child in the Zhu family.
 - n. When Peter was born, his grandfather cried tears of joy that a son was born to carry on our family's name. Peter took this role very seriously, and fully intended to carry on our family's lineage through children of his own.
 - o. Without obtaining genetic material from Peter's body, it will be impossible to carry on our family's lineage, and our family name will die.
 - p. More importantly, we will be left without any piece of Peter. This is not what Peter wanted.
16. Upon information and belief, Petitioner, Monica Zhu (hereinafter, "the Mother"), is Peter's health care proxy, designated to make healthcare decisions on Peter's behalf. However, a copy of this health care proxy cannot be located at this time.
17. As such, we requested that a sperm retrieval procedure be conducted in addition to the other procedures Peter will be undergoing to remove his other organs.
18. We consulted with medical professionals at Westchester Medical Center, who have all been extremely kind and understanding of our situation. However, because the hospital has never conducted a procedure like this before under these circumstances, the doctors are hesitant to conduct the procedure without a Court Order authorizing them to do so.
19. Peter is scheduled for an organ donation surgery **today** (March 1, 2019), at which time his organs will be removed in order to be donated to those in need. The medical professionals have informed us that, once the organ donation surgery is complete, they will no longer be

able to retrieve sperm from Peter's body. As such, the retrieval procedure must take place before the other surgeries this afternoon.

20. If this procedure does not occur immediately, there will be no possibility of ever retrieving genetic material from our son again.


Our Request for Temporary Relief

21. We are begging the Court to issue an Order directing Westchester Medical Center to conduct the sperm retrieval procedure immediately. Our attorney has spoken to medical and legal personnel at the hospital, who have confirmed that they have a urologist on staff who is ready and willing to conduct the procedure as soon as they have a Court Order directing them to do so.
22. On a temporary basis, we are only asking the Court to direct the hospital to conduct the sperm retrieval procedure and for the genetic material retrieved from the procedure to be held by a sperm bank, pending further Order of the Court.
23. Once the procedure has been completed, the Court can consider whether and how the genetic material may be used or disposed of. However, we need an Order immediately so that we do not miss the small window of opportunity we have to obtain this genetic material in order to preserve the possibility of carrying on Peter's lineage.
24. Compared to the surgical procedures that Peter will be undergoing later today for the removal of his organs, the sperm retrieval procedure is much less invasive.
25. It is respectfully submitted that no harm could come from this additional procedure also being conducted, as the procedure would merely be retrieving genetic material from Peter, just as each of the other surgeries will be.
26. On the other hand, if this procedure is not conducted, the chance of obtaining this material will be gone forever and we will be left with no possible recourse.
27. Our son's dying wish was to become a father and to bring children into this world. Our family has been torn apart this week by the loss of our precious son. We now beg the Court not to further devastate our family by eliminating the possibility of preserving some piece of our child that might live on.


WHEREFORE, Petitioners respectfully request that an Order be granted:

- a. Directing Westchester Medical Center to retrieve sperm from Petitioners' son, PETER ZHU, and to provide such sperm to a sperm bank or similar facility of Petitioners' choosing;
- b. Allowing Petitioners to use Peter Zhu's sperm for third party reproduction; and
- c. Granting such other and further relief as to the Court seems just and proper.

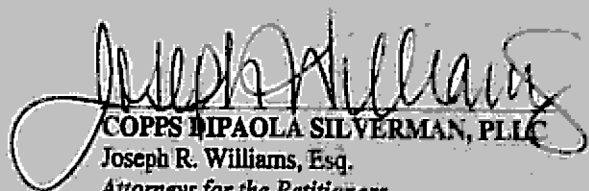
Dated: March 1, 2019



 MONICA ZHU



 YONGMIN ZHU



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 Albany, New York 12207
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VERIFICATION

Petitioner, **MONICA ZHU**, being duly sworn, deposes and says, that deponent is the Petitioner in the within action, that deponent has read the foregoing Petition and knows the contents thereof, that the same are true to deponent's own knowledge, except for the matters therein stated to be upon information and belief, and as to those matters, deponent believes them to be true.

Dated: March 1, 2019


MONICA ZHU


Duly sworn to before me this
1st day of March, 2019.


NOTARY PUBLIC

Joseph Williams
Notary Public, State of New York
No. 02W16336492
Qualified in Albany County
Commission Expires February 8, 2020

Petitioner, **YONGMIN ZHU**, being duly sworn, deposes and says, that deponent is the Petitioner in the within action, that deponent has read the foregoing Petition and knows the contents thereof, that the same are true to deponent's own knowledge, except for the matters therein stated to be upon information and belief, and as to those matters, deponent believes them to be true.

Dated: March 1, 2019


YONGMIN ZHU

Duly sworn to before me this
1st day of March, 2019.


NOTARY PUBLIC

Joseph Williams
Notary Public, State of New York
No. 02W16336492
Qualified in Albany County
Commission Expires February 8, 2020

Exhibit A

10 24 2019 10:00AM

10 JUN 2014

Donate Life California Organ & Tissue Donor Registry

Donor Registry Verification Document of Gift

(Pursuant to SB 112, Chapter 405, 2003 Statutes and SB 689, Chapter 665, 2005 Statutes)



The deceased named below has completed a California Document of Gift authorized by state law. This is an authorization from the deceased for anatomical gifts to be made upon their death, if 18 years of age or older. This person documented their legally binding consent to donate organs, eyes, and tissues for transplantation, education and/or research, unless otherwise indicated in the limitations section. A document of gift, not revoked by the donor before death, is irrevocable and does not require the consent of any other person. It also authorizes any examination necessary to ensure the medical acceptability of the anatomical gift.

Date of Birth: June 20, 1997
Name: ZHU PETER LEPING
Address: 5267 CRYSTAL RANCH DR
CONCORD, CA 94521
Country: United States

Date of Registration/Reviews: December 24, 2014
Audi: DMV Import
Driver License/ID #: F3103025
Email:

Place of Birth:

Upon my death, I wish to give: Any needed organs, eyes and tissues.

I hereby give consent to release any information and reports pertaining to the evaluation, use, and follow up of my donated organs and/or tissues to authorized personnel in order to determine the medical suitability and safety of these gifts. This information includes hospital records and post mortem examination reports.

Under the California Uniform Anatomical Gift Act, an anatomical gift not revoked by the donor before death is irrevocable and does not require consent or concurrence of any person after the donor's death. The law also authorizes any examination necessary to assure the medical acceptability of the anatomical gift.

In order to comply with my wishes, representatives from all organ and tissue procurement entities serving California are authorized to examine, remove copies of medical records, obtain blood and tissue samples to test for hepatitis, HIV, syphilis, and conduct any other examination to determine the medical suitability of the anatomical gift.

A different location may be needed to carry out the recovery of donated organs and tissues. In that case, my body may be transferred to an alternative surgical facility for the recovery of organs and tissues.

Document of Family Notification

Form with fields for Copy of Document of Gift (Received/Declined), Person Receiving Document (Print Name, Signature), Relationship to Donor, Person Explaining Document (Print Name, Signature, Date, Time), and Recorded Telephonic Explanation (Station).

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