

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Aixiang Kong v. Wing Yin Lau, Cheong Wah So, Dajin Realty, Inc., and Steven Thomas Gee

Kong · No. 24-CV-3041 (NRM) (CLP) · Decided December 5, 2025

SUMMARY

The United States District Court for the Eastern District of New York grants defendants’ motion to dismiss Aixiang Kong’s Second Amended Complaint. The court rejects claims for abuse of process, intentional infliction of emotional distress, false imprisonment, and civil conspiracy, concluding that the claims are precluded in part by res judicata and otherwise fail to state plausible claims. The complaint is dismissed with prejudice, and leave to amend is denied as futile.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of New York                                                                                                                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Nina R. Morrison                                                                                                                                                                                                                                                                                                                                                                                                      |
| JURISDICTION          | United States District Court for the Eastern District of New York                                                                                                                                                                                                                                                                                                                                                     |
| DECIDED               | December 5, 2025                                                                                                                                                                                                                                                                                                                                                                                                      |
| DOCKET                | 24-CV-3041 (NRM) (CLP)                                                                                                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Plaintiff, proceeding pro se, brought claims for abuse of process, intentional infliction of emotional distress, false imprisonment, and civil conspiracy. Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the Second Amended Complaint for failure to state a claim.                                                                                                                      |
| STANDARD OF REVIEW    | On a motion to dismiss, the court accepts well-pleaded factual allegations as true and determines whether the complaint states a claim for relief that is plausible on its face. Conclusory allegations and legal conclusions couched as factual allegations are not accepted as true. Because Plaintiff proceeded pro se, the court construed the pleadings liberally, but required them to state a plausible claim. |
| PRECEDENTIAL VALUE    | unpublished                                                                                                                                                                                                                                                                                                                                                                                                           |
|                       |                                                                                                                                                                                                                                                                                                                                                                                                                       |

## PARTIES

Aixiang Kong v. Wing Yin Lau, Cheong Wah So, Dajin Realty, Inc.,  
Steven Thomas Gee

## TOPICS

motions to dismiss   res judicata   subject matter jurisdiction   false imprisonment  
intentional infliction of emotional distress

## PRACTICE AREAS

civil procedure   landlord-tenant   torts

## QUESTIONS PRESENTED

1. Whether claims based on events that were or could have been litigated in Plaintiff's prior federal action were barred by res judicata.
2. Whether the Second Amended Complaint stated a plausible claim for abuse of process under New York law.
3. Whether the Second Amended Complaint stated a plausible claim for intentional infliction of emotional distress under New York law.
4. Whether the Second Amended Complaint stated a plausible claim for false imprisonment based on Defendants' report to the police.
5. Whether the civil-conspiracy claim could proceed absent an actionable underlying tort.
6. Whether Plaintiff should be granted further leave to amend.

## HOLDINGS

1. Claims based on events from 2013 through 2023 that were or could have been raised in Plaintiff's prior action against the same defendants were precluded by res judicata.
2. The district court could not review or invalidate the merits of the Queens Housing Court's judgments and warrants of eviction, and the court treated those judgments as valid for purposes of the motion to dismiss.
3. The Second Amended Complaint failed to state an abuse-of-process claim because the allegations did not show that Defendants used regularly issued legal process with an unjustified intent to harm or to obtain a collateral objective outside the legitimate ends of the process.
4. The Second Amended Complaint failed to state a claim for intentional infliction of emotional distress because it did not adequately allege extreme and outrageous conduct, intent to cause severe emotional distress, or causation.
5. The false-imprisonment claim failed because Defendants were not the arresting officers, the complaint did not allege that the information provided to police was actually false, and police independently acted on information concerning Plaintiff's presence at the property.

6. The civil-conspiracy claim failed because New York law permits recovery for civil conspiracy only when an underlying tort is independently actionable, and Plaintiff failed to state any of the underlying tort claims.
7. Further leave to amend was denied because amendment would be futile.

#### KEY QUOTATIONS

*“To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’”*

*“The Court is also cognizant of the fact that Plaintiff has already unsuccessfully attempted to litigate claims arising from the same core events before a different judge of this Court.”*

#### FACTUAL BACKGROUND

Kong, a disabled woman who primarily resided in Delaware, was involved in a long-running landlord-tenant dispute concerning two Flushing, New York, apartments and alleged unpaid rent. Queens Housing Court entered judgments of nonpayment and warrants of eviction involving Kong and her co-tenants. After the eviction-related events, including a police report and an encounter in which Kong and her co-tenants were detained or arrested, Kong sued the landlord, property manager, landlord's counsel, and related parties for abuse of process, intentional infliction of emotional distress, false imprisonment, and civil conspiracy. The district court relied on the housing-court judgments and warrants, which were attached to Defendants' motion, in evaluating the claims.

#### PROCEDURAL HISTORY

Plaintiff previously filed a federal action based on earlier eviction-related events, which was dismissed in 2024. She filed this action on April 23, 2024, later amended her complaint, and was granted leave to file a Second Amended Complaint after the first dismissal motion was fully briefed. Defendants moved to dismiss the Second Amended Complaint, and the court granted the motion and dismissed the complaint with prejudice, denying further leave to amend as futile.

#### DISPOSITION

dismissed

#### CASES CITED

- *Leatherman v. Tarrant County Narcotics Intelligence & Coordination Unit*, 507 U.S. 163, 164 (1993)
- *Kong v. Dajin Reality [sic], Inc.*, No. 23-CV-1536 (FB) (CLP), 2024 WL 168325 (E.D.N.Y. Jan. 16, 2024)
- *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)
- *Haines v. Kerner*, 404 U.S. 519, 520 (1972)
- *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)

- Hogan v. Fischer, 738 F.3d 509, 515 (2d Cir. 2013)
- DiFolco v. MSNBC Cable L.L.C., 622 F.3d 104, 111 (2d Cir. 2010)
- Chambers v. Time Warner, Inc., 282 F.3d 147, 153 (2d Cir. 2002)
- International Audiotext Network, Inc. v. American Telephone & Telegraph Co., 62 F.3d 69, 72 (2d Cir. 1995) (per curiam)
- Endemann v. Liberty Insurance Corp., 390 F. Supp. 3d 362, 370 (N.D.N.Y. 2019)
- Capellan v. Riley, 975 F.2d 67, 71 (2d Cir. 1992)
- Savino v. City of New York, 331 F.3d 63, 70 (2d Cir. 2003)
- Savino v. City of New York, 168 F. Supp. 2d 172, 179 (S.D.N.Y. 2001)
- Stevens & Co. LLC v. Espat, No. 24-CV-5223 (LJL), 2025 WL 950989, at \*11 (S.D.N.Y. Mar. 28, 2025)
- Board of Education of Farmingdale Union Free School District v. Farmingdale Classroom Teachers Ass'n, Inc., Local 1889 AFT AFL-CIO, 38 N.Y.2d 397, 400 (N.Y. 1975)
- Williams v. Williams, 23 N.Y.2d 592, 596 (N.Y. 1969)
- Bender v. City of New York, 78 F.3d 787, 790 (2d Cir. 1996)
- Howell v. N.Y. Post Co., 81 N.Y.2d 115, 122 (N.Y. 1993)
- Grimes v. Fremont General Corp., 933 F. Supp. 2d 584, 613 (S.D.N.Y. 2013)
- Bostic v. City of Binghamton, No. 06-CV-540 (TJM) (DEP), 2006 WL 2927145, at \*6 (N.D.N.Y. Oct. 11, 2006)
- Matthaues v. Hadjedj, 49 N.Y.S.3d 393, 394 (N.Y. App. Div. 2017)
- Brown v. Sears Roebuck and Co., 746 N.Y.S.2d 141, 148 (N.Y. App. Div. 2002)
- Fudge v. Town of Shandaken Police, No. 09-CV-300 (TJM), 2010 WL 3258385, at \*9 (N.D.N.Y. Aug. 16, 2010)
- Cagle v. Weill Cornell Med., 680 F. Supp. 3d 428, 439 (S.D.N.Y. 2023)
- Abadi v. American Airlines, Inc., No. 23-CV-4033 (LJL), 2024 WL 1346437, at \*44 (S.D.N.Y. Mar. 29, 2024)
- HC2, Inc. v. Delaney, 510 F. Supp. 3d 86, 106 (S.D.N.Y. 2020)
- Moakely v. P.O. Jane Velarde, No. 99-CV-8959 (GBD), 2002 WL 287848, at \*3 (S.D.N.Y. Feb. 27, 2002)
- King v. Crossland Savings Bank, 111 F.3d 251, 257 (2d Cir. 1997)
- LaPorte v. Greenwich House, No. 09-CV-6645 (NRB), 2010 WL 1779342, at \*8 (S.D.N.Y. Apr. 26, 2010)
- Cuoco v. Moritsugu, 222 F.3d 99, 112 (2d Cir. 2000)
- Gomez v. USAA Federal Savings Bank, 171 F.3d 794, 795 (2d Cir. 1999)
- Tocker v. Philip Morris Cos., 470 F.3d 481, 491 (2d Cir. 2006)
- Jordan v. Chase Manhattan Bank, 91 F. Supp. 3d 491, 510 (S.D.N.Y. 2015)