

1 CHIN-LI (Karen) MOU  
2 4141 Boneso Circle  
3 San Jose, CA 95134

FILED IFR NP  
2009 MAY -1 P 11  
5

4 Pro Se

7 UNITED STATES FEDERAL COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 SAN JOSE DIVISION

CMX

JF

11 CHIN-LI MOU,

12 Plaintiff,

13 vs.

14 West Valley College, an individual and a  
15 non-profit educational corporation; JOHN  
16 HENDRICKSON, an individual; PHILIP L.  
17 HARTLEY, an individual; ERNEST  
SMITH, an individual; LAURA LORMAN,  
an individual; CHRIS ROLEN, an  
individual; LINBERO #107, an individual.

18 Defendants.

CASE NO. C09 01910  
COMPLAINT --FOR INJUNCTION  
RELEIF--- Conspiracy  
Violation Of Free Speech, all Violations of  
42 USC 1983 Under The 1<sup>st</sup> Amendment To  
The United States Constitution as Applied  
To The States By The 14<sup>th</sup> Amendment

Filed: May 04, 2009

RG

20 COMPLAINT

21 PLAINTIFF alleges:

23 1. This court has jurisdiction of the subject matter of this action under Title 28 of the United  
24 States Code, §§ 1343(3), (4), Title 42 of the United States Code, § 1983 (28 U.S.C.A. §§  
25 1343(a) (3), 28 U.S.C.A. 1343(a) (4), 42 U.S.C.A. 1983) and any Constructional violation.  
26 The rights, privileges, and immunities sought to be declared and redressed are those secured

1 by the First, Ninth, and Fourteenth Amendments to the United States Constitution (Art. I,  
2 U.S. Constitution, Art. IX, U.S. Constitution, Art. XIV, U.S. Constitution). This is an action  
3 to redress the deprivation, under color of state law, of privileges and immunities secured to  
4 the plaintiff by the Constitution of the United States of America.

- 5 2. Plaintiff Chin-Li (Karen) Mou, hereinafter also referred to as Plaintiff, is informed and  
6 believes and thereon alleges that the Defendant, West Valley College and West Valley –  
7 Mission District Police Department are operating under the laws of the State of California,  
8 and situated in the County of Santa Clara, City of Saratoga, California. The United States  
9 Federal Court, Northern District of California, San Jose Division is the proper court for this  
10 action.
- 11 3. Plaintiff Chin-Li (Karen) Mou is a citizen of the United States and therefore entitled to all  
12 protections provided for by the United States Constitution. Plaintiff was a student at West  
13 Valley College, a public college in Saratoga, which maintains its offices and headquarters at  
14 14000 Fruitvale Avenue, Saratoga, CA 95070 in Santa Clara County.
- 15 4. Defendant John Hendrickson is the chancellor of the West Valley College.
- 16 5. Defendant Philip L. Hartley is the President of West Valley College, and is sued in his  
17 official capacity, in which he was, at all times relevant to this complaint, acting under color  
18 of state law.
- 19 6. Defendant Ernest Smith is the Vice President of Student Support Service of West Valley  
20 College , and is sued in his official capacity, in which he was, at all times relevant to this  
21 complaint, acting under color of state law.
- 22 7. Defendant Laura Lorman is Chief of Police at West Valley—Mission District Police  
23 Department, and is sued in his official capacity, in which he was, at all times relevant to this  
24 complaint, acting under color of state law.

1 8. Defendant Chris Rolen is Lieutenant and Supervisor of Police Patrol & Investigation of West  
2 Valley –Mission District Police Department , and is sued in his official capacity, in which he  
3 was, at all times relevant to this complaint, acting under color of state law.

4 9. Defendant Linbero #107 is a police of West Valley –Mission District Police Department , and  
5 is sued in his official capacity, in which he was, at all times relevant to this complaint, acting  
6 under color of state law.

7 10. Each defendant is sued individually and in such defendant's official capacity. Defendants are  
8 acting under color of authority of law of the State of California. All of the defendants are  
9 engaged in the operation and maintenance of West Valley College, and in the formation,  
10 promulgation, and enforcement of rules and regulations of West Valley College, and with the  
11 suspension or expulsion of students from that college.

12 11. On or about April 8 Wednesday afternoon around 4:30pm, Plaintiff went in restroom next to  
13 Career Programs in AAS building at West Valley College. Plaintiff was there for two minutes  
14 and immediately had to get out because a staff in career program, Cathy Aimonetti, harassed  
15 plaintiff. Plaintiff just visited Health Center minutes ago due to the allergy problem. She took  
16 medicine without water because there was no water left in the health center. Plaintiff planned  
17 to drink water stored in her locker in the restroom. But, she was not allowed to sip water;  
18 instead she was harassed by Cathy Aimonetti. Cathy further threatened plaintiff that she  
19 would empty plaintiff's locker.

20 12. Aimonetti told the plaintiff that janitor complained about plaintiff. About 2 semesters ago,  
21 this janitor harassed plaintiff. He threatened plaintiff that he would have police arrest her, if  
22 plaintiff didn't get out of restroom right at the moment he ordered plaintiff to do so. Plaintiff  
23 went to talk to the person in charge of janitors. He did conclude that the janitor has to wait  
24 patiently until whoever was inside finished. Plaintiff has tried to rush in and out around  
25 4:30pm every time for many semesters. However, this janitor was determined to retaliating at  
26 plaintiff. He found every chance to harass plaintiff.

1 13. The following day Plaintiff paid a visit to Aimonetti and asked her to stop harassing her.  
2 Plaintiff also mentioned about her conversation with the head of janitors and her medical  
3 condition to both her and Dr. Fred Prochaska. They were heartless and didn't seem to care.  
4 Aimonetti further lied to Dr. Fred Prochaska by saying plaintiff spent 5 minutes in the  
5 restroom while plaintiff was in there for only two minutes.

6 14. Plaintiff told Aimonetti that she would tell other student what she did to Plaintiff. Aimonetti  
7 maliciously lied to Dr. Fred Prochaska that plaintiff threatened to "get her". However,  
8 English is plaintiff's second language. Plaintiff didn't speak a word of English before she did.  
9 Plaintiff can read, write and speak formal English well, but she doesn't speak slang English.  
10 Plaintiff truly believe that Aimonetti made up the threat just to make plaintiff to be suspended  
11 from school, so plaintiff would not have any chance to tell the truth to other staff or students.

12 15. On April 8, 2009, plaintiff was suspended by West Valley College from regularly using  
13 women's rest room and was illegally arrested and beat up by police Linbero #107 and another  
14 police whose name was unknown to Plaintiff. One of the officers handcuffed plaintiff without  
15 telling her which law she violated. While plaintiff was in the police car, one of the officers  
16 opened his penal code book and tried to find anything he can use to against plaintiff. He also  
17 shamelessly showed his preexisting whatever on his hand and arm and lied they were caused  
18 by plaintiff. On the way to the police car, this police lied to Dr. Smith that he, as a police, has  
19 special authority to arrest any one he wanted. Police suspended her from school for a period  
20 of 14 days commencing on April 9, 2009. On the way to county jail, Linbero made a  
21 discriminatory remark to plaintiff. He yelled at plaintiff "Go back to Vietnam." Plaintiff was  
22 not even from Vietnam, and felt she has seriously been discriminated by this police just  
23 because she is an aged petite Asian woman. He further stated that the police are above the  
24 law in the United States.

25 16. Next day, Plaintiff requested to meet with Mr. Smith, but she could not. Plaintiff called Dr.  
26 Hartley, the President of West Valley College, to request a meeting. Plaintiff was told that  
27  
28

1 Dr. Harley did not wish to speak to her. Plaintiff had no choice but to call Mr. Hendrickson,  
2 the chancellor of the West Valley College to request a meeting. Finally Mr. Hendrickson's  
3 assistant asked Mr. Smith to set up a meeting with plaintiff. Mr. Smith was not happy about  
4 what plaintiff did. Plaintiff believed Mr. Smith decided to ignore plaintiff's due process  
5 and/or equal protection. He made an unreasonable rule for plaintiff. He stated he would have  
6 Aimonett write her side of story and punish plaintiff from there.

7 17. On April 24, after the 14-day suspension period, plaintiff had a meeting with Mr. Smith at  
8 1:30pm. Plaintiff tried to communicate with Dr. Smith that she, as an aged Asian Woman,  
9 felt that some of school staff treated her inhumanly. However, Mr. Smith, who also violates  
10 Plaintiff's equal protection, replied without any sympathy and patience that he, as a black,  
11 had to go through a lot; and of course, Plaintiff, as an Asian woman, had to go through even  
12 more.

13 18. Plaintiff felt she had been discriminated by Mr. Smith. She would like to file a  
14 discrimination report at West Valley College, and Mr. Smith knew that she would do so.  
15 Therefore, Mr. Smith suspended her from both West Valley and Mission College for at least  
16 two semesters. After two semesters, plaintiff has to obtain Mr. Smith's permission in order to  
17 get back to school. It is plaintiff's further belief that Mr. Smith will not grant plaintiff's  
18 request, and that plaintiff's opportunity for higher education is completely ruined by his ill-  
19 intention. Plaintiff was not able to file complaints about the staff who discriminated against  
20 her, which is a violation of her First Amendment Right.

21 19. Further, without any due process, Mr. Smith dropped Plaintiff's classes without a "W"  
22 (Exhibit A), including the class she finished in March, which causes irreparable injury.  
23 Plaintiff is worried and afraid that Mr. Smith is going to do more damage to her schooling in  
24 both West Valley and Mission College. Plaintiff is also afraid she will miss too many class  
25 and will not be able to catch up. Plaintiff believes that those ill-mined staff and Mr. Smith  
26 want to get rid of her because she voices up her rights when her rights are violated. Plaintiff  
27  
28

1 is a GPA 4.0 student in West Valley College paralegal program and has put a lot of efforts  
2 into all of her classes. Plaintiff didn't feel there is any justification for Mr. Smith to drop all  
3 her classes. Plaintiff informed and believes that Mr. Smith did that to retaliate Plaintiff for his  
4 staff and himself whom discriminated at her. Although academic freedom is not one of the  
5 enumerated rights of the First Amendment, the right to teach, inquire, evaluate and study is  
6 fundamental to democratic society, and First Amendment safeguards will be quickly brought  
7 into play to protect the right of academic freedom. Mr. Smith took plaintiff's right without  
8 any justification.

9 20. On information and belief, Mr. Smith further acts like attorney to advise and police school  
10 staff not to speak/talk to plaintiff and/or not to talk about her incident at West Valley College.  
11 As Vice president of West Valley College, he has chilling effect on exercise of the right of  
12 Plaintiff's and staff in both West Valley College and Mission College and causes irreparable  
13 injury. Plaintiff has the right to find out the truth and necessary information.

14 21. Plaintiff's First Amendment was totally violated, which causes irreparable injury. Plaintiff  
15 would like to file discrimination reports and needs to find out the name of the janitor in West  
16 Valley College. She was threatened if she shows up in the campus, she will be arrested.

17 22. Plaintiff tried to call Dr. Harley, the President of West Valley College; his assistant instructed  
18 Plaintiff to work out with Mr. Smith. Plaintiff further called Mr. John Hendrickson, the  
19 chancellor of the West Valley College, and he never returned her phone call.

20 23. The West Valley College's actions unconstitutionally deprive Plaintiffs of her First  
21 Amendment Right under the Constitution of the State of California and Constitution of the  
22 United States.

23 24. Plaintiffs have no adequate remedy at law because she lost her First Amendment Right.

24 25. If the plaintiff is not promptly readmitted to West Valley College, there will be a delay in her  
25 completion of her second year of college, and her chance of ever receiving a college diploma  
26  
27  
28

1 will be substantially diminished; as a result, plaintiff will suffer immediate and irreparable  
2 psychological and financial harm.

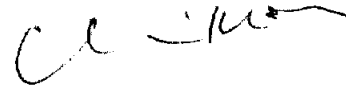
3 26. Plaintiff continues to be threatened not to show up at West Valley College by the actions of  
4 defendants under color of law, which actions are arbitrary and irrational and in violation of  
5 the constitutional rights of the plaintiff, all to the plaintiff's extreme and irreparable damage.

6 WHEREFORE, plaintiff requests judgment:

- 7 1. Ex Parte Temporarily restraining defendants, their agents, employees, and all persons in  
8 active concert or participation with them, from denying Plaintiff, Chin\_Li Mou, for going  
9 back to the classes she enrolled during this semester and be able to attend the future school  
10 year; or from suspending, excluding, or threatening to suspend or exclude plaintiff from  
11 classes; or denying her rights; or creating non-exist school rules to force her to follow and;
- 12 2. Setting a prompt hearing at which defendants shall show cause why they, and those in active  
13 concert or participation with them, should not be enjoined during the pendency of this action  
14 from continuing their denial of readmission to the plaintiff, and from continuing such  
15 suspension, exclusion, or threats;
- 16 3. Consolidating the hearing with the trial for preliminary, permanent injunctive relief, and after  
17 such trial permanently enjoining defendants, and those in active concert or participation with  
18 them, from the continued denial of admission of plaintiff to school, further suspensions,  
19 exclusion, or threats;
- 20 4. Directing that academic credits taken from the plaintiff for this incident academic  
21 performance be restored to plaintiff, and that defendants and those in concert with them be  
22 restrained and enjoined from assessing any penalties based on plaintiff's alleged violations of  
23 non-existing(writing) school rules in the future;
- 24 5. Declaring that the defendants have acted illegally and unconstitutionally in suspending  
25 plaintiff from college and have acted illegally and unconstitutionally and in a capricious and  
26 willful manner in refusing to permit plaintiff readmission to college;

- 1 6. Awarding plaintiff the reasonable costs and expenses of this action, including but not limited
- 2 to attorney fees school tuition, textbooks and school supply; and
- 3 7. Granting plaintiff such other and further relief as the court deems appropriate.

4  
5 Dated: May 04, 2009

6  
7  
8 

9  
10 Chin\_Li Mou  
In Propria Persona

11 **VERIFICATION**

12  
13 I am the plaintiff in this action; the foregoing allegations in the Complaint are true of my  
14 knowledge, except for the matters stated in it on my information or belief, as to those matters I  
15 believe them to be true.

16 I declare under penalty of perjury that the foregoing is true and correct and that this  
17 declaration was executed at San Jose, California .

18  
19 Dated: May 4, 2009

20  
21  
22 

23  
24 Chin-li (Karen) Mou, Plaintiff




**SUPPORTING DECLARATION OF SEVEN YANG**

I, Steven Yang, ex-husband of Plaintiff's, declare:

1. I heard play-back messages from Chin-Li (Karen) Mou's answering machine. In the voice message, a woman identifying herself as Susan from ET from West Valley College stated that she is not able to discuss school incident with Ms. Mou.
2. I have known Ms. Chin-Li (Karen) Mou for 25 years, including 17 years marriage, and have never heard plaintiff threatened anyone.
3. I have a MS degree in Electric Engineering from University of Maryland. I have been working in high tech industry since 1990 with excellent working records. My positions include Technical Leader, Project Lead, and Design Manager, etc.; I am currently employed as a Sr. ASIC Architect in hi-tech company in Silicon Valley.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 4, 2009, at San Jose, California.

Dated: May 4, 2009

  
\_\_\_\_\_  
Steven Yang

**SUPPORTING DECLARATION OF Chin\_Li (Karen) Mou**


I, Chin-Li (Karen) Mou , declare:

1. I am plaintiff in the above described action, and make this declaration, pursuant to First Amendment Right, in support of my complaint/motion for issuance of an **Ex Parte temporary restraining order**, without notice to West Valley, the defendant in the above-entitled proceeding.
2. I called a couple of staffs in West Valley College who I knew before this incident happened. I was told that they were not able to discuss my incident at West Valley College with me or even talk to me because Mr. Smith told them not to. Mr. Smith also disallowed me to discuss this incident with staff in West Valley College.
3. I will suffer irreparable injury if the the **Ex Parte temporary restraining order** is not issued pending hearing on my complaint/motion for a preliminary injunction, and **without notice to defendant or defendants' counsel**, in that, including but not limited to, I need support, information, and advice from some of the school staff, and my First Amendment Right was violated. I have the right to file discrimination complaints at West Valley College. However, it was taken away because I was ordered to go West Valley College. (Exhibit B)
4. The order should be **Ex Parte and without notice**, so I can immediately go back to the classes I registered for spring 2009. By missing too many classes, I will have difficulty to catch up since I have high blood pressure and depression problem. I also would like to file discrimination reports, as my First Amendment Right, at West Valley College

1 5. I had worked for high technology companies for more than 10 years with excellent  
2 performance. I have never threatened anybody in my life.  
3

4 I declare under penalty of perjury under the laws of the State of California that the  
5 foregoing is true and correct and that this declaration was executed on May 4, 2009, at San Jose,  
6 California.  
7

8  
9 Dated: May 4, 2009  
10

11 

12  
13 

---

Chin-Li (Karen) Mou  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Exhibit - A

West Valley - Mission CCD  
 Registration Statement  
 04/23/09 09:55AM

Name: Chin-Li Mou  
 ID #: 1126901

Advisor: [Redacted]  
 Advisor Office: [Redacted]

Registration Info	Begin	End	Description	Amount
Term	2009SP	02/02/09 05/30/09	Balance Forward (02/02/09)	2,897.00
Residency Status	CAR	California Resident	Current Charges	43.00
Academic Program(s)	M.GENERAL.AA.	M.LIBERAL.A	TOTAL CHARGES	2,854.00
Anticipated Degree(s)	AA.	AA.	Cash, Check & Credit Card Payments	4.00
Anticipated Comp Date	06/01/08.	01/01/10	Financial Aid Transmitted	74.00
			Amounts Paid by Sponsors	0.00
			Amounts Paid by Deposits	0.00
			Amounts Currently Deferred on Payment Plans	0.00
			Other Payments	2,932.00
			TOTAL AMOUNT DUE FROM STUDENT	0.00

Mail To:  
 Chin-Li Mou  
 4141 Bonoso Cir  
 San Jose CA 95134-1500

SCHEDULE	Course/Description	Days	Times	Location	Bldg/Room	Instructor	Start Date	End Date	Cred/	Stat
	PARA*032*70368 Family Law	M	09:10AM 12:30PM	WV	AAS 15	S. Hopkins	02/02/09	05/30/09	3.00	Dropped
	PARA*065B*70370 MS Word for Law Off	S	09:00AM 12:05PM	WV	TC TC-E	J. Grilli	02/07/09	03/28/09	3.00	Dropped
		S	12:45PM 04:50PM	WV	TC TC-E		02/07/09	03/28/09		
	PARA*083A*70173 Evidence and Trial	TH	06:30PM 09:40PM		TBA TBA		02/02/09	05/30/09	3.00	Cancell
		TBA	TBA		TBA TBA		02/02/09	05/30/09		
	ENGR*021*69924 Vector Mechanics	T	06:40PM 09:50PM		TBA TBA	A. Staff	02/02/09	05/30/09	3.00	Cancell
	ECON*001A*69815 Prin Macroeconomics	TBA	TBA		ONLN ONL100	S. Liu	01/23/09	05/30/09	3.00	Dropped
	ENGR*021*69923 Intr Prgm Sc & Engr	M	06:30PM 09:50PM	WV	TC TC-E	R. Corola	02/02/09	05/30/09	3.00	Dropped
		TBA	TBA		TBA TBA		02/02/09	05/30/09		
	LS*110*70160 Supervised Tutoring	TBA	TBA	WV	LIB TU	M. Juc	02/02/09	05/30/09		Dropped

Exhibit-B



April 27, 2009

Chin-Li (Karen) Mou  
4141 Boneso  
San Jose, Ca 95134

Dear Ms. Mou

We met first on April 14, 2009 to discuss the complaints received from staff in the Career Program and the Dean of Career Education and Workforce Development, Dr. Prochaska.

This specific incident involved you being unwilling to leave the women's restroom as requested by the custodial staff for cleaning. He asked for assistance from the office of Career Programs and a female staff entered the restroom to make sure it was empty. However, upon informing you that the custodial staff was waiting to clean, you requested more time. Extra time was given you, but you still refused to leave and the police were called. This incident led to your arrest and consequently denied you permission to be on campus for up to fourteen days between April 8, 2009 and April 22, 2009 following the State of California Penal Code 626.4(A); notice of withdrawal of consent to remain on campus.

After meeting with me, I made a decision to allow you to remain on campus only to attend classes when needed and to leave campus after classes were over. The decision was made, as I told you at our April 14, 2009 meeting, to give time for me to review the numerous complaints surrounding this incident and others leading up to this situation.

I advised you that I would be prepared to make a decision at the April 22, 2009 meeting. At our meeting on Wednesday, April 22, 2009, I reiterated to you a series of complaints about your disruptive, verbal abusive and intimidating behavior that has negatively impacted the classroom and work environments at West Valley College. Complaints were made by a significant number of individuals including the Career Programs Office, Dean of Career Education and Workforce Development, the library, the Educational Transition Program, custodial staff, DESP and Health Services.

These complaints of disruptive behavior all fall under the West Valley College Student Code of Conduct policy. The behavior described in the complaint is in complete violation of the Student Code of Conduct, Section 5.19.2, A, B, C and P). It is also a violation of California Education Code 87708, A and B which refers to abuse of any academic employee in the presence of a student or other community college personnel (enclosed).

When we met, I informed you that I would be placing you on Disciplinary Suspension effectively immediately. You stated that you wanted to finish this semester, because you were going to be transferring to another college. Due to what has become a threatening environment for all involved, I denied your request. Numerous staff and faculty have given you their undivided attention trying to assist you during your time here at West Valley College, but you have not demonstrated the ability to conduct yourself in a mature and self-respecting manner and cannot be relied upon to act as a responsible and ethical college student.

You are suspended from West Valley/Mission College District effective on April 27, 2009 through January, 2010. You have been dropped from your Spring 2009 classes and your instructors will be notified. If you plan to return to West Valley College, you must meet with the Vice President of Student Services prior to your coming back on campus to take classes.

You have the right to appeal this decision to the Student Hearing Board (see attached) within 10 days in writing. You are not allowed back on campus after April 23, 2009.

Sincerely



Dr. Ernie Smith  
Vice President Student Services

Enclosure: Student Code of Conduct and Hearing Board Procedures

Cc: John Hendrickson, Chancellor  
Dr. Phil Hartley, President  
Dr. Harriett Robles, President Mission College  
Dave Fishbaugh  
Ronnie Girola  
Samuel Liu  
Stacy Hopkins  
J. Grilli  
Dr. Fred Prochaska  
Cheryl Miller, Director of DESP  
West Valley Campus Police