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No. 21A8	
Title:	Pantelis Chrysafis, et al., Applicants v. Lawrence K. Marks
Docketed:	July 27, 2021
Lower Ct:	United States Court of Appeals for the Second Circuit
Case Numbers:	(21-1493)

DATE	PROCEEDINGS AND ORDERS
Jul 27 2021	Application (21A8) for injunctive relief, submitted to Justice Sotomayor. <div style="display: flex; justify-content: space-around;"> Main Document Lower Court </div> <div style="display: flex; justify-content: space-around;"> Orders/Opinions Proof of Service </div>
Jul 28 2021	Response to application (21A8) requested by Justice Sotomayor, due Wednesday, August 4, 2021, by 4 p.m.
Aug 04 2021	Response to application from respondent Lawrence K. Marks filed. <div style="display: flex; justify-content: space-around;"> Main Document Proof of Service </div>
Aug 05 2021	Reply of applicants Pantelis Chrysafis, et al. filed. <div style="display: flex; justify-content: space-around;"> Reply Proof of Service </div>
Aug 12 2021	Application (21A8) referred to the Court.

Aug 12 2021

Application (21A8) granted by the Court. The application for injunctive relief presented to JUSTICE SOTOMAYOR and by her referred to the Court is granted pending disposition of the appeal in the United States Court of Appeals for the Second Circuit and disposition of the petition for a writ of certiorari, if such writ is timely sought. Should the petition for a writ of certiorari be denied, this order shall terminate automatically. In the event the petition for a writ of certiorari is granted, the order shall terminate upon the sending down of the judgment of this Court. This order enjoins the enforcement of only Part A of the COVID Emergency Eviction and Foreclosure Prevention Act (CEEFFPA). 2020 N. Y. Laws ch. 381. That is the only relief applicants seek. See Case No. 2:21-cv-02516, ECF No. 1 at 9; Emergency App. 7, 40. If a tenant self-certifies financial hardship, Part A of CEEFFPA generally precludes a landlord from contesting that certification and denies the landlord a hearing. This scheme violates the Court's longstanding teaching that ordinarily "no man can be a judge in his own case" consistent with the Due Process Clause. *In re Murchison*, 349 U. S. 133, 136 (1952); see *United States v. James Daniel Good Real Property*, 510 U. S. 43, 53 (1993) (due process generally requires a hearing). This order does not enjoin the enforcement of the Tenant Safe Harbor Act (TSHA), which applicants do not challenge. 2020 N. Y. Laws ch. 127, §§1, 2(2)(a). Among other things, TSHA instructs New York courts to entertain a COVID-related hardship defense in eviction proceedings, assessing a tenant's income prior to COVID, income during COVID, liquid assets, and ability to obtain government assistance. §2(2)(b). If the court finds the tenant "has suffered a financial hardship" during a statutorily-prescribed period, then it "shall [not] issue a warrant of eviction or judgment of possession." §2(1). JUSTICE BREYER, with whom JUSTICE SOTOMAYOR and JUSTICE KAGAN join, dissenting from grant of application for injunctive relief.

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