

No. _____

16-16650

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN DOE — PETITIONER
(Your Name)

vs.
KAWEAH DELTA HOSPITAL, JULIE
ANN BRESMAN, SOCIAL WORKER — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS NINTH CIRCUT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOHN DOE

(Your Name)

629 NORTH FARRIS AVE

(Address)

FRESNO, CALIFORNIA 93728

(City, State, Zip Code)

559-627-1021

(Phone Number)

QUESTION(S) PRESENTED

- 1. Why did the District Court ask for a brief on equitable tolling and the statute of limitations and then ignore the material facts presented without review or discussion”**
- 2. Why did the District Court cherry pick dates for the statute of limitations and then ignore the evidence provided by plaintiff where he extracted the statute statements from the opposition which showed that Kaweah Delta received notice within the 2 years statute of limitations?**
- 3. Why did not the confidentiality of the Medical Information Act (“MIA”) sections (California Civil Code §§56.10 and 56.31) apply to Julie Breseman as an employee of Kaweah Delta Hospital whether or not she had been medically trained and had never held any professional licenses or certifications? If it did not apply to her, why was she required sign a declaration re the MIA as a condition of her employment?**
- 4. Why did not the longer MIA statutes of limitations apply to Julie Breseman?**
- 5. Why were none of the above material fact issues reviewed and discussed in the District Court’s opinion granting summary judgment?**

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK WASHINGTON, D.C. 20543-0001
2. RICHARD SALINAS @WEISS, MARTIN, SALINAS & HEARST
7108 NORTH FRESNO STREET, SUITE 250 FRESNO, CA 93720
3. CAREY JOHNSON @STAMMER, MC KNIGHT, BARUM & BAILEY
2540 WEST SHAW LANE 110 FRESNO, CA 93211

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix ^{11 x 11} A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix ^{11 B 11} B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished. *UNKNOWN whether published or not.*

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 10.3.2017.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 2.1.2018, and a copy of the order denying rehearing appears at Appendix "C".

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. 42 U.S.C. §1983 action alleging violation of his privacy rights.
2. U.S.C. §1254

STATEMENT OF THE CASE

1. Plaintiff John Doe ("Doe") is HIV positive. He was diagnosed at Defendant Kaweah Delta Hospital ("Kaweah Delta") in 2002. While hospitalized in 2002, Doe came into contact with Defendant Julie Breseman ("Breseman"), who was employed by Kaweah Delta. Breseman was Doe's discharge planner. After his hospital stay Doe kept his HIV positive status private. He did not reveal it to his friends or associates. However, Breseman revealed Doe's HIV status to multiple third parties.

2. At the time Doe owned a hair salon in Visalia. His business began declining near the end of 2005 and fell apart by 2006. Doe believes this is due to Breseman's failure to keep his HIV status confidential as per the Medical Information Act ("MIA") which she had to sign as a condition of her employment with Kaweah Delta.

3. Doe filed a California Tort Clams Act ("CTCA") notice of intention to bring suit against Kaweah Delta on October 10, 2007, near the end of the year which was within the 2 years statute of limitations.

4. Doe formally filed suit against the above-named defendants on January 24, 2008 alleging a 42 U.S.C. §1983 violation for failure to adequately train and supervise Julie Breseman...regarding safeguarding medical privacy...Defendants also failed to take appropriate steps to ensure that the privacy rights of its patients were protected against Kaweah Delta and causes of action under 42 U.S.C. §1983; Cal.Const. Art.1, Section 1; Cal.Civ.Code §§56.10 and 56.31; invasion of privacy, negligence, intentional infliction of emotional distress; and negligent infliction of emotional distress against Breseman. Doc 8, Complaint.

REASONS FOR GRANTING THE PETITION

1. Plaintiff John Doe ("Doe") is In Pro Se. When he was in deposition without counsel, he was very nervous, confused and scared. He had difficulty remembering dates. This confusion was used by the opposition to make it look like he had actual knowledge earlier than he stated. The District Court utilized the confused dates in its decision to grant summary judgment.

2. As noted in the opposition's documents, there was no confusion. They stated that Breseman made the improper disclosures "near the end of 2005." That means as stated in Doe's opposition to the summary judgment and in the brief on equitable tolling the district court judge asked him to prepare, where Doe pointed out the knowledge of the violation and provided the evidence from the opposition, that defendants had received notice "near the end of 2007." This means again as noted in the summary judgment opposition and the brief re equitable tolling, attached to Doe's declaration in response to the May 4, 2018 letter that the statute of limitations was properly met by Doe and the summary judgment should not have been upheld. The material facts of the knowledge as agreed to by Doe and the Defendants show notice within the 2 year statute which then falls under the 3 standards for equitable tolling as stated. Therefore, the summary judgment should be overturned and the case reopened along with reopening discovery as the case continues forward in the District Court.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted, Dated: 7.3.2018

John Doe

JD

John Doe