

Case No. 20-606

**IN THE SUPREME COURT  
OF THE UNITED STATES OF AMERICA**

TATYANA E. DREVALEVA,

*Petitioner,*

vs.

ORIGINAL

DEPARTMENT OF INDUSTRIAL RELATIONS OF THE STATE OF  
CALIFORNIA

*Respondent*

On Petition for Writ of Certiorari to the California Supreme Court

Alameda County Superior Court, case No. RG17881790

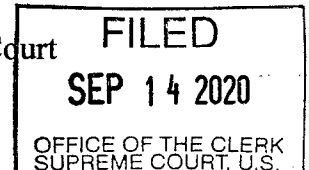
Court of Appeal for the First District, Division Four

Appeal No. A155165, A155187, A155899 (consolidated)

The California Supreme Court, Petition for Review S260407 - denied

The California Supreme Court, Petition for Writ of Mandate S260480 - denied

The California Supreme Court Petition for Writ of Mandate S262066 - denied

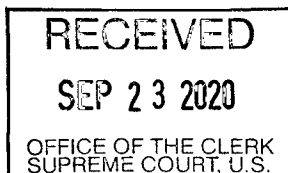


**PETITION FOR WRIT OF CERTIORARI**

Tatyana E. Drevaleva, Petitioner Pro Se

3015 Clement St., Apt. 204, San Francisco, CA, 94121

415-806-9864; [tdrevaleva@gmail.com](mailto:tdrevaleva@gmail.com)



## **QUESTIONS PRESENTED.**

- 1) Does Governmental Entity the California Department of Industrial Relations (DIR) have a right to file a Special Motion to Strike my Complaint (an anti-SLAPP<sup>1</sup> Motion, C.C.P. §425.16) asserting that my Complaint violated the Entity's First Amendment right for free speech and petitioning if I filed a Complaint for Libel committed by the Entity regarding the reasons of the termination of my employment from Alameda Health System (AHS)? Specifically, the DIR, the Division of Labor Standards Enforcement (DLSE) said in its December 29, 2016 Determination Letter that I was properly fired from my job at Alameda Health System (AHS) for committing medical negligence towards the patient whereas my former employer AHS never said that I had committed medical negligence towards the patient?
- 2) Does Governmental Entity the California Department of Industrial Relations (DIR) have a right to claim absolute Governmental immunity for discretionary acts pursuant to pursuant to Gov. Code §§ 815.2(b); 820.2; 821.6; 818.8, and to assert privilege pursuant to Civil Code §47(b) if my Complaint arose from breach of the DIR's mandatory duty (Gov. Code §815.6) to investigate my both wage claim and my retaliation and unlawful termination claim as outlined at the California Labor Code §98.7:

---

<sup>1</sup> SLAPP is an acronym of the "Strategic Lawsuit Against Public Participation."

- (i) Failure to interview a claimant and a respondent my former employer Alameda Health System (AHS) who fired me, see Labor Code §98.7(b)
  - (ii) Failure to interview the witnesses whom I listed in my both original claim and in my June 18, 2014 letter to Deputy of the Labor Commissioner Ms. Daly, see Labor Code §98.7(b)
  - (iii) Failure to review the documents from my former employer AHS regarding my performance and the reasons of the termination of my employment, see Labor Code §98.7(b)
  - (iv) Failure to issue Determination within 60 days as was outlined at Labor Code §98.7(e) and processing my retaliation and unlawful termination claim for an enormous amount of time 3 years and 4 months, see Labor Code §98.7(e)
  - (v) Failure to send me a Determination Letter and therefore depriving me to appeal the Determination with Director of the DIR, see Labor Code §98.7(e)
  - (vi) Failure of the public officers charged with the duty to protect complainant's property and the officers' inability or unwillingness to furnish adequate protection, see labor Code §1138.1(a)(5)?
- 3) Is Libel regarding the reasons of the termination of my employment from AHS protected by the First Amendment to the U.S. Constitution and the California Constitution?

- 4) Can the Governmental Entity DIR assert that my Complaint *arose from* DIR's First Amendment right for free speech and petitioning if my Complaint *arose from*:
- a) the consistent DIR's refusal to give me explanations and evidence regarding DIR's allegation that I had been fired from AHS for committing medical negligence towards the patient,
  - b) from DIR's refusal to interview me and to interview Respondent AHS who never said that I had been fired for medical negligence towards the patient;
  - c) from DIR's refusal to interview witnesses whom I listed in my June 18, 2014 letter to Deputy of the Labor Commissioner Ms. Catherine Daly,
  - d) from DIR's refusal to conduct an investigative hearing at my request,
  - e) from DIR's attempt to coerce me to withdraw my retaliation and unlawful termination claim "on my own free will",
  - f) from DIR's procrastination for 3 years and 4 months instead of 60 statutory days imposed by Labor Code §98.7(e) while DIR was investigating my retaliation and unlawful termination claim, and
  - g) from DIR's refusal to send me the Determination Letter, so I could appeal the Determination with Director of DIR Ms. Christine Baker?
- 5) Evaluating the Second Prong of the anti-SLAPP statute, is DIR eligible to assert Governmental immunity pursuant to Gov. Code §§815.2; 820.2; 821.6; 818.6, and to assert privilege pursuant to Civil Code §47 instead of "consider[ing] the pleadings, and supporting and opposing affidavits stating the

facts upon which the liability or defense is based” as outlined at C.C.P.

§425.16(b)(2)?

- 6) Filing a Demurrer to my Complaint for Libel and Professional Negligence, is DIR eligible to assert Governmental Immunity pursuant to Government Code Sections 815.2(b); 820.2; 821.6; 818.8, and to assert privilege pursuant to Civil Code Section 47(b) if my Complaint arose from DIR’s breach of mandatory duty imposed by Labor Code §98.7(b) and (e)?
- 7) Can DIR claim Governmental immunity for discretionary acts if DIR’s December 29, 2016 Determination Letter was based on a fabricated piece of evidence (the alleged September 04, 2013 email from Nursing Director Ms. Littlepage that announced about AHS’s intention to release me from my probationary employment), and DIR failed to question Ms. Littlepage in person whether she wrote this email?
- 8) Can DIR claim a Governmental immunity for writing in its Determination Letter that, because I was a probationary employee, my employer AHS didn’t need to have any reason to fire me, and AHS was not obligated to follow a Due Process?
- 9) Do both a Superior Court and the Court of Appeal have a right to deny my Motion for Expenses, Sanctions, Costs, and Attorney’s Fees pursuant to both C.C.P. §425.16(c)(1) and C.C.P. §128.5 for partially winning the anti-SLAPP Motion?

- 10) Is a Governmental Attorney who is directly employed by the Public Agency DIR eligible to demand Attorney's Fees for partially winning the anti-SLAPP Motion despite of the absence of the Attorney-Client relationship between the Entity and the Attorney?
- 11) Is the Governmental Attorney who is directly employed by the Public Agency and whose Governmental salary is approximately \$70-80 per hour eligible to demand Attorney's Fees for partially winning the anti-SLAPP Motion at the commercial rate \$400 per hour?
- 12) Can both a Superior Court and the Court of Appeal deny my right to obtain Attorney's Fees pursuant to the California Public Records Act or Gov. Code §6259(d) for prevailing on my Verified Petition for Writ of Mandate to Compel the Department of Industrial Relations of the State of California to issue the improperly withheld Public Records?
- 13) Do both the Superior Court and the Court of Appeal have a right to refuse to accept into their consideration the material pieces of evidence that clearly demonstrated that:
- a) My former employer Alameda Health System never said that I had committed medical negligence towards the patient
  - b) I didn't commit medical negligence towards the patient,
  - c) during the previous litigation No. 3:16-cv-07414-LB at the District Court, both my former employer AHS and DIR didn't say that I had committed medical negligence towards the patient, and

- d) there was no explanation and evidence in both the Personnel Record from AHS and in the Complete File of the Public Records from DIR that would explain and/or confirm DIR's allegation of the medical negligence towards the patient?
- 14) Absent any explanation and any piece of evidence about DIR's allegation of the medical negligence, do both the Superior Court and the Court of Appeal have a right to grant DIR's anti-SLAPP Motion for the cause of action "Libel"?
- 15) Absent any explanation and any piece of evidence about DIR's allegation of the medical negligence, do both the Superior Court and the Court of Appeal have a right to grant DIR with Governmental immunity pursuant to Gov. Code §§815.2(b); 820.2; 821.6; 818.8, to grant DIR with privilege pursuant to Civil Code §47(b), and to sustain DIR's Demurrer without leave to amend?
- 16) If I partially won the anti-SLAPP Motion, can the Superior Court and the Court of Appeal deny my motion for Costs and Attorney's Fees pursuant to C.C.P. §128.5 on the ground that DIR prevailed on a large part of the anti-SLAPP Motion, and therefore DIR's victory on that part of the anti-SLAPP Motion overlapped my victory on a smaller part of the anti-SLAPP Motion?
- 17) Does a Superior Court have a right to deny my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion if in my Discovery Request I requested the Public Records that were related to DIR's processes of

investigation of my both retaliation and unlawful termination claim and my wage claim and that were not exempt from the disclosure?

18) Does a Superior Court have a right to deny my Motion for Reconsideration of the Court's Order that denied my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion if I was seeking to obtain the Public Records that were not exempt from the disclosure?

19) Does the Superior Court have a right to initially allow me to file a Verified Petition for Writ of Mandate to Compel DIR to Issue the Improperly Withheld Public Records in a form of a Noticed Motion and later to deny my Petition because I filed it as a Noticed Motion?

20) Does a Superior Court have a right to deny my Verified Petition for Writ of Mandate to Compel DIR to Issue the Improperly Withheld Public Records on the basis that I didn't write the words "PRA" (the Public Records Act) in a Declaration?

21) Does a Superior Court have a right to refuse to find me a Prevailing Party in the CPRA (the California Public Records Act) litigation of my Verified Petition for Writ of Mandate was a catalyst that compelled DIR to issue the improperly withheld Public Records?



**A LIST OF ALL PARTIES TO THE PROCEEDING IN THE COURT WHOSE  
JUDGMENT IS SOUGHT TO BE REVIEWED**

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:

- a) Petitioner Tatyana Evgenievna Drevaleva – Plaintiff, Appellant Pro Se

3015 Clement St., Apt. 204, San Francisco, CA, 94121

415-806-9864; [tdrevaleva@gmail.com](mailto:tdrevaleva@gmail.com)

- b) Ms. Janill L. Richards

California Department of Justice, Office of the Solicitor General

1515 Clay Street, 20th Floor

Oakland, CA, 94612

(510) 897-1300; [janill.richards@doj.ca.gov](mailto:janill.richards@doj.ca.gov)

- c) Attorney General of the State of California Mr. Xavier Becerra will be served.

1300 I Street, Suite 1740

Sacramento, California 95814-2954

Alternate address: PO Box 944255,

Sacramento, CA 94244-2550

Phone: 916-445-9555 Fax: 916-323-5341

[sfagdocketing@doj.ca.gov](mailto:sfagdocketing@doj.ca.gov)

**A CORPORATE DISCLOSURE STATEMENT AS REQUIRED BY RULE 29.6.**

Not Applicable.

**A LIST OF ALL PROCEEDINGS IN STATE AND FEDERAL TRIAL AND  
APPELLATE COURTS, INCLUDING PROCEEDINGS IN THIS COURT, THAT  
ARE DIRECTLY RELATED TO THE CASE IN THIS COURT.**

- 1) 3:16-cv-07414-LB at the District Court for Northern California, *Drevaleva v. 1) Alameda Health System, 2) Officers of the California Department of Industrial Relations Ms. Catherine Daly, Ms. Joan Healy, Mr. Bobit Santos, and Mr. Eric Rood whom I am suing in their personal capacities* – dismissed with prejudice on July 07, 2017
  - a) Appeal No. 17-16382 at the U.S. Court of Appeals for the 9<sup>th</sup> Circuit – the Judgment of the District Court is affirmed on December 24, 2019, a Petition for Panel Rehearing is denied, a Petition for Rehearing En Banc is denied as untimely, my Petition to the En Banc Coordinator Chief Justice Hon. Sidney Thomas to extend the time to file a Petition for Rehearing En banc is denied, a Mandate is issued on June 08, 2020, a No File Order is in place
  - b) Petition for Writ of Certiorari at the U.S. Supreme Court No. 19-8012 – denied on May 18, 2020, Petition for Rehearing denied on August 03, 2020
- 2) 3:20-cv-00642JD – *Drevaleva v. 1) Ms. Laurel Beeler in her personal capacity as a Magistrate Judge of the U.S. District Court for Northern California, 2) The U.S.A., the District Court for the Northern District of California, an FTCA claim for Harassment and Outrage, the lawsuit was dismissed on April 27, 2020 for judicial immunity. A Motion to Vacate the Judgment is pending.*

- a) 20-149-JL – *Drevaleva v. The District Court for the Northern District of California*, the U.S. Court of Appeals for the Federal Circuit, Verified Petition for Writ of Mandate to Compel the District Court for the Northern District of California to Rule on my Motion to Vacate the Judgment in case No. 3:20-cv-00642-JD
- 3) RG17881790 *Drevaleva v. Department of Industrial Relations*, the Superior Court of Alameda County (current case) - an anti-SLAPP Motion was partially granted, a Demurrer was sustained without leave to amend, the Complaint was dismissed on August 18, 2018
  - a) Appeal No. A155165, A155187, A155899 (consolidated) (current Appeal), the Court of Appeal for the First District, Division Four - the Orders of the Superior Court of Alameda County were affirmed on December 20, 2019, a Petition for Rehearing is denied on January 16, 2020
    - (i) Petition for Review No. S260407, the California Supreme Court – denied on April 15, 2020
    - (ii) Petition for Writ of Mandate No. S260480, the California Supreme Court – denied on April 15, 2020
    - (iii) Petition for Writ of Mandate No. S262066, the California Supreme Court – denied on July 08, 2020
  - b) Appeal No. A156248, the Court of Appeal for the First District, Division Four – the Orders of the Superior Court of Alameda County were affirmed on

December 20, 2019, my Petition for Rehearing was denied on January 16, 2020

(i) Petition for Review No. S260355, the California Supreme Court - denied on April 15, 2020

(ii) Petition for Writ of Mandate No. S260491, the California Supreme Court - denied on April 15, 2020

4) RG19002853 – *Drevaleva v. Alameda Health System*, the Superior Court of Alameda County, First Verified Petition for Writ of Mandate to Compel AHS to Issue the Improperly Withheld Public Records – dismissed with prejudice on July 08, 2019

a) Appeal No. A157784, the Court of Appeal for the First District, Division Four – Defendants’ Motion to Dismiss Appeal was granted on November 04, 2019

(i) Petition for Review No. S259444, the California Supreme Court - denied on January 15, 2020

(ii) Petition for Writ of Mandate No. S260513, the California Supreme Court - denied on April 15, 2020

b) Appeal No. A158299, the Court of Appeal for the First District, Division Four – Defendants’ Motion to Dismiss Appeal was granted on November 04, 2019

(i) Petition for Review No. S259440, the California Supreme Court - denied on January 15, 2020

(ii) Petition for Writ of Mandate No. S260498, the California Supreme Court - denied on April 15, 2020

- c) Appeal No. A158282, the Court of Appeal for the First District, Division Four – the Orders of the Superior Court that denied my Motion for Costs and Attorney’s Fees pursuant to Government Code §6259(d) and that denied my Motion for Costs and Attorney’s Fees pursuant to the California Code of Civil Procedure §128.5 were affirmed on May 29, 2020; Petition for Rehearing was denied on June 17, 2020
- (i) Petition for Review No. S263089, the California Supreme Court is pending
- 5) RG19002840 – *Drevaleva v. Alameda Health System*, the Superior Court of Alameda County, Verified Petition for an Order Relieving from Government Code Section 945.4 – dismissed with prejudice on May 23, 2019
- a) Appeal No. A157851, the Court of Appeal for the First District, Division Four – the Order of the Superior Court was affirmed on March 20, 2020; Petition for Rehearing is denied on April 16, 2020; Petition for Mandatory Rehearing was denied on April 16, 2020
- b) Petition for Review No. S261831, the California Supreme Court – denied on July 08, 2020
- 6) RG19010635 – *Drevaleva v/ 1) Alameda Health System, 2) The Narayan Travelstead Professional Law Corporation*, Complaint for Libel. Abuse of Process, and the Intentional Infliction of Emotional Distress for saying that I was fired from Alameda Health System for poor professional performance, the Superior Court of Alameda County, the anti-SLAPP Motion was granted on July 23, 2019, a Notice of Appeal was filed, a case is on an automatic stay

- a) Appeal No. A158862 – on August 31, 2020, the Court of Appeal for the First District, Division Four affirmed the July 23, 2019 Order of the Superior Court that granted the anti-SLAPP Motion, and on August 31, 2020 the Court of Appeal for the First District, Division Four declared me a vexatious litigant pursuant to C.C.P. §391(b)(1) – (3)
  - (i) Petition for Writ of Mandate No S260437, the California Supreme Court – withdrawn on March 05, 2020
  - (ii) Petition for Review No. S263359, the California Supreme Court – pending
  - (iii) Petition for Writ of Mandate No. S263545, the California Supreme Court – denied on August 19, 2020
  - (iv) Petition for Writ of Mandate No. S264253, the California Supreme Court – Vexatious litigant application denied on September 09, 2020
  - (v) Petition for Writ of Mandate No. S264348, the California Supreme Court – Vexatious litigant application denied on September 11, 2020
- 7) RG19039413 – *Drevaleva v. Alameda Health System*, the Superior Court of Alameda County, Second Verified Petition for Writ of Mandate to Compel AHS to Issue the Improperly Withheld Public Records – dismissed with prejudice on June 11, 2020
  - a) Appeal No. A160688, the Court of Appeal for the First District, Division Four
    - pending

- 8) RG20061108 - *Drevaleva v. Gilbert Harding, Jr.*, Complaint for Libel, the Superior Court of Alameda County –pending.
- 9) RG20066898 – *Drevaleva v. Alameda Health System*, Complaint for Unpaid Wages and Wrongful Termination, the Superior Court of Alameda County – pending.



## TABLE OF CONTENTS.

Opinions below.....	18
Jurisdiction.....	23
Constitutional and statutory provisions involved.....	24
Statement of the case.....	25
Reasons for granting the Writ.....	60
Conclusion.....	62

## **INDEX TO APPENDICES**

**Appendix A** – Opinion of the Court of Appeal for the First District, Division Four, December 20, 2010 (unpublished) in Appeal No. A155165, A155187, A155899.

**Appendix B** – Order of the Superior Court of Alameda County that partially granted DIR's anti-SLAPP Motion in case No. RG17881790, August 17, 2018.

**Appendix C** – Order of the Superior Court of Alameda County that sustained DIR's Demurrer without leave to amend to the remaining allegations within the Second Cause of Action "Professional Negligence" and that dismissed the action in case No. RG17881790, August 17, 2018.

**Appendix D** – Order of the Superior Court of Alameda County that denied my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion, No. RG17881790, May 18, 2018.

**Appendix E** – Order of the Superior Court of Alameda County that denied my Motion for Reconsideration of the Court's Order that denied my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion, No. RG17881790, July 27, 2018.

**Appendix F** – Order of the Superior Court of Alameda County that directed the Parties to complete additional briefing regarding DIR's anti-SLAPP Motion, No. RG17881790, May 18, 2018.

**Appendix G** – Order of the Superior Court of Alameda County that denied my Verified Petition for Writ of Mandate to Compel DIR to Issue the Improperly Withheld Public Records, No. RG17881790, August 17, 2018.

**Appendix H** – Order of the Superior Court of Alameda County that denied my Motion for Costs and Attorney's Fees pursuant to Government Code, Section 6259(d), No. RG17881790, October 04, 2018.

**Appendix I** – Order of the Superior Court of Alameda County that denied my Motion for Costs and Attorney's Fees pursuant to C.C.P. §128.5, No. RG17881790, October 04, 2018.

**Appendix J** – Order of the Court of Appeal for the First District, Division Four that denied my Petition for Rehearing in Appeal No. A155165, A155187, A155899, January 16, 2020.

**Appendix K** – Order of the California Supreme Court that denied my Petition for Review No. S260407, April 15, 2020.

**Appendix L** - Order of the California Supreme Court that denied my Petition for Writ of Mandate No. S260480, April 15, 2020.

**Appendix M** – Order of the California Supreme Court that denied my Petition for Writ of Mandate No. S262066, July 08, 2020.

**Appendix N** – Order of the Court of Appeal for the First District, Division four that declared me a vexatious litigant, August 31, 2020.

**Appendix O** – Order of the Court of Appeal for the First District, Division Four clarified the August 31, 2020 Order that declared me a vexatious litigant, September 04, 2020.

**Appendix P** – a former version of the California Labor Code Section 98.7.

**Appendix R** – the California anti-SLAPP statute of the California Code of Civil Procedure, Section 425.16.

## TABLE OF AUTHORITIES

The California Public Records Act (the CPRA).....	5, 8, 54
Civil Code §47.....	4, 47, 48, 52
Civil Code §47(b).....	2, 5, 7, 50, 51, 57
C.C.P. §128.5.....	5, 7, 14, 19, 58
C.C.P. §425.16.....	2, 20, 50
C.C.P. §425.16(b)(2).....	5
C.C.P. §425.16(c)(1).....	5, 58
C.C.P. §425.16(g).....	51
Government Code §815.2(b).....	2, 4, 5, 7, 50, 51, 57
Government Code §815.6.....	60
Government Code §818.8.....	2, 5, 7, 50, 51, 57
Government Code §820.2.....	2, 4, 5, 7, 47, 48, 50, 51, 52, 57
Government Code §821.6.....	2, 4, 5, 7, 50, 51, 57
Government Code §6259(d).....	6, 14, 19, 58, 59
California Labor Code.....	35, 36
Labor Code §98.6.....	36, 38
Labor Code §98.7.....	2, 20, 41, 42, 60
Labor Code §98.7(b).....	3, 5
Labor Code §98.7(e).....	3, 4, 5, 36, 37
Labor Code §510(a).....	26
Labor Code §1138.1(a)(5).....	60
Labor Code §6310.....	36, 38

**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 state courts:

The opinion of the highest state court to review the merits appears at Appendix K, L, and M 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 A to the petition and is

☐ reported at ; or,

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

☒ is unpublished.

I am respectfully asking the U.S. Supreme Court to review multiple Judgments that were entered in one Court, see Rule 12.4 of the Rules of the U.S. Supreme Court.

## **JURISDICTION**

☒ For cases from state courts:

The date on which the highest state court decided my case was April 15, 2020 and July 08, 2020.

A copy of that decision appears at Appendix K, L, and M.

☐ 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 . \_\_\_\_\_

I am respectfully asking the U.S. Supreme Court to review multiple Judgments that were entered in one Court, see Rule 12.4 of the Rules of the U.S. Supreme Court.

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

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

First Amendment to the U.S. Constitution.....	2, 3, 4, 50, 52, 55, 57
The Eleventh Amendment to the U.S. Constitution.....	47, 51
The California Constitution, Article 1, Sections 3(b)(1) and (b)(2).....	54
The California anti-SLAPP statute, C.C.P. §425.16.....	2, 20, 50



## STATEMENT OF THE CASE

On March 11, 2013, I received an Offer Letter from Alameda Health System (A155165, Vol. 1; 27) that offered me a 0.8 FTE (part-time and benefit-eligible) job as a Telemetry Monitor Technician for the 8 hour shifts with the rate of pay \$21.48/hour, with the applicable shift differentials 11% for evenings, 15.5% for nights & 5% for weekends. I accepted the job offer. Also, I signed a document that I agreed to be represented by the Union. However, I didn't make a copy of that document, therefore, there is no any copy of this document on the file. On April 01, 2013, I started my probationary period. In April and a half of May 2013, I worked for four 8 hour periods (32 hours per week) as I had been promised by the March 11, 2013 letter.

Starting the middle of May 2013, Manager Mr. Clerve informed me that 8 hour evening shifts were no longer available, and he offered me the only option to work for three 12 hour night shifts per week which was 36 hours per week. I accepted this offer because I needed a job.

In 2013, my former employer informally changed its name from the Alameda County Medical Center (ACMC) to Alameda Health System (AHS.) However, the employer used the previous policies that were written for the ACMC. Pursuant to this policy, working for three 12 hour shifts per week constituted a full time employment, see (A155165, Vol. 1; 31), "Full-time participating staff will work three (3) twelve (12) hour shifts (36 hours) in a work week and be compensated for 36 hours per week and be granted benefits equivalent to that of an employee working full time (40 hours) in a work

week. Vacation, educational leave, holiday, and sick leave accruals will be equivalent for those for full time employee.”

Also, pursuant to APMC’s policy, I was entitled to rest periods, see (A155165, Vol. 1; 30), “During each work period of eight working hours, full time non-exempt employees are provided with two 15-minute paid rest periods and either one 30-minute or one hour unpaid meal period.” It means that I was entitled to one unpaid 30 minute meal period and three paid 15 minute rest periods for a 12 hour shift.

Also, the APMC’s policy provided 10 minute breaks every hour to the employees who were constantly observing video display screens (A155165, Vol. 1; 30), “Employees using video display screens 2 consecutive hours or more are entitled to a 10 minute break every hour.”

Also, see the SEIU Local 1021 information about the APMC’s shift differentials (A155165, Vol. 1; 32): 11% for the evening shifts, 15.5% for the night shifts, and additional shift differentials for working in excess of 8 hours.

After I started to work for three 12 hour shifts per week which was 36 hours a week, I discovered that AHS:

- 1) didn’t pay me overtime at the rate x1.5 to my base pay rate \$21.48/hour for four hours that exceeded an 8 hour shift, see Labor Code §510(a)
- 2) didn’t pay me the shift differentials as follows: 11% for evenings, 15.5% for nights & 5% for weekends

- 3) claimed that I was not affiliated to the Union
- 4) kept me as a Part Time employee despite working for 36 hours a week
- 5) gave me two 15 minute paid rest periods per a 12 hour shift instead of three 15 minute paid rest periods (A155165, Vol. 1; 30)
- 6) didn't give me 10 minute breaks every hour because I was constantly observing video display screens (A155165, Vol. 1; 30)

In June and July 2013, I approached Manager Clerve multiple times, and I asked about unpaid both shift differentials and overtime, about not received 15 minute breaks, about the denial of my affiliation to the Union, and I asked to transfer me to a full time job because I was actually working full time. Clerve promised to think about it but nothing changed.

In July 2013, I was working a night shift, and I was observing a cardiac monitor and the EKG of Patient Mr. X. Initially, I observed a Normal Sinus Rhythm (NSR.) At approximately 5 AM, I witnessed how Nurse Kim showed up in a hallway next to the cardiac monitoring station, and I heard how she reported to Charge Nurse Beverly that Patient Mr. X. was unconscious in his room, and he didn't respond to touch and conversation. In my opinion, Nurse Kim was moving too slowly. I didn't understand how could she leave an unconscious patient alone in his room and not to perform a Cardiopulmonary Resuscitation (CPR.) However, I witnessed how Nurse Kim was standing in a hallway speaking to Charge Nurse Beverly while Patient Mr. X. was left unconscious in his room. At the time when Nurse Kim was speaking to Charge Nurse

Beverly, I was observing the Normal Sinus Rhythm (NSR) on Mr. X's EKG. A few minutes later, I saw some changes on Mr. X's EKG. I documented these changes as artifacts and reported them to both Kim and Beverly and to Doctor Mr. Sina Rachmani who agreed with my EKG interpretation that these changes were artifacts and not Ventricular Tachycardia (a lethal cardiac rhythm.)

Charge Nurse called the Code Blue Team that came and started a CPR. When the Code Blue Team arrived to the patient's room, they disconnected the patient from my cardiac monitor and connected their own cardiac monitor to the patient. Therefore, I was no longer able to continue observing Mr. X's EKG.

Unfortunately, Mr. X. passed away. In the morning after my night shift, I reported the incident with Mr. X to my co-worker Ms. Lawson and to Director of Step Down Unit Mr. Harding. Subsequently, I reported the incident to the AHS's Committee three times at three Root Cause Analysis (RCA) meetings to many Doctors and Nurses. I demonstrated Mr. X's NSR and the changes that I had documented, and I explained why I interpreted these changes as Artifacts and not as Ventricular Tachycardia. The Committee agreed with me. After the incident with the patient, I was allowed to continue performing my duties as a Monitor Technician, my professional certificates were not revoked, and I received a good Letter of Reference from Assistant Manager Mr. Masangkay, see (A155165, Vol. 1; 42), "Ms. Tatyana Drevaleva ... is a very hard working and dedicated staff and an important part of our team. She pays attention to great detail and always makes certain that all our telemetry monitored patients are doing okay.

She immediately notifies the appropriate channels as situations arise. All I can say is that she will be an asset wherever she may go..”

On August 25, 2013, I approached a newly appointed Director of Step Down Unit Mr. Harding, and I asked him the questions about unpaid both overtime and shift differentials, the denial of my affiliation to the Union, missed breaks, and I asked to transfer me to a full time job because I was actually working full time.. Harding promised to think but nothing changed. See my pay stub dated August 30, 2013 at (A155165, Vol. 1; 73-74.)

On September 05, 2013, I emailed a letter to Harding with these questions (A155165, Vol. 1; 33-36.) I asked Harding to compensate me for unpaid overtime shift differentials, missed 15 minute breaks, to transfer me to a full time job, and to assist me to pay for college. On September 07, 2013, in twenty minutes after the beginning of my shift, Harding gave me a Termination Letter (A155165, Vol. 1; 37) that said, “This letter constitutes notice that you are being released from your employment as a Monitor Technician effective September 7, 2013. This action is being taken due to the discrepancies between acceptable employment standards and those you exhibited during your employment with us. Should you have questions or concerns, please contact Labor Analyst Adam Cole at 510-535-7604. Sincerely, Gilbert Harding.”

On September 07, 2013, I asked both Harding and Cole to give me the examples of these alleged discrepancies between acceptable employment standards and those I

allegedly exhibited during my employment with AHS. Harding's exact answer was, "We are not talking about it right now."

On September 16, 2013, I submitted both a retaliation and unlawful termination claim and a wage claim to the Department of Industrial Relations ((DIR), the Division of Labor Standards Enforcement (DLSE), see (A155165, Vol. 1; 237-238.) Deputy of the Labor Commissioner Mr. Bobit Santos was assigned to investigate my wage claim. Deputy of the Labor Commissioner Ms. Catherine Daly was assigned to investigate my retaliation and unlawful termination claim.

After being fired from AHS, I obtained a copy of my Personnel File, and I learned that the reason of the termination of my employment was "Probationary Release" (A155165, Vol. 1; 187.) In the Personnel File, AHS checked the box that I was ineligible for rehire but didn't explain why.

After being fired from AHS, I was receiving the Unemployment Insurance Compensation (A155165, Vol. 1; 43.) AHS listed a reason of the termination of my employment to the Employment Development Department (EDD) as "Probationary Release."

On September 23, 2013, AHS issued answers on my September 05, 2013 letter to Harding (A155165, Vol. 1; 67-72.) AHS denied its obligation to pay me both overtime and shift differentials, denied my affiliation to the Union, claimed that I was eligible for

two 15 minute breaks for working for 12 hour shifts, claimed that I was not eligible for being transferred to a full time job, and denied my request to assist to pay for college.

On October 17, 2013, Senior Deputy Labor Commissioner Ms. Ratekin mailed a letter to AHS (A155165, Vol. 6; 1564) with a Summary of Procedures (A155165, Vol. 6; 1560-1563) that explained the process of investigation of the retaliation and unlawful termination claim by the Labor Commissioner including interviews a claimant and a respondent, will interview witnesses, review of the documents from my former employer, conducting an investigative hearing as necessary, issuing all subpoenas as necessary.

On November 25, 2013, Daly mailed a Letter to Respondent AHS (A155165, Vol. 6; 1556-1559) with a Questionnaire (A155165, Vol. 6; 1558-1559) that required AHS to provide the explanation within 10 days why AHS fired me and to provide a list of witnesses. AHS never responded to that questionnaire.

On December 02, 2013, Daly allegedly spoke over the phone with both Harding and Cole. She never met with both Harding and Cole in person. Daly claims that both Harding and Cole said to her during the December 02, 2013 phone conversation that I had been fired for medical negligence towards the patient (A155165, Vol. 1; 232-235.) However, during the litigation of the subsequent lawsuits No. RG19002840, RG19002853, RG19010635, and RG19039413 at the Superior Court of Alameda County, AHS didn't confirm that both Harding and Cole said to Daly that I had been fired for medical negligence towards the patient. Daly claimed that on December 06, 2013 Cole sent her a September 04, 2013 email that was allegedly written by AHS's Nursing

Director Ms. Dana Littlepage, and that email proposed to release me from my probationary employment. However, during the subsequent lawsuits at the Superior Court of Alameda County, AHS didn't confirm that on December 06, 2013 Cole sent a September 04, 2013 email of Littlepage to Daly. However, Daly relied on the September 04, 2013 email of Littlepage as a justification to deny my retaliation and unlawful termination claim. Daly claimed that the September 04, 2013 email of Littlepage predated my September 05, 2013 letter to Harding. Also, despite Daly didn't have both explanations and evidence regarding the allegation of the medical negligence, she kept claiming that I had been properly fired for committing medical negligence towards the patient, and she claimed that she had evidence that established that I had been fired for medical negligence towards the patient/ In fact, neither AHS nor DIR had any piece of evidence that would explain or confirm the allegation of the medical negligence towards the patient.

The alleged September 4, 2013 email from Littlepage that said, "We would like to go ahead and release DREVALEVA, TATYANA from probation on September 13, 2013. Please advise on next steps." (A155165, Vol. 1; 240.) Therefore, the plain language of the letter said "release from probation" and didn't say that AHS was going to terminate my employment for committing medical negligence towards the patient or for poor professional performance. Moreover, the alleged September 4, 2013 email was from Littlepage to Dodson (a Director of Labor Relations of AHS), to Scafaro (an employee of the Labor Relations of AHS), and to Harding (a Director of Step Down Unit.)



On August 25, 2020, I went to Kaiser Permanente in San Leandro where Littlepage is currently working as a Nursing Director. I spoke over the phone with Littlepage's secretary, and I asked to schedule an appointment to see Littlepage in person. The secretary refused to schedule an appointment. I gave a printed version of the September 04, 2013 email of Littlepage to Manager of Volunteer Services Ms. Rena Cota, her phone number is 510-454-3580, and I asked her to give Littlepage this letter with my note. In my note, I asked Littlepage to admit or to deny that she wrote this email, and I provided her with my cell phone number and my email address. Up to today, I haven't heard from Littlepage.

Also, see Daly's notes about the process of investigation of my retaliation and unlawful termination claim at (A155165, Vol. 5; 1468), "12-02-2013 – Cole will mail response & supporting documentation prior to 12/11/13 conference. This includes written explanation Resp. gave CPL. I promised to talk to her [*meaning to me – T.D.*] after evidence/response arrives. **I will see if I can get her to withdraw the retaliation claim.**" Please, notice that Daly made a decision to convince me to withdraw my retaliation claim even before she first spoke to me on the merits of my retaliation and unlawful termination claim on June 16, 2014.

Next, see Daly's email to Cole dated December 02, 2013 (A155165, Vol. 5; 1376), "Dear Mr. Cole: Thanks again for returning my call.

As I promised, you will find the questionnaire in Microsoft Word format attached to this email. Below you will also find my additional requests for information and documents.

By the way, Deputy Santos's email about the December 11, 2013 wage conference arrived right after we spoke. The main purpose will be to determine whether the DLSE has jurisdiction given the public employment issues.

Here are the things I would find most helpful prior to my conversation with the Complainant:

- The written statement you gave her regarding the questions she raised after her termination
- Proof the 10 minute extra great policy ended 2 years ago
- The emails between the supervisor and the administrative director regarding the patient issue
- What efforts you took to document any missing pay (the RCA meeting)
- Anything else you think I would find helpful...."

Please, notice that Alameda Health System:

- 1) Possibly provided Daly with a written statement that AHS gave me about the questions I raised (the September 23, 2013 Letter)
- 2) Never provided Daly with the proof that the 10 minute break policy ended 2 years ago

- 3) Never provided Daly with the emails between the supervisor and the administrative director regarding the patient issue
- 4) Never provided Daly with the information about what efforts AHS took to document any missing pay (the RCA meeting)
- 5) Never provided Daly with the information about “Anything else you think I would find helpful.”

Regardless, Daly kept claiming that AHS terminated my employment for a legitimate, non-retaliatory reason. Also, see Daly’s email to Cole dated December 02, 2013 (A155165, Vol. 6; 1550), “Dear Mr. Cole: I write to follow up on my voice mail. As I indicated, I work with the retaliation unit in the Labor Commissioner’s office. You can find out more about our work at How to file a retaliation/discrimination complaint.

Last week our Sacramento office sent you a questionnaire about this matter. Essentially we sought Alameda County Medical Systems (“Alameda Health”) answer to Tatyana Dreveleva’s (“Dreveleva”) wrongful termination claim.

As you likely know by now, she claims Alameda Health terminated her because she engaged in a Labor Code protected activities. One, she demanded Alameda Health to pay for overtime and provide the full complement of breaks. She also asserted the denial of breaks interfered with her right to an ergonomic workplace. This involves Cal OSHA, which is why I have the case.

If Dreveleva's allegations were true then Alameda Health with it violated Labor Code sections 98.6 and 6310. You can find out more about the labor codes at CALIFORNIA LABOR CODE.

Please feel free to email your response to me. If you don't wish to use questionnaire we sent you, you may put it in a letter or any other format....."

Please, pay attention to (A155165, Vol. 6; 1660) which was my September 16, 2013 claim to DIR and where I specifically wrote that my Supervisor was Harding, and where I provided DIR with the phone number of Harding. However, for whatever reason, Daly communicated with Labor Analyst Cole even though he was never my Supervisor, and despite the fact that I didn't list him in my September 16, 2013 retaliation and unlawful termination claim to DIR.

However, there is no indication that Cole ever filled out the Questionnaire (A155165, Vol. 6; 1551-1554) and mailed it to Daly within 10 days. However, Daly didn't issue a Determination within 60 days as the former version of Labor Code §98.7(e) directed.

Also, please, notice that this Questionnaire was the second one that was sent to AHS. The first Questionnaire (with the same questions but in a different format) was mailed to AHS on November 25, 2013 (A155165, Vol. 6; 1558-1559.) Therefore, AHS failed to respond to the same Questionnaire twice. AHS didn't provide the Labor Commissioner with the answers about my specific behavior that led to the termination of

my employment, didn't provide the Labor Commissioner with a list and the contact information of all people who were responsible for making a decision to terminate my employment, and AHS didn't provide the Labor Commissioner with the reasons of the termination of my employment, and AHS didn't provide the Labor Commissioner with the contact information of all people who knew about the reasons of the termination of my employment. Regardless, DIR took AHS's side and accused me in committing medical negligence towards the patient.

Because I lost my health insurance as a result of being unlawfully terminated from AHS in 2013, and because I needed a surgery, I relocated to Russia in January 2014 and later again in April 2014 and stayed there until 2016. I informed Deputy Daly that I would stay in Russia, and I asked to forward me all correspondence.

On January 07, 2014, Santos dismissed my wage claim asserting lack of jurisdiction over County employers even though AHS was not a County employer at that time.

On June 16, 2014 which was outside of a 60 day statutory period that was established for issuing a Determination about my retaliation and unlawful termination claim (see former version of Labor Code §98.7(e)), I received a letter from Daly via the email (A155165, Vol. 6; 1588-1589), "AHS admitted firing you but blamed its decision on your failure to meet "acceptable employment standards." Specifically, your negligence allegedly seriously harmed a patient. Moreover, it asserted you already knew you faced termination when you emailed your September 5, 2013 complaints. Therefore your

emailed communication could not have triggered the termination. Finally, it explained why all your complaints lacked merit.

AHS provided the Division of Labor Standards Enforcement ("DLSE") with a legitimate, non-retaliatory reason for firing you. Therefore you must prove AHS's response "*more likely than not*" covers up retaliation or discrimination. This means showing AHS fired you because you complained about illegal or unsafe working conditions. If you fail to show this pretext (making) you cannot establish AHS violated Labor Code §98.6 and 6310.

If you feel you have sufficient evidence to show AHS's reasons are pretextual, please reply by July 18, 2014. In your response include supporting documents and a witness list. Your witness list needs to provide names, addresses, and telephone numbers or emails. Please, add a short statement about what the witness will say. Finally prepare a separate document listing the adverse actions taken against you and place the events in date order. *If you do not respond by July 18, 2014, I will assume you no longer wish to go forward with your case.*

Please, include all disputed issues and supporting evidence you want us to consider. The DLSE normally does not provide hearings in RCI matters."

On June 18, 2014, I emailed my response to Daly (A155165, Vol. 1; 46-56) where I described an incident with patient Mr. X. and provided Daly with a list of witnesses. I explained that when I saw the changes on Mr. X's EKG, I immediately reported these

changes to the patient's Nurse Kim, to the Charge Nurse Beverly, and to Doctor Rachmani who agreed with my interpretation of the EKG. In the morning, I reported these changes to Supervisor Harding and to my co-worker Ms. Lawson. After the patient's death, I reported these changes three times to the Committee of AHS at three Root Cause Analysis meetings. After the patient's death, my professional certificates were not suspended and not revoked, I was allowed to perform my duties as a Monitor Technician, I received a good Letter of Reference from AHS (A155165, Vol. 1; 42.) AHS wrote in the Personnel Record that the reason of the termination of my employment was "Probationary Release" (A155165, Vol. 1; 187.)

After being fired from AHS, I was receiving the Unemployment Insurance Compensation, see (A155165, Vol. 1; 43.) Reading this document, I learned that AHS listed a reason of the termination of my employment to the Employment Development Department (EDD) as "Probationary Release." Therefore, AHS didn't say to the EDD that I had been fired for cause.

After I emailed my June 18, 2014 letter to Daly with my explanation of the facts and with a list of witnesses, I didn't hear from Daly at all. In July 2016, I returned to the United States from Russia, and I contacted with Daly.

On August 25, 2016, Daly emailed me (A155165, Vol. 6; 1503) and claimed that the evidence showed that AHS had terminated my employment for a legitimate, non-retaliatory reason. Daly requested my home postal address and promised to send me a Determination Letter. Daly also attempted to coerce me to withdraw my retaliation and

unlawful termination claim (A155165, Vol. 1; 57), “Withdrawal of DLSE retaliation claim. I withdraw my Labor Commissioner’s Office Retaliation Complaint. It is *Drevaleva v. Alameda Health System*, 32741-SFRCI.

I decide this based on my own free will.

Tatyana Drevaleva \_\_\_\_\_ Date \_\_\_\_\_”

I refused to sign this letter.

On August 25, 2016 at 1:00 PM, I sent an email to Daly (A155165, Vol. 6; 1502) where I disagreed with DIR’s assertion that the “evidence” demonstrated a legitimate, non-retaliatory reason of the termination of my employment. I explained to Daly again that the incident with the patient couldn’t be a reason of the termination of my employment because, if I committed medical negligence, AHS would have fired me immediately. In fact, AHS kept me working for 1.5 months after the incident with the patient, and AHS gave me a good Letter of Reference. I asked Daly to schedule an appointment with me. On August 25, 2016 at 1:08 PM, Daly sent me an email (A155165, Vol. 6; 1501-1502) where she informed me that she hadn’t found my arguments convincing, and she refused to schedule an appointment with me. She still refused to provide me with the explanations and evidence regarding the allegation of the medical negligence.

On August 25, 2016 at 9:01 PM, I emailed Daly (A155165, Vol. 6; 1501) and I demanded to schedule a hearing. Daly never answered this email.



Next day, on August 26, 2016, Daly forwarded my Rebuttal June 18, 2016 letter to Healy at 9:54 AM (A155165, Vol. 5; 1496) and claimed that AHS terminated my employment in 2013 for a legitimate, non-retaliatory reason.

Next day, on August 30, 2016, Daly emailed my June 18, 2014 rebuttal letter to Cole (A155165, Vol. 6; 1507), "Dear Mr. Cole: ... Today I write about an old case from 2013 involving Tatyana Drevaeva. If you recall, ... Alameda Health ... terminated her because gross negligence gravely harmed the patient. As you will see from her rebuttal, she discounts the negligence but also hints at medical malpractice cover-up. I rejected this argument because it involved "litigating" a medical malpractice issue. Not to mention the HIPAA issues.

Ms. Drevaeva was in Russia from 2014 through 2016. However, she has returned and I informed her about the planned dismissal. Please, let me know if Alameda Health has any further comment. Notably, how she continued to work with her license." There is no evidence that Cole sent any explanation to Daly about how I continued to work with my license after allegedly committing medical negligence.

On August 30, 2016 at 10.58 AM, Daly emailed me (A155165, Vol. 6; 1591) and refused to schedule an investigative hearing reasoning that the hearing was available only in "special cases involving child care providers." It was a Libel because both Labor Code §98.7 and the Summary of DIR's Procedures (A155165, Vol. 6; 1560-1563) didn't say that the hearing was available only in the special cases involving child care providers.

Daly informed me about my right to appeal with Director of DIR but she didn't provide me with any details about why she wanted to dismiss my claim.

Also, please, notice that Daly sent me this email on **August 30, 2016** at **10.58 AM**, and she informed me that a hearing was not available, and she informed me about my right to appeal with Director of DIR. Afterwards, Daly sent her August 30, 2016 email to Cole at **11.29 AM** (**A155165, Vol. 6; 1507**) where she asked him how I continued to work with my license after committing medical negligence towards the patient.

On August 30, 2016 at 5:14 PM, I sent an email to Daly (**A155165, Vol. 6; 1591**) where I requested to see Daly in person and to give me a provision of the law that Daly used investigating my retaliation and unlawful termination claim.

On August 31, 2016, Daly emailed me (**A155165, Vol. 6; 1576**) and stated that she hadn't found my June 18, 2014 letter persuasive but she didn't explain why. She provided me with Labor Code §98.7. Daly refused to meet with me in person.

On September 01, 2016 at 4:55 PM I emailed Daly (**A155165, Vol. 6; 1575**) where I asked to give me the explanations and evidence regarding the allegation of the medical negligence. Daly never responded.

On December 19, 2016, Supervisor Healy emailed me (**A155165, Vol. 1; 58-59**) and informed about DIR's intention to dismiss my retaliation and unlawful termination claim but she still didn't provide me with any explanations and evidence regarding the allegation of the medical negligence. Healy informed me about my right to appeal the

Determination with Director of DIR within 10 days from the issuance of the Determination.

On December 20, 2016 at 8:05 PM, I emailed Healy (**A155165, Vol. 1; 60**) and asked to provide me with the explanations and evidence regarding the allegation of the medical negligence, I provided Healy with my home postal address in Mountain View, and I asked to mail me the Determination Letter, so I could appeal with Director of DIR. Healy never responded.

I was waiting for the Determination Letter, and I didn't receive any. Not having received the Determination Letter, I was deprived of an opportunity to appeal with Director of DIR Ms. Baker. On December 29, 2016 at 8:01 AM, I emailed Healy (**A155165, Vol. 1; 60-61**), and I asked again to give me the explanations and evidence regarding the allegation of the medical negligence, Again, I didn't receive neither Healy's answer nor the Determination.

On December 29, 2016 at 1:06 PM, I send a **second** email to Healy (**A155165, Vol. 1; 61-62**) where I asked her again to provide me with the explanations and evidence regarding the allegation of the medical negligence, I provided Healy again with my home postal address in Mountain View, and I asked to mail me the Determination Letter, so I could appeal with Director of DIR. I never received any response.

Because I didn't receive any answers on my December 20, 2016 letter and two December 29, 2016 letters to Healy, and because I didn't receive the Determination

Letter, I filed a lawsuit No. 3:16-cv-07414-LB *Drevaleva v. 1) Alameda Health System, 2) The Department of Industrial Relations* at the District Court for the Northern District of California on December 29, 2016.

On January 01, 2017, still not having received any response from DIR, I emailed Healy (A155165, Vol. 1; 63), and I notified her that I had emailed her three times with my requests to give me the evidence regarding the allegation of the medical negligence. I asked Healy again to give me answers on my questions. Again, I didn't receive any answer.

After I filed a Complaint No. 3:16-cv-07414-LB, I received the Determination Letter from DIR's Attorney (A155165, Vol. 1; 64-66), "... the investigation revealed no connection between your protected activities and your termination.

You orally complained to Alameda Health Director of Critical Care Units Gilbert Harding a few days before September 5, 2013. You followed up with a September 5, 2013, letter complaining Alameda Health failed to pay you overtime and shift differentials; to give you additional 10 minute breaks each hour, making watching vital monitors unsafe; to provide you regular breaks; and to allow you access to the Collective Bargaining Agreement's (CBA) educational benefits.

You claim your oral and written complaints caused Alameda Health to terminate you on September 7, 2013. However, Alameda Health denied your September 5, 2013 led to your termination. It produced a September 4, 2013 email from your direct supervisor

Dana Littlepage, RN, announcing you would be let go from probation and seeking Human Resource's advice on next steps. This predated your September 5, 2013 letter to Harding.

In rebuttal, you amended your claim to say you spoke to Harding about "salary and benefits" on August 25, 2013. This included showing him your offer letter purportedly proving your salary was "much less than [she] had been offered." Harding allegedly promised "to think about it." The language you used is vague, as such it is not clear that you raised issues this office could investigate prior to the September 5, 2013 letter. Nothing in your rebuttal mentioned you raised unpaid overtime, missed breaks, or ergonomic rights during this newly reported August 25, 2013 conversation.

On September 7, 2013, Alameda Health dismissed you for "discrepancies between acceptable employment standards and those you exhibited during your employment with us." The evidence established a patient died during your employment. You denied any negligence and noted Alameda Health kept you working as a monitor technician during the ensuing investigation, failed to stop your unemployment, and never reported you to state licensing. While these arguments are compelling, whether or not you performed negligently or others were responsible are issues well outside of the Labor Commissioner's jurisdiction.

On September 14, 2013, Alameda Health dismissed your workplace complaints by pointing out public employees did not qualify for daily overtime; you miscalculated the overtime given the employer's 24 hour workday; you needed to, and could have,

notified your supervisor about missing breaks; the additional 10 minute break ergonomic rule had not been applied since 2011; and your probationary status disqualified you from any Collective-Bargaining Agreement (CBA) educational benefits. In the claim you filed with the Labor Commissioner's Wage Adjudication unit office these issues were dismissed for lack of jurisdiction.

Your claim for additional ten minute breaks as an ergonomic accommodation was evaluated as a health and safety complaint. You were unable to provide any evidence you raised this issue prior to your September 5, 2013 letter. There was no evidence this particular complaint upset Alameda Health as this institution firmly believed this law had been repealed in 2011. Significantly, Cal OSHA did not intervene on this issue when you filed with them post termination, not were citations used. As a result, the evidence does not support that your employer was motivated to take action against you for raising this issue.

Additionally, your probationary status meant Alameda Health could terminate you at any time and without due process. Your involvement with medical negligence, whether peripheral or not, also gave Alameda Health a compelling reason to terminate you."

You engaged in protected activities with your employer's knowledge. Further, your employer admitted terminating you. However, you failed to connect your employer's knowledge of your protected activities with the adverse actions it took against

you. Instead, the **evidence** established your employer's legitimate, non-retaliatory reasons for terminating you."

Therefore, DIR consistently refused to meet with me, to provide me with the explanations and evidence regarding the allegation of the medical negligence, refused to schedule an evidentiary hearing with my former employer AHS, and accused me in committing medical negligence towards the patient.

After filing a lawsuit No. 3:16-cv-07414-LB against AHS and DIR at the District Court, I learned about the Eleventh Amendment's protection. I removed DIR from a list of Defendants. I filed an Amended Complaint, and I listed four DIR's Officers Ms. Healy, Ms. Daly, Mr. Santos, and Mr. Rood whom I was suing in their individual capacities. Mr. Santos is a Deputy of the Labor Commissioner who dismissed my wage claim on January 07, 2014 asserting DIR's lack of jurisdiction for County employers. Mr. Eric Rood is one of DIR's Directors who signed a December 29, 2016 Determination Letter.

During the litigation of my Amended Complaint No. 3:16-cv-07414-LB, three out of four DIR's Officers were not served with a Summons and an Amended Complaint, and four Officers didn't timely consent to magistrate jurisdiction. Regardless, Magistrate Judge the Hon. Laurel Beeler continued to judge the lawsuit. All four Officers that were represented by Attorney Ms. Ng claimed Governmental immunity for discretionary acts pursuant to Gov. Code §820.2 and privilege pursuant to Civil Code §47. During the litigation at the District Court, AHS didn't say that I had been fired for medical

negligence towards the patient. Neither AHS nor DIR and its Officers submitted any explanation and evidence regarding the allegation of the medical negligence. Regardless, on July 07, 2017, the Hon. Judge Beeler granted DIR's Officers with Governmental immunity for discretionary acts pursuant to Gov. Code §820.2 and with absolute privilege pursuant to Civil Code §47 and entered a Judgment in favor of the Officers. The Judge also dismissed a lawsuit against AHS for lack of subject-matter jurisdiction.

On November 07, 2018, I filed a lawsuit against DIR at the Superior Court of Alameda County, No, RG17881790, *Drevaleva v. Department of Industrial Relations* (A155165, Vol. 1; 1-78.) Please, read the allegations of the complaint (A155165, Vol. 1; 22-23), "The First Cause of Action – Libel:

1) DIR said that I had committed negligence towards the patient even though my former employer AHS never said it. Despite my numerous requests, DIR never explained what my specific actions were that constituted negligence

2) DIR said that I had missed my appointment on September 13th, 2016. To the best of my knowledge, I didn't have any appointment on September 13th, 2016 with DIR. Despite my numerous requests, DIR never provided me with evidence that the appointment really existed

3) DIR lied that it had sent me the Determination Letter so I could file an appeal with Director of DIR Ms. Baker. Despite my numerous requests to see the confirmation of this mailed document such as a return receipt, DIR never showed it to me. Also,



despite my numerous requests, DIR never specified what home postal address it used for mailing me this letter

4) DIR lied that I knew that I was going to be fired from AHS prior to sending my letter to Mr. Harding. DIR talked about an alleged letter dated September 04, 2013 from “my direct supervisor” Ms. Littlepage whom I even don’t know and who never was my supervisor. In fact, I never received such a letter

5) DIR lied that it didn’t have jurisdiction over “county employees” and denied my wage claim.

The Second Cause of Action – Professional Negligence:

1) DIR failed to contact with all witnesses whom I listed in my letter to Ms. Daly dated June 18th, 2014 and August 6th, 2016

2) DIR recklessly disregarded the main witness Dr. Sina Rachmani who can confirm that my EKG reading was correct

3) DIR processed my claim for a huge amount of time - over three years causing me a lot of suffering, pain, and pushing me into a huge financial debt

4) DIR attempted to force me to withdraw my claim thus depriving me the opportunity to get reinstated back to work and to get all not received wages, benefits, and other compensation

5) DIR never sent me the Determination letter thus depriving me an opportunity to file an appeal with Ms. Baker

6) intentionally failing to recognize fraud and negligence committed by AHS towards me. DIR knew that I didn't perform negligence towards the patient but continued to support my retaliator AHS."

On March 09, 2018, DIR served me with an anti-SLAPP Motion pursuant to C.C.P. §425.16 (A155165, Vol. 1; 211-284.) Regarding the First Prong of the anti-SLAPP statute, DIR asserted that I had violated DIR's First Amendment right for free speech and petitioning. DIR presented Daly's sworn Declaration where she declared under the penalty of perjury that on December 02, 2013 she spoke to Harding and Cole, and they said to her that I had been fired for medical negligence towards the patient (A155165, Vol. 1; 232-235.) Also, DIR presented the first version of a September 04, 2013 email allegedly written by Littlepage where she proposed to release me from my probationary employment (A155165, Vol. 1; 240-241.) DIR claimed that the September 04, 2013 email predated my September 05, 2013 letter to Harding. Also, Daly claimed that I knew that I would be fired prior to sending my September 5, 2013 letter to Harding. Regarding the Second Prong of the anti-SLAPP statute, DIR claimed Governmental immunity for discretionary acts pursuant to Gov. Code, §815.2(b), 818.8, 821.6, 820.2 and privilege under Civil Code §47(b.)

On March 09, 2018, DIR also served me with a Demurrer (A155165, Vol. 1; 100-139) where DIR asserted Governmental immunity for discretionary acts pursuant to Gov. Code, §§815.2(b), 818.8, 821.6, 820.2 and privilege under Civil Code §47(b.)

On March 12, 2018, I filed a Motion for Specified Discovery Despite the Pending anti-SLAPP Motion pursuant to C.C.P. §425.16(g), see (A155165, Vol. 2; 313-323 and 329-330) and (A155165, Vol. 1; 285-286) where I asked to provide me with the explanations and evidence regarding the allegation of the medical negligence. Also, I requested DIR to give me the name of the person who allegedly notified me that I would be fired from AHS prior I sent my September 05, 2013 letter to Harding.

I provided the Superior Court with my Opening Brief in Appeal No. 17-16382 at the 9<sup>th</sup> Circuit (A155165, Vol. 2; 400-478), with AHS's Motion to Dismiss my Original Complaint (A155165, Vol. 2; 479-488), and with AHS's Motion to Dismiss my Amended Complaint in case No. 3:16-cv-07414-LB (A155165, Vol. 2; 489-506.) I clearly demonstrated that during the litigation at the District Court AHS didn't say that I had been fired for medical negligence. Also, I provided the Superior Court with DIR's Motion to Dismiss my original Complaint No. 3:16-cv-07414-LB (A155165, Vol. 2; 507-526) where DIR claimed the Eleventh Amendment's protection and where DIR didn't say that I had been fired for medical negligence. Also, I provided the Superior Court with DIR's Officers' Motion to Dismiss my Amended Complaint No. 3:16-cv-07414-LB (A155165, Vol. 2; 527-536) where DIR's Officers didn't say that I had committed medical negligence towards the patient, didn't provide the District Court with any

explanation and evidence regarding the allegation of the medical negligence, and that the Officers asserted only an affirmative defense which was Governmental immunity for discretionary acts pursuant to Gov. Code §820.2 and privilege pursuant to Civil Code §47.

On March 19, 2018, DIR opposed my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion (A155165, Vol. 2; 556-564) saying that the Discovery was not necessary because the information that I was seeking was available through other informal resources.

On March 21, 2018, I opposed the anti-SLAPP Motion (A155165, Vol. 2; 565-578.) I said that my Complaint didn't arise from DIR's First Amendment right for free speech.. My Complaint arose from DIR's Libel about the reasons of the termination of my employment. Also, DIR was not eligible to strike the Second Cause of Action (Professional Negligence) because this cause of action didn't fall into the definition of "speech", "petitioning", and "other activity" that were protected by the anti-SLAPP statute.

On March 22, 2018, I submitted a Request for Public Records to DIR (A155165, Vol. 3; 712-713.) I requested to provide me with the explanations and evidence regarding the allegation of the medical negligence. On April 18, 2018, I received DIR's partial response to my Request for Public Records (A155165, Vol. 4; 983-989.) With this Response, I received a second version of an alleged Littlepage's email where she proposed to release me from my probationary employment (A155165, Vol. 4; 988-989.)

Also, I received three pages of the handwritten notes that it was impossible to read (A155165, Vol. 4; 985-987.) DIR advised me to file a Second Request for Public Records and to request the Complete File of the Public Records. On April 19, 2018, I submitted my Second Request for Public Records. DIR acknowledged this request in its May 1, 2018 letter (A155165, Vol. 4; 1112.) Afterwards, I didn't hear from DIR, and I didn't receive the Public Records.

On March 26, 2018, I replied to DIR's Opposition to my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion (A155165, Vol. 3; 734-745.) I argued that I had a right for specified Discovery despite the pending anti-SLAPP Motion because the results of the Discovery will prove my Complaint.

On April 09, 2018, I filed a Second Request to Take a Judicial Notice of the documents from the District Court and from the 9<sup>th</sup> Circuit (A155165, Vol. 3; 873-876.) I also provided the Superior Court with AHS's Answering Brief at the 9<sup>th</sup> Circuit in Appeal No. 17-16382 (A155165, Vol. 3; 800-836) where AHS suddenly said that I had been fired for poor professional performance (A155165, Vol. 3; 809-811) but AHS didn't give both explanations and evidence regarding the allegation of the poor performance.

After I received two versions of Littlepage's email (A155165, Vol. 4, 1025-1031), I suspected that this email was fabricated. I shared my thoughts with the Court but the Court didn't pay attention.

On May 18, 2018, the Superior Court denied my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion (**A155165, Vol. 4; 1075-1076**) stating that, even if I obtained the evidence that I didn't commit medical negligence towards the patient, or if I obtained the evidence that I didn't know that I would be fired prior to sending my September 5, 2013 letter to Harding, that evidence would be immaterial to DIR's Governmental immunity.

On May 18, 2018, the Superior Court ordered the parties to compete additional briefing in support and opposition of DIR's anti-SLAPP Motion (**A155165, Vol. 4; 1077-1079.**)

On May 24, 2018, I filed a Motion for Reconsideration of the May 18, 2018 Order that denied my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion (**A155165, Vol. 4; 1082-1093.**) I argued that DIR didn't have a right to withhold the documents regarding DIR's processes of investigation of my both retaliation and unlawful termination claim and my wage claim because these documents were the Public Records. I had a right to obtain the writings of the Public officials pursuant to the California Constitution, Article 1, Sections 3(b)(1) and (b)(2) and pursuant to the California Public Records Act (the CPRA), see (**A155165, Vol. 4; 1086.**) I argued that a Public Entity didn't have a right to block Discovery using the anti-SLAPP Motion if the Plaintiff sought to obtain the Public Records that were not exempt from the disclosure.

On May 24, 2018, not receiving DIR's response to my Second Request for Public Records, I filed a Verified Petition for Writ of Mandate to Compel DIR to Issue the

Improperly Withheld Public Records (A155165, Vol. 4; 1094-1115.) I filed this Petition in a form of a Noticed Motion after obtaining a permission of a Judge to do it.

On May 24, 2018, I filed my Response to the May 18, 2018 Order regarding the anti-SLAPP Motion (A155165, Vol. 4; 1123-1145.) I analyzed the causes of action “Libel” and “Professional Negligence.” On May 28, 2018, DIR filed its Response to the May 18, 2018 Order (A155165, Vol. 4; 1148-1165.) On June 05, 2018, I filed my Reply to DIR’s Response (A155165, Vol. 4; 1174 to Vol. 5; 1201.) In my Reply, I argued that my Complaint No. RG17881790 didn’t arise from DIR’s First Amendment right for free speech and petitioning. My Complaint arose from DIR’s consistent refusals to give me the explanations and the evidence regarding the allegation of the medical negligence. Therefore, DIR was not eligible to strike my Complaint using the anti-SLAPP Motion. Moreover, I analyzed various allegations of my Second Cause of Action “Professional Negligence” that were outside of the scope of “speech” and “petitioning”, and therefore they were outside of the scope of the anti-SLAPP statute.

On June 04, 2018, DIR filed its Reply to my Response to the May 18, 2018 Order (A155165, Vol. 4; 1163-1165.)

Also, I filed Letters of Reference from my previous employers and my Performance Evaluation from the San Francisco VAMC where my performance was rated as outstanding and exceptional (A155165, Vol. 5; 1203-1232.)

On July 05, 2018, DIR opposed my Verified Petition for Writ of Mandate to Compel DIR to Issue the Improperly Withheld Public Records (**A155165, Vol. 5; 1246-1252**) claiming procedural deficiencies. On July 05, 2018, DIR also opposed my Motion for Reconsideration of the Court's Order that denied my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion (**A155165, Vol. 5; 1253-1269.**)

On July 12, 2018, I replied to DIR's Opposition to my Verified Petition for Writ of Mandate to Compel DIR to Issue the Improperly Withheld Public Records (**A155165, Vol. 5; 1276-1305.**)

On July 27, 2018, the Superior Court denied my Motion for Reconsideration of the May 18, 2018 Order that denied my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion (**A155165, Vol. 5; 1347-1349.**)

In July 2018, after filing my Verified Petition for Writ of Mandate to Compel DIR to Issue the Improperly Withheld Public Records, I received a Complete File of the Public Records from DIR (**A155165, Vol. 5; 1463 to Vol. 6; 1670.**) When I read the Complete File, there were no any explanations and evidence regarding DIR's allegation of the medical negligence towards the patient.

On July 27, 2018, the Superior Court denied my Verified Petition for Writ of Mandate to Compel DIR to Issue the Improperly Withheld Public Records claiming procedural deficiencies (**A155165, Vol. 5; 1351-1353.**)



On August 17, 2018, the Superior Court partially granted DIR's anti-SLAPP Motion (**this Order is not in the Clerk's Transcript.**) The Court ruled that my First Cause of Action "Libel" arose from DIR's First Amendment right for free speech and petitioning. The Court found that two allegations within the Second Cause of Action "Professional Negligence" (the attempt of Daly to coerce me to withdraw my retaliation and unlawful termination claim and intentionally failing to recognize fraud and negligence committed by AHS towards me. DIR knew that I didn't perform negligence towards the patient but continued to support my retaliator AHS) fell within the scope of free "speech" and "petitioning," and therefore the Court struck these allegations using the anti-SLAPP statute. Analyzing the Second Prong, the Court recklessly disregarded all pieces of evidence that I presented (good letter of reference from AHS and from previous employers, AHS's Motions to Dismiss at the District Court, DIR's and its Officers' Motions to Dismiss at the District Court, the Personnel File from AHS where the reason of the termination of my employment was stated as "probationary release.", the documents from the Employment Development Department that confirmed that I was receiving my unemployment insurance after being fired from AHS, and the Complete File of the Public Records from DIR where there were no explanations and evidence regarding the allegation of the medical negligence.) The Court refused to take a Judicial Notice of these documents. Instead, the Court granted DIR with Governmental immunity pursuant to §§815.2(b), 818.8, 821.6, 820.2 and with privilege under Civil Code §47(b.) The Court awarded DIR with Attorney's Fees at the commercial rate \$400 per hour for partially winning the anti-SLAPP Motion.

The Court sustained DIR's Demurrer to four remaining allegations of the Second Cause of Action (Professional Negligence) without leave to amend (**A155165, Vol. 6; 1736-1741**) applying the same provisions of the Governmental immunity for discretionary acts.

On September 10, 2018, I filed a Motion for Costs and Attorney's Fees for partially prevailing on the anti-SLAPP Motion pursuant to both C.C.P. §425.16(c)(1) and C.C.P. §128.5 (**A155165, Vol. 7; 1834-1866.**) I also filed a Motion for Costs and Attorney's Fees pursuant to Gov. Code §6259(d) as a Prevailing Requester in the CPRA litigation (**there is no this Motion in the Clerk's Transcript.**)

DIR opposed my Motion for Costs and Attorney's Fees pursuant to Gov. Code §6259(d) (**A155165, Vol. 7; 1883-1886**) and opposed my Motion for Costs and Attorney's Fees pursuant to C.C.P. §128.5 (**A155165, Vol. 7, 1887-1890**) stating that, as a Pro Se litigant, I am not eligible for an award of the Attorney's Fees. I replied to both Oppositions (**there are no my Replies in the Clerk's Transcript.**)

On October 04, 2018, the Superior Court denied my Motion for Costs and Attorney's Fees pursuant to C.C.P. §128.5 (**A155165, Vol. 7; 1892-1894**) stating that, as a Pro Se litigant, I was not eligible for an award of the Attorney's Fees. The Court held that, because DIR prevailed on a large portion of the anti-SLAPP Motion, the Motion was not frivolous, and that DIR's victory on a large part of the anti-SLAPP Motion overlapped my victory on a small part of the Motion. Also, the Court denied my Motion for Costs and Attorney's Fees pursuant to Gov. Code §6259(d) (**A155165, Vol. 7; 1895-**

1896) stating that my Verified Petition for Writ of Mandate to Compel DIR to Issue the Improperly Withheld Public Records was procedurally deficient, and that, as a Pro Se litigant, I was not entitled to an award of the Attorney's Fees.

On December 20, 2019, the Court of Appeal affirmed all rulings of the Superior Court despite the Clerk's Transcript was incomplete, and there was no the Order that partially granted the anti-SLAPP Motion, and there was no my Motion for Costs and Attorney's Fees pursuant to Gov. Code §6259(d), and there were no my Replies to DIR's Oppositions to two my Motions for Costs and Attorney's Fees.

## **REASONS FOR GRANTING THE WRIT.**

My Complaint is not governed by the anti-SLAPP statute. DIR can't assert Governmental immunity and privilege for failure to discharge a mandatory duty to investigate my retaliation and unlawful termination claim and my wage claim that was governed by Labor Code Section 98.7. Therefore, DIR is liable pursuant to Gov. Code §815.6, "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty."

Also, my case is governed by Labor Code §1138.1(a)(5),

"(a) No court of this state shall have authority to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, except after hearing the testimony of witnesses in open court, with opportunity for cross-examination, in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court, of all of the following:

(1) That unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or

unlawful act excepting against the person or persons, association, or organization making the threat or committing the unlawful act or actually authorized those acts.

(2) That substantial and irreparable injury to complainant's property will follow.

(3) That as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief.

(4) That complainant has no adequate remedy at law.

(5) **That the public officers charged with the duty to protect complainant's property are unable or unwilling to furnish adequate protection....."**

In fact, despite DIR's officers refused to give me the adequate protection, I was unable to obtain relief in the California Courts. Therefore, I am asking the U.S. Supreme Court to reverse the December 20, 2019 Opinion and to proceed my case to a jury trial because I have no any other remedy. I want to be free from injustice.

**CONCLUSION.**

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,

s/ Tatyana Drevalova


Petitioner-Appellant Pro Se

3015 Clement St., Apt. 204, San Francisco, CA, 94121

415-806-9864; [tdrevalova@gmail.com](mailto:tdrevalova@gmail.com)

Date: September 14, 2020



Tatyana Drevalova  


### VERIFICATION.

I, a Pro Se Petitioner Tatyana Drevalova, am a Party to this action. I have read the foregoing Petition and know its contents. The facts alleged in the Petition are within my own knowledge and I know these facts to be true.

I declare under the penalty of perjury and under the Federal laws and under the laws of the State of California that all foregoing is true and correct. Executed at San Francisco, CA on September 14, 2020.

Respectfully submitted,

*Tatyana Drevalova*  
*DT*

s/ Tatyana Drevalova

Petitioner-Appellant Pro Se

3015 Clement St., Apt. 204, San Francisco, CA, 94121

415-806-9864; [tdrevalova@gmail.com](mailto:tdrevalova@gmail.com)

Date: September 14, 2020