

Case No. 20-607

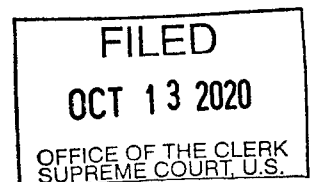
**IN THE SUPREME COURT  
OF THE UNITED STATES OF AMERICA**

TATYANA E. DREVALEVA,  
*Petitioner,*

*vs.*

ALAMEDA HEALTH SYSTEM  
*Respondent*

**ORIGINAL**



On Petition for Writ of Certiorari to the California Supreme Court

Alameda County Superior Court, case No. RG19002840

Court of Appeal for the First District, Division Four

Appeal No. A157851

The California Supreme Court, Petition for Review S261831 - denied

**PETITION FOR WRIT OF CERTIORARI**

Tatyana E. Drevaleva, Petitioner Pro Se  
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## **QUESTIONS PRESENTED.**

- 1) Does the local Public Agency Alameda Health System (AHS) have a right to do the following:
  - a) To refuse to assign a Board of Trustees and to assign a Contractor who is not directly employed by AHS in order to process my August 20, 2018 Government claim pursuant to the California Government Code Section 911.2
  - b) To refuse to assign a Board of Trustees and to assign a Contractor who is not directly employed by AHS in order to process my Application for Leave to Submit a Late Claim pursuant to the California Government Code Section 911.4
  - c) To refuse to assign a Board of Trustees and to assign a Contractor who is not directly employed by AHS in order to deny my Application for Leave to Submit a Late Claim pursuant to the California Government Code Section 911.6)
  - d) To refuse to assign a Board of Trustees and to assign a Contractor who is not directly employed by AHS in order to advise me to file a Petition for Relief from Government Code Section 945.4 as outlined at Government Code Section 946.6?
- 2) Does the local Public Agency AHS have a right to deny my Government claim pursuant to Government Code Section 911.2 for injury No. 1 (accusation of the

Department of Industrial Relations of the State of California that I was fired from AHS for committing medical negligence towards the patient) on the ground that I submitted this claim outside of a six month period that was imposed by Gov. Code Section 911.2(a) if I submitted this claim within six months after I learned about this injury? The injury itself occurred on December 02, 2013 when Deputy of the Labor Commissioner Ms. Catherine Daly allegedly communicated with my former Supervisor from AHS Mr. Gilbert Harding and Labor Analyst of AHS Mr. Adam Cole, and both Harding and Cole allegedly said to Daly that I had been fired from AHS for committing medical negligence towards the patient. However, I didn't know about the December 02, 2013 alleged communication between Daly and both Harding and Cole until March 13, 2018. I submitted my Government claim pursuant to Government Code Section 911.2 directly to AHS on August 20, 2018 which was within six months after I learned about the injury.

- 3) Does the local Public Agency AHS have a right to deny my Government claim for injury No. 2 (the March 30, 2018 sudden statement in AHS's Answering Brief in Appeal No. 17-16382 at the 9<sup>th</sup> Circuit that I was fired from AHS for poor professional performance) asserting that this claim was submitted "late" if I presented this claim to AHS on August 20, 2018 which was within 6 months after learned about this injury? The injury occurred on March 30, 2018 when AHS that was represented by the Narayan Travelstead Professional Law Corporation wrote in its March 30, 2018 Answering Brief in Appeal No. 17-

16382 that I had been fired in 2013 for poor professional performance and for getting involved in an incident where a patient's safety was compromised. I actually learned about this injury on March 30, 2018 when I was served with the Answering Brief via the electronic notification. I presented a Government claim pursuant to Government Code Section 911.2 directly to AHS on August 20, 2018 which was within 6 months after learning about this injury.

- 4) If, after filing a Verified Petition for Relief from Government Code Section 945.4 at the Superior Court of Alameda County No. RG19002840 I found out that the Public Agency AHS cheated me about the August 20, 2018 Government claim presentation requirements and the deadlines for submitting such a claim, and if I filed a Motion to Punish AHS for cheating me about claim presentation requirements and the deadlines for submitting such a claim, does the Superior Court of Alameda County have a right to deny my Motion on the basis that I didn't cite a relevant authority that justifies relief?
- 5) After the Superior Court of Alameda County denied my Motion to Punish on the basis that I didn't cite a relevant authority that justifies relief, I found Government Code Section 800 that authorizes the Courts to sanction the Public Agencies for issuing arbitrary and capricious decisions. If I subsequently cited Government Code Section 800 to the Superior Court, does the Court have a right to still refuse to punish AHS for cheating me about the claim Government presentation requirements and the deadlines for submitting such a claim?

6) Also, I found the following case laws that authorize the California Courts to estop the Public Agencies from misleading a Member of the Public about the Government claim presentation requirements and the deadlines for submitting such claims to the Pubic Agencies:

- a) *Cole v. City of Los Angeles*, B011528 (1986)
- b) *Fredrichsen v. City of Lakewood* (1971) 6 Cal.3d 353, 357, 99 Cal.Rptr. 13, 491 P.2d 805
- c) *Toscano v. County of Los Angeles* (1979) 92 Cal.App.3d 775, 784, 155 Cal.Rptr. 146
- d) *Driscoll v. City of Los Angeles* (1967) 67 Cal.2d 297, 305, 61 Cal.Rptr. 661, 431 P.2d 245
- e) *DeYoung v. Del Mar Thoroughbred Club* (1984) 159 Cal.App.3d 858, 862, 206 Cal.Rptr. 28
- f) *LaRue v. Swoap* (1975) 51 Cal.App.3d 543, 551, 124 Cal.Rptr. 329.

I cited these case laws in my Motion to Vacate the Judgment. I discussed all four elements that were described in both *Driscoll v. City of Los Angeles* (1967) 67 Cal.2d 297, 305, 61 Cal.Rptr. 661, 431 P.2d 245 and *DeYoung v. Del Mar Thoroughbred Club* (1984) 159 Cal.App.3d 858, 862, 206 Cal.Rptr. 28, and I asked the Superior Court of Alameda County to estop Alameda Health System from lying about the Government claim presentation requirements and the deadlines for submitting such a claim to AHS. The Superior Court denied my Motion to Vacate the Judgment without any explanations.

Did the Superior Court have a right to refuse to accept into its consideration the case laws that I cited and to still refuse to impose penalties on AHS for lying to me about the August 20, 2018 Government claim presentation requirements and the deadlines for submitting this claim to AHS?

- 7) Does the Superior Court have a right refuse to conduct a Jury Trial on the issues of fact at my demand in case No. RG19002840 – Verified Petition for Relief from Government Code Section 945.4?
- 8) Does the Superior Court have a right to enter a Judgment without serving me with a Proposed Judgment and without giving me an opportunity to present my objections to the Proposed Judgment?
- 9) Does the Superior Court have a right to enter a Judgment in six days after denying my Verified Petition for Relief from Government Code Section 945.4, on the same day when the Court received the Proposed Judgment, and without any Proof of Service of the Proposed Judgment on me?
- 10) Does the Superior Court have a right to process any filing of local Public Agency Alameda Health System that failed to pay a filing fee to the Court and that falsely claimed that it was exempt from paying a filing fee pursuant to the California Government Code Section 6103 whereas there were no any conditions that would justify AHS's exemption from paying a filing fee to the Superior Court?

11) Does the Superior Court have a right to deny my Petition and my Motion to Vacate the Judgment without disclosing any reasons for the denial?

**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) Mr. Timothy C. Travelstead, Esq.

The Narayan Travelstead Professional Law Corporation

Attorney for Alameda Health System

7901 Stoneridge Drive, Suite 230,

Pleasanton, CA, 94588

(650) 403-0150; [T.Travelstead@narayantravelstead.com](mailto:T.Travelstead@narayantravelstead.com)



**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.

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**Appendix B** - Opinion of the Court of Appeal for the First District, Division Four in Appeal No. A157851 (unpublished), March 20, 2020

**Appendix C** – Order of the Court of Appeal for the First District, Division Four that denied my Petition for Rehearing in Appeal No. A157851, that denied my Petition for Mandatory Rehearing, and that denied my Motion to Supplement the Record on Appeal, April 16, 2020

**Appendix D** – Order of the Superior Court of Alameda County in case No. RG19002840 *Drevaleva v. Alameda Health System* that denied my Motion to Punish Alameda Health System, April 11, 2020

**Appendix E** – Order of the Superior Court of Alameda County that denied my Verified Petition for Relief from Government Code Section 945.4 in case No. RG19002840 *Drevaleva v. Alameda Health System*, May 17, 2019

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**Appendix G** – Order of the Superior Court of Alameda County that denied my Motion to Vacate the Judgment in case No. RG19002840 *Drevaleva v. Alameda Health System*, July 11, 2019.

**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 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 court appears at Appendix B 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 state courts:

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

A copy of that decision appears at Appendix A.

☐ 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**

Not Applicable.

## STATEMENT OF THE CASE

On March 11, 2013, I received an Offer Letter from Alameda Health System 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.

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
- 6) didn't give me 10 minute breaks every hour because I was constantly observing video display screens

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, "Ms. Tatyana Drevalova ... 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.

On September 05, 2013, I emailed a letter to Harding with these questions. 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 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” (ER 17.)

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.) 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’ (ER 26.) 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. AHS listed a reason of the termination of my employment to the Employment Development Department (EDD) as “Probationary Release” (ER 28.)

On January 07, 2014, Deputy Santos denied my wage claim asserting that “the Division does not have jurisdiction over claims for overtime, rest period premiums, differential pay, or waiting time penalties for county employees.”

On June 16, 2014, I received a letter from Deputy Daly where she asserted that I had been properly fired from AHS for committing medical negligence towards the patient. Daly didn’t explain what patient s/he was and what exactly wrong I did that constituted medical negligence. I was very surprised. While working at AHS, nobody

told me that I had committed medical negligence towards the patient. While working at AHS, I didn't receive a verbal warning, I was not written up, and I received a good Letter of Reference from Assistant Manager Mr. Masangkay. After being fired from AHS, my professional certificate of an EKG Technician was not revoked, and I was not reported to the appropriate State Board. On June 18, 2016, I responded to Daly's Letter. I described the incident that occurred with patient Mr. X. even though I was not sure if it was the patient whom Ms. Daly meant in her June 16, 2014 letter. I described in detail what happened to Mr. X. during that night shift, and I provided Daly with a list of witnesses including Dr. Sina Rachmani to whom I reported the patient's Electrocardiogram and who agreed with my EKG interpretation, my co-worker Ms. Doniea Lawson to whom I reported the patient's EKG, and Director of Step Sown Unit Mr. Harding to whom I reported the patient's EKG and the incident with the patient.

Afterwards, I didn't hear from Daly at all for over two years. In 2016, I emailed Daly and asked her to give me a time frame when she will finish her investigation of my retaliation and unlawful termination claim. Daly informed me that she would not rule in my favor because the evidence showed that AHS had terminated my employment for a legitimate, non-retaliatory reason, and that I couldn't show pretext. Daly kept insisting that I had been fired from AHS for committing medical negligence towards the patient. I started to communicate with Daly's Supervisor Ms. Joan Healy. I asked Healy to give me the explanations and evidence regarding Daly's allegation of the medical negligence towards the patient. Healy refused, and she didn't give me any explanations and evidence

regarding Daly's allegation of the medical negligence towards the patient. Healy requested my home postal address. She promised to send me a Determination Letter in mail, and she informed me that I would be eligible to appeal the Determination within 10 days from the issuance of the Determination Letter with Director of DIR. In December 2016, I provided Healy with my home postal address twice, so DIR could send me a Determination Letter, and so I could appeal the Determination with Director of DIR. I never received the Determination Letter in mail;

Not having received the Determination Letter in mail, on December 29, 2016 I filed a lawsuit at the U.S. District Court for the Northern District of California No. 3:16-cv-07414-LB *Drevaleva v. 1) Alameda Health System, 2) The Department of Industrial Relations*. During the process of litigation of my Original and Amended Complaints, my former employer AHS never said that I had been fired for medical negligence towards the patient. AHS only claimed lack of subject-matter jurisdiction, lack of the Diversity of Citizenship jurisdiction, and failure to state the claim upon which relief could be granted. See AHS's Motion to Dismiss my Original Complaint No. 3:16-cv-07414-LB at (ER 30-39), see AHS's Motion to Dismiss my Amended Complaint at (ER 40-57.)

During the litigation of my lawsuit No.3:16-cv-07414-LB, Dir's Counsel Ms. Doris Ng emailed me DIR's December 29, 2016 Determination Letter where DIR wrote, "Your involvement with medical negligence, whether peripheral or not, also gave Alameda Health a compelling reason to terminate you." However, during the litigation of my lawsuit No. 3:16-cv-07414-LB, neither DIR nor its Officers said that I had committed

medical negligence towards the patient, and both DIR and its Officers never presented any explanations and evidence regarding DIR's allegation of the medical negligence.

On July 07, 2017, the Hon. Judge Laurel Beeler entered a Judgment in favor of Defendants AHS and DIR's Officers. I filed a Notice of Appeal No. 17-16382. During the litigation of my Appeal at the 9<sup>th</sup> Circuit, AHS suddenly claimed in its March 30, 2018 Answering Brief (**ER 59-96**) that I had been fired for poor professional performance. See (**ER 68**), "Shortly after Appellant was hired at AHS as a Monitor Technician, AHS found she was involved in an incident in which the safety a patient was compromised. AHS released from her probationary status for her poor performance, not for any complaints about her working terms and conditions."

See (**ER 70**), "AHS hired Appellant as a Monitor Technician on April 1, 2013. ... Shortly after Appellant was hired, she was involved in an incident in which the safety a patient was compromised while she was performing her duties. ... AHS investigated the incident and interviewed Appellant on three separate occasions. ... On September 4, AHS decided to release Ms. Drevaleva from her employment at AHS. ... On September 7, 2013, AHS sent Appellant a letter informing her that her employment with AHS was ending due to the "discrepancies between acceptable employment standards and those [she] exhibited during [her] employment." ..."

On November 08, 2018, I filed a lawsuit at the Superior Court of Alameda County No. RG17881790 *Drevaleva v. Department of Industrial Relations*. I listed two causes of action: 1) Libel regarding DIR's allegation of the medical negligence, 3) Professional

Negligence during the investigation of my both retaliation and unlawful termination claim and my wage claim.

On March 09, 2018, DIR served me with an anti-SLAPP Motion and a Demurrer via the U.S. mail. I actually received the anti-SLAPP Motion and the Demurrer on March 13, 2018. With its anti-SLAPP Motion, DIR presented a sworn Declaration of Deputy Daly (**ER 21-24.**) Read Daly's Declaration (**ER 21-22**),

“(9) I interviewed Gilbert Harding, Plaintiff's former supervisor, and Adam Cole, a labor analyst for Alameda Health System on December 2, 2013.

10) Harding and Cole admitted that Alameda Health System terminated Plaintiff's employment on September 7, 2013, but maintained it was because Plaintiff failed to meet acceptable employment standards.

(11) Specifically, Harding and Cole claimed that Plaintiff's alleged negligence seriously harmed a patient.”

Also, during the litigation of the lawsuit No. RG17881790, I obtained the Public Records from DIR that were related to DIR's processes of investigation of my retaliation and unlawful termination claim and my wage claim. See (**ER 19**), “12-02-2013 Spoke w/Director Gilbert Harding & Labor Analyst Adam Cole. Firing appears justified due to failure to timely read chart & notify medical provider...”

“06-17-2014 I prepared and emailed a rebuttal request. Given the underlying circumstances – CPL’s [*Complainant’s* - T.D.] extreme negligence – there is not a lot she can do to overcome Respondent.”

Therefore, let us repeat again the facts of the case. On March 13, 2018, I learned about Injury No. 1 which was the alleged December 02, 2013 communication between Deputy Daly and AHS’s Supervisor Harding and Labor Analyst Cole, and allegedly Harding and Cole said to Daly that I had been fired for medical negligence towards the patient. Again, the alleged communication between Daly and both Harding and Cole occurred on December 02, 2013 but I learned about it only on March 13, 2018.

Also, on March 30, 2018 I learned about Injury No. 2 which was AHS’s statement in the March 30, 2018 Answering Brief in Appeal No. 17-16382 that I had been fired from AHS for poor professional performance.

Therefore, I suffered from two separate substantial injuries to my good name and my professional reputation. Please, see the definition of the “injury” in Government Code Section 810.8 (**ER 150; lines 18-21**), “ “Injury” means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to his person, reputation, character, feelings or estate, of such nature that it would be actionable if inflicted by a private person.”

On August 20, 2018, I submitted a Government claim directly to AHS (**ER 11-96**.) I submitted this claim pursuant to Government Code Section 911.2, “(a) A claim

relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) not later than one year after the accrual of the cause of action.”

Therefore, my August 20, 2018 claim was timely for Injury No. 1 because the claim was submitted within 6 months after I learned about this Injury on March 13, 2018. I am reminding again that the Injury No. 1 itself occurred on December 02, 2013 but I learned about it only on March 13, 2018.

My August 20, 2018 claim was timely for Injury No. 2 because the claim was submitted within 6 months after I learned about this injury on March 30, 2018. The Injury No. 2 itself occurred on March 30, 2018.

My August 20, 2018 claim to AHS was not for money and damages. Read again the plain language of Government Code Section 911.2 (above) that authorizes a Member of the Public to submit “a claim relating to a cause of action for ...injury.” In my August 20, 2018 claim, I wrote (**ER 12**), “I am respectfully asking AHS to provide me with answers on the following questions:

- 1) Describe in detail a nature of “discrepancies between acceptable employment standards and those [I] exhibited during [my] employment with [AHS].”  
Provide documentary evidence of the alleged discrepancies.



- 2) Describe in detail and provide documentary evidence regarding the allegation of “failure to timely read chart and notify the medical provider”
- 3) Describe in detail and provide documentary evidence of the alleged “poor [professional] performance.”

I followed the plain instructions that were given in a template Government claim form (**ER 11**), “4. Total amount of claim” and “10. Itemization of claim.” I calculated the amount of my lost salary and benefits as a result of the termination of my employment from AHS in 2013, and I presented it to AHS’s attention, see (**ER 14-15.**)

With my August 20, 2018 claim to AHS, I included AHS’s two Motions to Dismiss my lawsuit No. 3:16-cv-07414-LB (**ER 30-57**), AHS’s Answering Brief at the 9<sup>th</sup> Circuit (**ER 59-96**), Daly’s Declaration (**ER 21-24**), Daly’s notes (**ER 19**), Termination Letter from AHS (**ER 17**), the Personnel Record from AHS (**ER 26**), and the notes from the Employment Development Department (**ER 28.**)

On September 4, 2018, I received an email from Litigation Specialist of Beta Healthcare Group Mr. Mark Cachia-Riedl (**ER 98**) that said, “As the Agent of Alameda Health System, notice is hereby given that the Claim that you presented to the Clerk of the Hospital Authority, Alameda Health System on August 20, 2018, is being returned because it was not presented within six months after the event or occurrence, as required by law (see Sections 901 and 911.2 of the Government Code). Because the Claim was not presented within the time allowed by law, no action was taken on the Claim.”

Further, the September 4, 2018 letter advised me to file an application for leave to present a late claim pursuant to Government Code Sections 911.4 to 912.2, inclusive, and Section 946.6.

On September 20, 2018, I submitted a "Request for Leave to Present a Late Claim under Government Code §911.2 to §912.2 inclusive, and §946.6" (**ER 101-102.**) On October 24, 2018, I received an email from Mr. Cachia-Riedl that said (**ER 104**), "As the agent for Alameda Health System, notice is hereby given that the Application that you presented to the Clerk of the Hospital Authority, Alameda Health System, on September 20, 2018, for leave to present a Claim after expiration of the time allowed by law for doing so, was denied." Further, Mr. Cachia-Riedl advised me to file a Petition for Relief from Government Code Section 945.4 as outlined at Government Code Section 946.6.

On January 16, 2018, I filed a Verified Petition for Relief from Government Code Section 945.4 (Government Code Section 946.6) at the Superior Court of Alameda County No. RG19002840 *Drevaleva v. Alameda Health System* (**ER 1-9.**) After filing this Petition, I realized that AHS cheated me about the Government claim presentation requirements and the deadlines for filing such a claim.

Read Government Code Section 945.4 (**ER 111-112**), "Except as provided in Sections 946.4 and 946.6, no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of this division until a written claim therefor has been

presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board, in accordance with Chapters 1 and 2 of Part 3 of this division.”

Read Government Code Section 946.6 (**ER 112**), “(a) If an application for leave to present a claim is denied or deemed to be denied pursuant to Section 911.6, a petition may be made to the court for an order relieving the petitioner from Section 945.4. The proper court for filing the petition is a superior court that would be a proper court for the trial of an action on the cause of action to which the claim relates.”

I realized that the Superior Court couldn’t give me any relief from Government Code Section 945.4 because my August 20, 2018 claim to AHS was not for money and damages, and the claim was not presented to the Board of Trustees of AHS and was not rejected by the Board of Trustees. My August 20, 2018 claim was rejected by a Contractor that was employed by the Beta Group and who was no way related to the Board of Trustees of AHS. Therefore, I realized that AHS cheated me about the claim presentation requirements. Also, I already explained that my August 20, 2018 claim for both Injury No. 1 and No. 2 was timely because I submitted it within 6 months after I learned about these Injuries.

On March 14, 2018, I filed a Motion to Punish AHS for cheating me about the claim presentation requirements and the deadlines for submitting such a claim (**ER 107-122**.) In this Motion, I raised two questions before the Superior Court (**ER 108-109**):

- 1) Shall the Superior Court of Alameda County “relieve” the Petitioner from Government Code Section 945.4 if the Petitioner did not bring a claim for money or damages to AHS, and AHS did not present the Petitioner’s claim to the Board of Directors or other governing body, and a Contractor-Attorney working for AHS denied the Petitioner’s claim instead of the Board?
- 2) Shall the Superior Court of Alameda County impose monetary and other penalties on Alameda Health System for misleading the Petitioner and forcing the Petitioner to file an unnecessary Petition for Relief from Government Code Section 945.4?

Further, I wrote (**ER 112-113**),

1) My initial August 20, 2018 claim to AHS had the only purpose to give me both the explanation and the evidence regarding DIR’s allegation of the medical negligence. On August 20, 2018, I did not present a claim for money and damages to AHS. I’ve never said that AHS itself accused me in committing medical negligence. Using other words, I only asked AHS whether it is true that Mr. Harding and Mr. Cole said to Ms. Daly that I had been fired for medical negligence. Until I have direct evidence that the officers of AHS said to Ms. Daly that I had been fired for medical negligence, I have no right to bring a suit for money and damages against AHS

2) My August 20, 2019 claim to AHS was rejected by the Contractor-Attorney Mr. Cachia-Riedl and not by the Board of Directors AHS or other governing body of AHS.”

I asked the Superior Court (**ER 113-114**),

1) “To impose sanctions on AHS for misleading me, frivolously denying my August 20, 2018 Claim, and forcing me to spend my time and effort to file and litigate a Petition for Relief from Government Code Section 945.4

2) To order AHS to pay both the costs of this litigation and the Attorney’s Fees

3) To order AHS to present the documents regarding its Public Entity’s status from both the Office of the Secretary of the State of California Mr. Alex Padilla, and from the Clerk of Alameda County

4) To issue a Writ of Mandate compelling AHS to give me the answer on the following question: Did both Mr. Gilbert Harding and Mr. Adam Cole say to Deputy of the Labor Commissioner Ms. Catherine Daly in December 2013 that I had been fired for committing medical negligence towards the patient?

5) To order AHS to pay for my Discovery such as Depositions. I want to depose the following officers of AHS: Mr. Gilbert Harding, Mr. Adam Cole, and Ms. Dana Littlepage. Also, at the Court’s discretion. I am asking to order AHS to pay for my Attorney who will conduct the Discovery

6) At the Court’s discretion, I am asking to impose the punitive damages at AHS for frivolously dismissing my August 20, 2018 claim, for failure to follow the proper chain such as to present my claim to the Board and not to a Contractor-Attorney, and for

forcing me to commence an unnecessary and frivolous lawsuit such as to file a Petition to Relieve me from Government Code §945.4

7) I am demanding a Jury Trial pursuant to Gov. Code §946.6(a) at the expense of Alameda Health System and any other relief that the Court deems just and proper

8) Depending on the results of the Discovery, I preserve the right to file a Motion to Amend my Petition.”

On March 26, 2018, AHS opposed my both Petition for Writ of Mandate and my Motion to Punish (**ER 123-130**) asserting that the relief that I was seeking in the Petition (an AHS’s explanations regarding the allegations of medical negligence and poor professional performance) was not cognizable under Government Claims Act (**ER 124.**) AHS also asserted that 1) Government Code Section 946.6 was not available to the wrongful termination claims, 2) that I failed to meet the requirements of Government Code Section 946.6, and 3) that I didn’t have inadvertence, mistake, and excusable neglect, and 4) that I couldn’t bring a claim for wrongful termination against a public agency.

Also, AHS asserted that, as a Pro Se litigant, I was not eligible for an award of Attorney’s Fees citing *Argaman v. Ratan* (1999) 73 Cal.App.4th 1173, 1177 and *Elwood v. Drescher* (2006) 456 F.3d 943 (**ER 129**). AHS also asserted that I couldn’t demand punitive damages from AHS because it is a Public Agency citing Gov. Code, §818; *Runyon v. Superior Court* (1986) 187 Cal.App.3d 878, 880-881 (**ER 129.**) AHS also

falsely attempted to justify its alleged status as a “public agency” pursuant to the California Health & Safety Code § 101850 subd. (a)(2)(C) (**ER 128**.) Also, AHS asserted that, because it was a “public agency”, it couldn’t be liable for wrongful termination of my employment (**ER page 128, line 27 to page 128, line 5**.)

On March 29, 2019, I replied to AHS’s Opposition (**ER 132-141**.) I described again the scope of my August 20, 2018 claim to AHS, and I specified again the questions that I asked AHS in my claim (**ER 133**),

1) “Is it true that Mr. Gilbert Harding and Mr. Adam Cole said to Ms. Catherine Daly that I had been fired from AHS for medical negligence towards the patient?

2) In the March 30, 2018 Answering Brief that AHS claimed that I had been fired for poor professional performance. I want to get the explanation and the evidence from AHS regarding this allegation.”

I explained that I had followed Mr. Cachia-Riedl’s directions to file a Verified Petition for Relief from Government Code Section 945.4 as directed by Gov. C. §946.6. However, I also followed the provisions of C.C.P. §1005 (**ER 135**),

“(a) Written notice shall be given, as prescribed in subdivisions (b) and (c), for the following motions:

(9) Notice of Hearing of Application for Relief pursuant to Section 946.6 of the Government Code.”

I explained that the Superior Court couldn't give me relief from Government Code Section 945.4 because the prerequisites for this section were not met. Because AHS misled me about the claim presentation requirements and the deadlines for submitting such a claim, I asked the Superior Court to compel AHS to answer the following question (**ER 136**): Is it true that Mr. Gilbert Harding and Mr. Adam Cole said to Ms. Catherine Daly on December 02, 2013 that I had been fired from AHS for committing medical negligence towards the patient?

Further, I informed the Superior Court that on March 12, 2019 I filed a Complaint against both AHS and the Narayan Travelstead Professional Law Corporation for Libel about the allegation of the poor professional performance in AHS's March 30, 2018 Answering Brief (**ER 136**.) Further, I described the litigation against AHS at the District Court and at the 9<sup>th</sup> Circuit, and I presented my objections to AHS's statements in its Opposition to my Petition for Relief from Government Code Section 945.4 and my Motion to Punish (**ER 136-141**.)

On April 11, 2019, the Hon. Judge Frank Roesch denied my Motion to Punish on the ground that "Petitioner has not cited authority under which the Court may order the relief sought" (**ER 142**.)

On April 23, 2019, I filed an Opening Brief on the merits of my Verified Petition for Relief from Government Code Section 945.4 (**ER 144-177**.) In this Brief, I discussed the following topics.



I discussed that, pursuant to Government Code Section 911.2, I had a right to submit a claim for an injury to a Public Agency (**ER 150.**) I also discussed the definition of the word “injury” pursuant to Government Code Section 810.8 (**ER 150.**) Definitely, both allegations about the medical negligence towards the patient and about the poor professional performance severely injured “because I actually suffered from a loss of reputation and severely damaged feelings. Also, because I was unable to continue my work at AHS, I lost my salary, benefits, and therefore I lost my estate that I could have been purchased a long time ago. Also, I lost many other opportunities such as education, obtaining a better job, creating a family, etc.” (**ER 151.**)

I argued that my August 20, 2018 claim for Injury No. 1 and Injury No. 2 was timely pursuant to Government Code Section 901 (**ER 150-151**), “For the purpose of computing the time limits prescribed by Sections 911.2 , 911.4 , 945.6 , and 946.6 , the date of the accrual of a cause of action to which a claim relates is the date upon which the cause of action **would be deemed** to have accrued within the meaning of the statute of limitations which would be applicable thereto if there were no requirement that a claim be presented to and be acted upon by the public entity before an action could be commenced thereon. However, the date upon which a cause of action for equitable indemnity or partial equitable indemnity accrues shall be the date upon which a defendant is served with the complaint giving rise to the defendant's claim for equitable indemnity or partial equitable indemnity against the public entity.”

Because the plain language of Gov. C. §901 contains the word “deem”, I argued that I was not supposed to present a claim immediately after the alleged December 02, 2013 conversation between Daly and both Harding and Cole because I didn’t know about it. I submitted my August 20, 2018 claim to AHS within 6 months after I learned about the alleged December 02, 2013 conversation between Daly and both Harding and Cole. Also, I submitted my August 20, 2018 claim to AHS within 6 months after I learned about the Injury No. 2 on March 30, 2018, See my explanations at (**ER 151-152.**)

Also, I described what the proper process of evaluation my claim by the Board of Trustees of AHS should be according to Government Code Section 912.6(a) (**ER 152.**) I argued that my August 20, 2018 claim was not presented to the Board of Trustees of AHS. Therefore, Contractor Cachia-Riedl didn’t have a right to deny my August 20, 2018 claim (**ER 152-153.**)

Further, I cited Government Code Section 800 as an authority to punish AHS for the arbitrary and capricious decision to deny my August 20, 2018 claim and to advise me to file a Petition for Relief from Government Code Section 945.4 (**ER 153-154.**) Read the plain language of Gov. C. §800, “(a) In any civil action to appeal or review the award, finding, or other determination of any administrative proceeding under this code or under any other provision of state law, except actions resulting from actions of the Department of General Services, if it is shown that the award, finding, or other determination of the proceeding was the result of arbitrary or capricious action or conduct by a public entity or an officer thereof in his or her official capacity, the complainant if he or she prevails in

the civil action may collect from the public entity reasonable attorney's fees, computed at one hundred dollars (\$100) per hour, but not to exceed seven thousand five hundred dollars (\$7,500), if he or she is personally obligated to pay the fees in addition to any other relief granted or other costs awarded.

(b) This section is ancillary only, and shall not be construed to create a new cause of action.

(c) The refusal by a public entity or officer thereof to admit liability pursuant to a contract of insurance shall not be considered arbitrary or capricious action or conduct within the meaning of this section.”

I cited the case laws that described Gov. C. §800 (**ER 154-157**):

- 1) *Olson v. Hickman*, [Civ. No. 12982. Court of Appeals of California, Third Appellate District. May 23, 1972]
- 2) *Plumbing etc. Employers Council v. Quillin*, [Civ. No. 39307. Court of Appeals of California, First Appellate District, Division Two. November 29, 1976]
- 3) *Gustafson v. Zolin*, [No. C023542. Third Dist. Sep 25, 1997] citing *Ferris v. Los Rios Community College Dist.* (1983) 146 Cal. App. 3d 1 [194 Cal. Rptr. 16] and other case laws.

Therefore, Gov. C. §800 directed the Courts (**ER 157**):

- 1) To award Attorney's Fees for the arbitrary and capricious action or conduct of the public entity at the maximum amount of \$7500
- 2) Any other relief granted or other costs awarded.

Further, I asked the Superior Court of Alameda County to provide me with the following relief (**ER 157-159**):

- 1) To issue a Writ of Mandate to compel AHS to answer in writing on the questions 1 through 5 mentioned above
- 2) To compel AHS to pay all costs of the litigation related to filing and litigating my both Petition for an Order Relieving me from Government Code Section 945.4, the Petition for a Writ of Mandate A157007 at the Court of Appeal for the First District
- 3) If AHS argues that I obtained a fee waiver and therefore I am not obligated to pay the costs of the action, this is not true. Read C.C.P. §1033.5(c)(1), "Costs are allowable if incurred, whether or not paid"
- 4) To schedule a Jury Trial at AHS's expense
- 5) To conduct Oral Depositions at AHS's expense of the following individuals:
  - a) Mr. Gilbert Harding
  - b) Mr. Adam Cole
  - c) Ms. Dana Littlepage
  - d) Ms. Catherine Daly

- 6) To assign a student Attorney to me for the purpose of assisting me to conduct Oral Depositions. As an alternative, I am respectfully asking the Superior Court of Alameda County to order AHS to pay for my Attorney for the purpose of conducting Oral Depositions
- 7) If during Oral Depositions Mr. Harding and Mr. Cole still refuse to answer the question whether they said to Ms. Daly that I had been fired for medical negligence, I am respectfully asking Hon. Judge Frank Roesch to present this issue to the Grand Jury and to allow the Jury to issue a verdict whether Mr. Harding and Mr. Cole said to Ms. Daly that I had been fired for medical negligence
- 8) To award me with Attorney's Fees at the maximum amount of \$7500 pursuant to Section 800 for the arbitrary and capricious behavior of AHS...."

On May 02, 2019, AHS filed an Answering Brief (**ER 178-185.**) that was repetitive to AHS's Opposition to both Petition for Writ of Mandate and my Motion to Punish (**ER 123-130.**) Defendants asserted again that (**ER 179**) 1) Government Code Section 946.6 does not apply to wrongful termination claims, 2) Petitioner fails to meet the requirements of Section 946.6, 3) My failure was not through inadvertence, surprise, or excusable neglect, and 4) I can't bring a claim for wrongful termination against a public agency as a matter of law.

On May 08, 2019, I filed a Reply Brief (**ER 187-208.**) I asked the Superior Court to punish AHS using Government Code Section 800 (**ER 193**):

1) To punish AHS for its failure to present my claim to the Board of Trustees

2) To punish AHS for forcing me to file a Petition for an Order Relieving me from Government Code Section 945.4 even though my August 20, 2018 claim was not for money and damages

3) To punish AHS for claiming that my both claim for the allegation of the medical negligence towards the patient and the allegation of the poor professional performance were submitted to AHS late. In fact, they were not late for the reasons I described in my Opening Brief.

I cited the case law *Scott v. County of Los Angeles* [Civ. No. 50578. Court of Appeals of California, Second Appellate District, Division Two. September 20, 1977] that described Government Code Section 911.2 and that described a situation when a claimant presented a claim only after the claimant **learned** about the injury.

Further, I cited the case laws *Shively v. Bozanich* (2003) 31 Cal. 4th 1230, 1246-1247, *Hebrew Academy of San Francisco v. Goldman* (2007) 42 Cal.4th 883, 894, and *Christoff v. Nestle USA, Inc.* (2009) 47 Cal.4th 468, 483 that described that a deadline to file a claim started only after the Plaintiff first learned about the injury (**ER 195-196.**) I argued again that I first learned about Injury No. 1 only on March 13, 2018. Therefore, the date from which I should calculate the deadline for submitting a claim to Alameda health System was March 13, 2018 and not December 02, 2013 when Dally allegedly

spoke to both Harding and Cole and when they allegedly said to her that I had been fired for medical negligence towards the patient.

I argued that, under the circumstances of my case, I was entitled for a jury Trial on the issues of the fact, see *Scott v. County of Los Angeles*, [Civ. No. 50578. Court of Appeals of California, Second Appellate District, Division Two. September 20, 1977] (**ER 199-200.**) Also, I cited *Roberts v. County of Kern*, F006951 (Court of Appeal, Fifth District, California, 1987) (**ER 200**), “A trial court's order granting or denying a petition under section 946.6 is subject to the same standard of review used in relief from default proceedings. (*Viles v. State of California* (1967) 66 Cal.2d 24, 29, 56 Cal.Rptr. 666, 423 P.2d 818.)

“Where, as here, the trial court denies the motion for relief from default, the strong policy in favor of trial on the merits conflicts with the general rule of deference to the trial court's exercise of discretion. [Citation.] Unless inexcusable neglect is clear, the policy favoring trial on the merits prevails. [Citation.] Doubts are resolved in favor of the application for relief from default [citation], and reversal of an order denying relief results [citation].”

Also, see my citation of *County of Sacramento v James* (**ER 201**), “[C.C.P. ] Section 592 provides: ‘In actions for the recovery of specific, real, or personal property, with or without damages, or for money claimed as due upon contract, or as damages for breach of contract, or for injuries, an issue of fact must be tried by a jury, unless a jury trial is waived, or a reference is ordered, as provided in this Code. Where in these cases

there are issues both of law and fact, the issue of law must be first disposed of. In other cases, issues of fact must be tried by the Court, subject to its power to the order any such issue to be tried by a jury, or to be referred to a referee, as provided in this Code.’

I asked the Hon. Judge Frank Roesch to schedule a Jury Trial on the issues of the fact and to let the Jury determine whether on December 02, 2013 both Harding and Cole said to Daly that I had been fired for medical negligence towards the patient.

Further, I objected to AHS’s assertion that the statement about the poor professional performance in AHS’s Answering Brief was privileged pursuant to Civil Code Section 47(b.) See my discussion at (**ER 202-206.**) I also opposed AHS’s assertions that it couldn’t be liable for wrongful termination of my employment because it was a Public Agency, see my discussion at (**ER 206-207.**)

On May 17, 2019, the Parties Tatyana Drevaleva and AHS’s Attorney Mr. Travelstead arrived at the hearing on the merits of my Petition. I had a very severe headache, and I was unable to argue. Instead of re-scheduling the hearing on the merits of my Petition, and instead of giving me an opportunity to recover from my headache, the Hon. Judge Frank Roesch denied my Petition without any explanations about why this decision had been reached (**ER 213.**) The Judge also didn’t satisfy my request for a Jury Trial on the issues of the fact, and the Judge refused to provide me with all relief that I was seeking (compelling AHS to provide me with the explanations and evidence regarding the allegations of medical negligence and poor professional performance, etc.)



On May 23, 2019, just in six days after the Judge denied my Petition, AHS submitted a Proposed Judgment (**ER 214-215.**) The Hon. Frank Roesch signed (**ER 217-218**) entered a Judgment (**ER 220-222**) on the same day May 23, 2019 without giving me an opportunity to respond and to present my objections to the Proposed Judgment.

On June 06, 2019, I filed a Motion to Vacate the Judgment (**ER 223-233**) pursuant to C.C.P. §663. In this Motion, I cited *Cole v. City of Los Angeles*, B011528 (1986) (**ER 225-227**), “A governmental entity may be estopped from asserting noncompliance with the statutory claim filing requirements where a claimant has been misled by the entity's agents with regard to the procedural or time requirements of the claim statutes. (*Fredrichsen v. City of Lakewood* (1971) 6 Cal.3d 353, 357, 99 Cal.Rptr. 13, 491 P.2d 805; *Toscano v. County of Los Angeles* (1979) 92 Cal.App.3d 775, 784, 155 Cal.Rptr. 146.) “[F]our elements must be present in order to apply the doctrine of equitable estoppel: (1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury.” (*Driscoll v. City of Los Angeles* (1967) 67 Cal.2d 297, 305, 61 Cal.Rptr. 661, 431 P.2d 245; *DeYoung v. Del Mar Thoroughbred Club* (1984) 159 Cal.App.3d 858, 862, 206 Cal.Rptr. 28.) In order to prove the element of ignorance of the true state of facts, the evidence must show not only that the party claiming the estoppel did not have actual knowledge of the true facts but that he did not have notice of facts sufficient to put a reasonably prudent person upon

inquiry, the pursuit of which would have led to actual knowledge; the convenient or ready means of acquiring knowledge being the equivalent of knowledge. (*LaRue v. Swoap* (1975) 51 Cal.App.3d 543, 551, 124 Cal.Rptr. 329.)

The existence of an estoppel is generally a question of fact for the trial court whose determination is conclusive on appeal unless the opposite conclusion is the only one that can be reasonably drawn from the evidence. (*Driscoll v. City of Los Angeles*, supra, 67 Cal.2d at p. 305, 61 Cal.Rptr. 661, 431 P.2d 245.)”

I argued that clearly satisfy all four elements.

Element 1. AHS knew that I had presented my August 20, 2018 claim on time. Also, this claim was not for money and damages. Regardless, AHS asserted that the claim had been presented late, ignored my explanations that the claim was presented on time, and failed to present this claim to the Board of Trustees. AHS assigned a Contractor to process the claim. The Contractor denied the claim and forced me to file a Petition for an Order Relieving me from Government Code Section 945.4.

Element 2. AHS’s actions were not due to inadvertence, mistake, or excusable neglect. These actions were intentional, and they were aimed to harm me and to prevent me from obtaining the information that I could later use in my pending lawsuits against AHS. AHS knew very well that there was no any record about the allegation of the medical negligence, and there was no any record regarding the allegation of the poor professional performance. Therefore, in order to prevent me from obtaining the truthful

information, AHS refused to process my August 20, 2018 claim and lied that the claim had been presented “late.”

Element 3. Despite my thorough explanation that my both claims about the Injury No. 1 (the allegation of the medical negligence) and the Injury No. 2 (the allegation about the poor professional performance) were presented on time, AHS recklessly disregarded my explanations and pushed me into the Court proceeding. I had no other choice rather than to file a Verified Petition RG19002840.

Element 4. AHS relied on its ignorance of the fact that my August 20, 2018 claim was filed on time. The purpose was to prevent me from obtaining the correct information about the communication between Mr. Harding, Mr. Cole, and Ms. Daly and about the September 04, 2013 letter of Ms. Littlepage.

Also, in my Motion to Vacate the Judgment I argued that the Superior Court didn’t have a right to process any AHS’s filing because AHS failed to pay a filing fee, AHS failed to obtain a Fee Waiver, and AHS fraudulently asserted that it was exempt from paying a filing fee pursuant to Government Code Section 6103 whereas no exemption applied (**ER 228-230.**)

I cited the plain language of Gov. Code §6103,

“(a) Neither the state nor any county, city, district, or other political subdivision, nor any public officer or body, acting in his or her official capacity on behalf of the state, or any county, city, district, or other political subdivision, shall pay or deposit any fee for

the filing of any document or paper, for the performance of any official service, or for the filing of any stipulation or agreement that may constitute an appearance in any court by any other party to the stipulation or agreement. This section does not apply to civil jury fees or civil jury deposits. This section does not apply to the State Compensation Insurance Fund or where a public officer is acting with reference to private assets or obligations that have come under that officer's jurisdiction by virtue of his or her office, or where it is specifically provided otherwise. No fee shall be charged for the filing of a confession of judgment in favor of any of the public agencies named in this section....”

Gov. Code §6103(a) explicitly says what Public Entities are relieved from paying filing fees:

- 1) The State of California
- 2) Any County of the State of California
- 3) Any City of the State of California
- 4) Any District of the State of California
- 5) Any other political subdivision of the State of California
- 6) Any public officer or body, acting in his or her official capacity on behalf of the state, or any county, city, district, or other political subdivision.

Also, Gov. Code §6103 specifies the condition for relieving the mentioned above Public Entities from paying filing fees:

- 1) for the performance of any official service

- 2) for the filing of any stipulation or agreement that may constitute an appearance in any court by any other party to the stipulation or agreement
- 3) for the filing of a confession of judgment in favor of any of the public agencies named in this section
- 4) to defray the costs of reporting services by court reporters
- 5) to probate referees, as described in Part 12 (commencing with Section 400) of Division 2 of the Probate Code.

In the lawsuit No.RG19002840, AHS didn't qualify for the exemption forpaying the filing fee because:

- 1) Alameda Health System is a local Public Entity that doesn't fit into the description of the Public Entities in Government Code §6103(a). It is not a State, not a County, not a City, not a District,, and not a Political Subdivision
- 2) In this lawsuit, Alameda Health System doesn't act on behalf of the state, or any county, city, district, or other political subdivision.

On June 17, 2019, AHS opposed my Motion to Vacate the Judgment (**ER 234-237**) on the ground that AHS believed that my August 20, 2018 claim was for wrongful termination and that I presented my claim late (**ER 236.**) Also, AHS asserted that my August 20, 2018 claim where I asked AHS to explain its statement in the March 30, 2018 Answering Brief that I was fired for poor professional performance was not a cognizable claim pursuant to the Government Claims Act (**ER 236.**)

On June 25, 2019, I replied to AHS's Opposition (**ER 238-242.**) I asked the Superior Court (**ER 241-242**):

- 1) To vacate his unlawful May 23, 2019 Judgment
- 2) To enter a new Judgment that estops AHS from lying to me that I submitted my August 20, 2018 claim late
- 3) That schedules a Jury Trial on the issues of the facts of this case at AHS's expense
- 4) That imposes sanctions on AHS for lying to me about the claim presentation requirements and the deadlines for submitting such a claim
- 5) That compels AHS to give me the answers about the allegation of the medical negligence and about the allegation of the poor professional performance
- 6) That orders AHS to pay for deposing Mr. Harding, Mr. Cole, Ms. Daly, and Ms. Littlepage
- 7) That imposes other sanctions on AHS pursuant to Government Code Section 800
- 8) That imposes all other sanctions on AHS that the trial Court deems just and proper.

On July 11, 2019, the Superior Court denied my Motion to Vacate the Judgment without any explanations (**ER 243.**)

On March 20, 2020, the Court of Appeal for the First District, Division Four affirmed the decision of the Superior Court (**Appendix B.**)

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

Pursuant to Government Code Section 911.2, I had a right to submit a Government claim to the Public Agency for an injury to my reputation. The plain language of Government Code Section 911.2 doesn't say that a necessary condition to submit a claim to a Public Agency is only if the claim is for money and damages.

I am entitled to get the explanations and the evidence regarding DIR's allegation that on December 2, 2013 Deputy Daly spoke to both Harding and Cole, and they said to her that I had been fired for medical negligence towards the patient. The Department of Industrial Relations denied my retaliation and unlawful termination claim on the ground that I had committed medical negligence towards the patient. However, no one Record within AHS says that I had committed medical negligence towards the patient.

Both AHS and DIR intentionally and in bad faith keep me away from obtaining relief in a form of getting reinstated back to work at AHS and being awarded with monetary damages for retaliation and unlawful termination of my employment from AHS in 2013.

I am entitled to get the details of AHS's statement in its Answering Brief that I was fired for poor professional performance.

All California Courts denied to give me relief. My only option is to petition to the U.S. Supreme Court.

## **CONCLUSION.**

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,



s/ Tatyana Drevalova

Petitioner-Appellant Pro Se

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Date: October 06, 2020



### **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 October 06, 2020.

Respectfully submitted,



s/ Tatyana Drevalova

Petitioner-Appellant Pro Se

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Date: October 06, 2020.