Case No. 20-608

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

Alameda County Superior Court, case No. RG17881790

Court of Appeal for the First District, Division Four

Appeal No. A156248

The California Supreme Court, Petition for Review S260355 - denied

The California Supreme Court, Petition for Writ of Mandate S260491 - 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

QUESTIONS PRESENTED.

1) Does the Opposing Party the Governmental Entity the California Department of Industrial Relations (DIR) have a right to refuse to transfer the record that is related to DIR's processes of investigation of my both retaliation and unlawful termination claim and my wage claim to the Office of the Administrative Hearings of the California Department of General Services at my request pursuant to the California Administrative Procedure Act or Government Code Sections 11370.5(a) and 11500 et. seq.?
2) If there are two actions that are pending in both the District Court and the State Court and that include the same Parties, the same events, and the same causes of action, shall the State Court evaluate the facts and the pieces of evidence that are presented from the District Court and from the Court of Appeals for the 9th Circuit?
3) If the Opposing Party the Governmental Entity the California Department of Industrial Relations (DIR) exhibits clear inconsistencies and discrepancies during the litigations at both the District and the State Court, if DIR doesn't mention the key piece of evidence (the alleged September 4, 2013 email of Ms. Llittlepage) during the litigation at the District Court, if DIR opposes my attempt to introduce this September 4, 2013 Littlepage's email to the 9th Circuit, and if at the same time DIR uses the same September 4, 2013 Littlepage's email as a basis for DIR's anti-SLAPP Motion and the Demurrer

at the State Court, shall the State Court stay the action until a full investigation of this email and until a full resolution of the action at the Federal Court?

4) If the Opposing Party the Governmental Entity the California Department of Industrial Relations (DIR) uses a key piece of evidence (the alleged September 4, 2013 email of Littlepage) as a justification for DIR's anti-SLAPP Motion ad a Demurrer, and if Plaintiff suspects that a key piece of evidence (the alleged September 4, 2013 email of Ms. Littlepage) that DIR used could be fabricated, and if a Plaintiff explains to the State Court that the September 4, 2013 Littlepage's email could be fabricated, and if the Plaintiff asks the State Court to stay the action until a resolution of the Federal action, does the State Court have a right to refuse to stay the action?

5) If Plaintiff's former employer Alameda Health System (AHS) doesn't claim during the litigation at the District Court that Plaintiff was fired for medical negligence towards the patient, but if AHS suddenly claims during the litigation at the 9th Circuit that Plaintiff was fired for poor professional performance, and if AHS refuses to give both the explanations and the evidence regarding the allegation of the poor professional performance, and if the Plaintiff notifies the State Court that AHS suddenly made an allegation about the poor professional performance at the 9th Circuit, and if the Plaintiff asks the State Court to stay the action until a full resolution of the allegation about the poor professional performance at the 9th Circuit, can the State Court refuse to stay the action?

6) Does a Plaintiff necessarily need to file a Petition for Coordination of the cases that are pending at the District Court and the State Court in order to obtain a stay of the action at the State Court?

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

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

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

415-806-9864; 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

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

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 9th 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), 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 (current Appeal) – 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, he 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 – denied on September 09, 2020

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 Match 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.

10) 3:20-cv-7017 *Drevaleva v. Justices of the Court of Appeal for the First District, Division Four: 1) The Hon, Justice Stuart Pollak, 2) The Hon. Justice Tracie Brown, 3) The Hon. Justice Alison Tucher, 4) The Hon. Justice Jon Streeter* – Verified Petition for Writ of Mandate, Prohibition, and Other Appropriate Relief, 28 U.S.C. §1651 (the All Writs Act); Request to Assign a Three Judge Panel Pursuant to 28 U.S. Code § 2284 (the Three Judge Court Act) – was filed on October 08, 2020.

TABLE OF CONTENTS.

INDEX TO APPENDICES

Appendix A – Opinion of the Court of Appeal for the First District, Division Four, December 20, 2010 (unpublished) in Appeal No. A156248.

Appendix B – Order of the Superior Court of Alameda County that denied my Motion to Stay in the lawsuit No. RG17881790, June 26, 2018.

Appendix C - Order of the Superior Court of Alameda County that denied my Verified Petition for Writ of Mandate to Compel DIR to Transfer my Case to the Office of the Administrative Hearings of the California Department of General Services (in a form of a Notice Motion with the Superior Court's leave), case No. RG17881790, July 27, 2018.

Appendix D – 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 E - Order of the Superior Court of Alameda County that denied my Motion for Leave to File a Motion for Reconsideration of the June 26, 2018 Order that denied my Motion to Stay, case No. RG17881790, October 04, 2018.

Appendix F – Order of the Court of Appeal for the First District, Division Four that denied my Petition for Rehearing in Appeal No. A156248, January 16, 2018.

Appendix G – Order of the California Supreme Court that denied my Petition for Review No. S260355, April 15, 2020.

Appendix H - Order of the California Supreme Court that denied my Petition for Writ of Mandate No. S260491, April 15, 2020.

TABLE OF AUTHORITIES

Statutes

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

[x] For cases from state courts:

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

[ ] reported at ; or,

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

[x] 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,

[x] 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

[x] 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 G and H.

[ ] 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

STATEMENT OF THE CASE

Part 1. Motion to Stay.

On September 07, 2013, I was fired from my Part Time job at Alameda Health System (AHS) for asking questions about unpaid both overtime and shift differentials, the denial of my affiliation to the Union, for asking questions about unsafe working conditions, for asking questions about missed breaks, and for asking to transfer me to a full time job while I was actually working full time. On September 05, 2013, I mailed a letter with my questions about unpaid both overtime and shift differentials, missed 15 and 10 minute breaks, and the denial of my affiliation to the Union to my former Supervisor Mr. Gilbert Harding, Jr.. I asked him to answer these questions in writing. I also asked to transfer me to a full time job while I was actually working full time **(CT A156248, Vol. 1; 33-36.)** In two days, on September 07, 2013, I was fired in twenty minutes after the beginning of my shift **(CT A156248, Vol. 1; 37.)** Prior to being fired, I didn't receive a Notice, and I was not given an opportunity to be heard.

I described the facts of the case in detail in my Petition for Writ of Certiorari that I mailed to the U.S. Supreme Court on September 14, 2020. Please, also see a related Petition for Writ of Certiorari No. 19-8012.

In September 2013, I submitted both a retaliation and unlawful termination claim and a wage claim to the California Department of Industrial Relations (DIR), the Division of Labor Standards Enforcement (DLSE) **(CT A156248, Vol. 6; 1533-1535.)** 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.

On January 07, 2014, 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" even though AHS was not a County hospital at that time **(CT A156248, Vol. 1; 76.)**

On December 29, 2016, DIR denied my retaliation and unlawful termination claim **(CT A156248, Vol. 1; 64-66)** on the basis that:

1) I was a probationary employee, and therefore AHS didn't need to have any reason to fire me, and AHS didn't need to follow the Due Process of the law (meaning that AHS was not supposed to give me a Notice and an opportunity to be heard before firing me) **(CT A156248, Vol. 1; 65)**
2) I was properly fired for committing medical negligence towards the patient (even though my former employer AHS never said that I had committed medical negligence towards the patient) **(CT A156248, Vol. 1; 65)**
3) I knew that AHS was going to fire me before I emailed a September 05, 2013 letter to my Supervisor Mr. Gilbert Harding, Jr. (even if there was no material evidence that somebody let me know that AHS was going to terminate my employment) **(CT A156248, Vol. 5; 1416)**

4) On September 04, 2013, Director of Nursing of AHS Ms. Dana Littlepage sent her email to Mr. Gilbert Harding, Mr. Scafaro, and Mr. Dodson (who worked in Labor Relations) where Littlepage announced that AHS was going to release me from probation (even though there was no any testimony of Littlepage *herself* where she would confirm or to deny the allegation that she emailed a September 04, 2013 letter to Harding, Scafaro, and Dodson, and where she would propose to release me from probation) **(CT A156248, Vol. 1; 64), (CT A156248, Vol. 1; 236), (CT A156248, Vol. 5; 1467-1468), (CT A156248, Vol. 4; 946-954.)** In 2020, I discovered that the alleged September 04, 2013 Littlepage's email was a fabricated piece of evidence.

In 2016, despite my numerous requests, DIR refused to reveal the explanations and evidence regarding the allegation of the medical negligence towards the patient **(CT A156248, Vol. 1; 58-63.)**. DIR also refused to send me the Determination Letter thus depriving me of an opportunity to appeal the Determination with Director of DIR Ms. Christine Baker.

In December 2016, I filed a lawsuit against both AHS and DIR at the District Court for Northern California No.3:16-cv-07414-LB *Drevaleva v. 1) Alameda health System, 2) The Department of Industrial Relations.* In that Complaint, I specifically stated that DIR accused me in committing medical negligence towards the patient and that DIR refused to give me the explanations and the evidence regarding the allegation of the

medical negligence. Therefore, the main claim of my Complaint was the **medical negligence** towards the patient.

On February 14, 2017, AHS filed a "DEFENDANT ALAMEDA HEALTH SYSTEM'S NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO FRCP 12(b)(1), OR IN THE ALTERNATIVE, MOTION TO DISMISS PURSUANT TO FRCP 12(b)(6) OR MOTION FOR A MORE DEFINITE STATEMENT PURSUANT TO FRCP 12(e)" **(CT A156248, Vol. 2; 475-484.)** In that Motion, AHS wrote **(CT A156248, Vol. 2; 476)**,

"Specifically, this motion is made on the following grounds:

1. Plaintiff has not met her burden to invoke federal question jurisdiction. (F.R.C.P 12(b)(1).);

2. Plaintiff's Complaint is barred by the statute of limitations and/or Plaintiff is improperly seeking judicial relief, and thus, the Complaint fails to state a claim upon which relief can be granted. (F.R.C.P. 12(b)(6).);

3. Alternatively, AHS moves for a more definite statement so that AHS may properly respond. (F.R.C.P. 12(e).)."

Further, in the plain text of the Motion, AHS didn't even mention about my allegation that DIR had accused me in committing medical negligence towards the patient **(CT A156248, Vol. 2; 475-484.)** See what AHS wrote regarding the allegation of the medical negligence **(CT A156248, Vol. 2; page 478; lines 15-16)**, "The Deputy of Labor

Commissioner dismissed her case, because there was **insufficient evidence** to establish retaliation." Therefore, AHS didn't even use the words "medical negligence", and it used the words "insufficient evidence."

The District Court dismissed my original Complaint with leave to amend. In April 2017, I filed an Amended Complaint from the State of New Mexico. On April 24, 2017, AHS served me with a "DEFENDANT ALAMEDA HEALTH SYSTEM'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(1), OR IN THE ALTERNATIVE, MOTION TO DISMISS PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6) AND STRIKE UNDER RULE 12(f)" **(CT A156248, Vol. 2; 487-502.)** In that Motion, AHS didn't write again anything about "medical negligence." AHS argued that the District Court didn't have both a subject-matter jurisdiction and the diversity of citizenship jurisdiction over my Amended Complaint, that the statute of limitations for my FLSA claim had expired, that I couldn't satisfy all elements of a Prima Facie case in my Title VII claim, that I didn't exhaust the administrative remedies, and that I couldn't demand punitive damages from AHS because it was a Public Agency.

Please, notice that in both Motions to Dismiss AHS didn't say anything about the alleged September 04, 2013 **email** from Littlepage.

On June 07, 2017, the District Court granted AHS's Motion to Dismiss my Amended Complaint **(CT A158862, Vol. 2; 309-320.)** The District Court stated **(CT**

A158862, Vol. 2; page 319, lines 25-26), "This court does not have subject-matter jurisdiction of the claims against defendant AHS. The claims against AHS are therefore dismissed without prejudice."

During the litigation of my Original Complaint, DIR claimed the Eleventh Amendment's protection **(CT A156248, Vol. 2; 503-522.)** I agreed, and I removed DIR from a list of Defendants. In April 2017, I amended my Complaint, and I listed four DIR's Officers Ms. Catherine Daly, Ms. Joan Healy, Mr. Bobit Santos, and Mr. Eric Rood whom I was suing in their personal capacities. All four DIR's officers didn't timely consent for magistrate jurisdiction. Only Mr. Santos was served with the Amended Complaint and a Summons. Three other Officers Daly, Healy, and Rood were never served with an Amended Complaint and a Summons.

During the litigation of my Original and Amended Complaints, DIR and its Officers never said that I had been fired for medical negligence towards the patient and never filed an alleged September 04, 2013 email of Littlepage with the District Court or any other piece of evidence that would explain and/or confirm the allegation of the medical negligence. Regardless, DIR's Officers asserted that they had properly investigated my retaliation and unlawful termination claim, and they claimed Governmental immunity for discretionary acts pursuant to Government Code Section 820.2, and they claimed privilege pursuant to Civil Code Section 47 **(CT A156248, Vol. 2; 523-532.)** Not having any explanations and evidence regarding the allegation of the medical negligence, and not having the alleged September 4, 2013 email of Littlepage,

despite three Officers were not served with a Summons and an Amended Complaint, and despite all four Officers didn't timely consent for Magistrate jurisdiction, the Hon.. Judge Beeler granted DIR's Officers' Motion to Dismiss my Amended Complaint. On July 07, 2017, Judge Beeler dismissed my lawsuit No. 3:16-cv-07414-LB with prejudice. My Appeal No. 17-16382 was dismissed on December 24, 2019, my Petition for Panel Rehearing was denied, my two Petitions for Rehearing En Banc were denied. My Petition for Writ of Certiorari No. 19-8012 was denied on May 18, 2020, and my Petition for Rehearing was denied on August 03, 2020.

Because during the litigation at the District Court both AHS and DIR didn't say anything about medical negligence, poor professional performance, discrepancies between acceptable employment standards and those I allegedly exhibited during my employment with AHS, and didn't say anything about the alleged September 4, 2013 **email** of Littlepage, I also didn't discuss these topics in my Opening Brief in my Federal Appeal No. 17-16382 **(CT A156248, Vol. 2, 396-474.)** I presented my Opening Brief in Appeal No. 17-16382 to the attention of the Superior Court of Alameda County, and I clearly demonstrated that I discussed only the matters regarding a subject-matter jurisdiction, the Diversity of Citizenship jurisdiction, the Federal questions, the alleged discretionary acts of DIR's Officers, and about the alleged privilege.

In November 2017, I filed a lawsuit No. RG17881790 *Drevaleva v. Department of Industrial Relations* at the Superior Court of Alameda County **(CT A156248, Vol. 1; 1-82.)** During the litigation at the State Court, DIR said that I had been fired for medical

negligence towards the patient **(CT A156248, Vol. 1; 105.)** Specifically, DIR wrote, "Defendant labor Commissioner investigated Plaintiff's claim of alleged workplace retaliation. Plaintiff's former employer admitted that it terminated her employment, but maintained that it did so because Plaintiff failed to meet acceptable employment standards . Specifically, it claimed that Plaintiff's alleged negligence seriously harmed a patient. It also alleged that Plaintiff knew she faced termination when she sent her September 5, 2013 letter about wage violations and unsafe working conditions. Plaintiff's former employer produced a September 4, 2013 **email** by Plaintiff's former direct supervisor announcing that Plaintiff's employment would be terminated."

Please, notice an obvious discrepancy between DIR's own statements in the District Court and in the Superior Court. I am repeating again that during the litigation of my both Original and Amended Complaints at the District Court Defendant DIR and its Officers never discussed a September 04, 2013 **email** of Littlepage, see **(CT A156248, Vol. 2; 503-522)** and **(CT A156248, Vol. 2; 523-532.)** Please, also notice that in its December 29, 2016 Determination Letter DIR mentioned the September 4, 2013 **email** of Littlepage, see **(CT A156248, Vol. 1; 64)**, "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."

During the litigation at both the Superior Court of Alameda County, the Court of Appeal for the First District, Division Four, and the California Supreme Court, I repeated many times that I have no idea who Littlepage is, that she had never been my direct Supervisor, that I never met her in person, and that I don't know who she is. My direct Supervisors were Clerve and Harding. However, no one Court listened to me. Also, I repeated many times that this September 4, 2013 email of Littlepage is a fabricated piece of evidence that DIR used to defame me. No one Court paid attention to anything I said. Also, it is not written in this email anything about the medical negligence. In this email, it is written, "We would like to go ahead and release TATYANA DREVALEVA from probation on September 13, 2013. Please advise on next steps" **(CT A156248, Vol. 4; 946-954.)** Moreover, DIR presented two different versions of Littlepage's email. During the litigation at the Superior Court, I argued that this email was a fabricated piece of evidence **(CT A156248, Vol. 4; 946-954.)** Moreover, during the litigation of a subsequent lawsuit No. RG19002853 at the Superior Court of Alameda County, my former employer AHS denied my two Requests for Admission of these two versions of Littlepage's email.

During the litigation of the lawsuit No. RG17881790, DIR didn't present any explanation and any material evidence that would confirm the allegation that I had been fired for medical negligence. DIR presented only a March 08, 2018 Declaration of Deputy Daly who asserted that on December 02, 2013 she spoke to Harding and AHS's Labor Analyst Mr. Adam Cole, and both Harding and Cole said to her that I had been

fired for medical negligence towards the patient (**A155165, Vol. 1; 232-235.**) In her Declaration, Daly asserted that on December 06, 2013, Cole emailed to Daly a copy of the alleged September 04, 2013 email from Littlepage to Mr. Harding, Mr. Scafaro, and Mr. Dodson (Scafaro and Dodson are the employees of the Labor Relations of AHS.) Read Daly's Declaration (**CT A156248, Vol. 2; 229**), "(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.

(12) Harding and Cole claimed that Dana Littlepage, Alameda Health System's Assistant Director of Nursing, informed Human Resources by email on September 4, 2013 that a decision was made to terminate Plaintiff's employment.

(13) Littlepage's September 4, 2013 email predated Plaintiff's alleged protected activity on September 5, 2013

(14) Cole gave me a copy of Littlepage's September 4, 2013 email on December 6, 2013 (A true and correct copy of that correspondence is attached hereto as Exhibit B) **(CT A156248, Vol. 2, pages 236-237.)**

(15) Harding and Cole alleged that Plaintiff already knew her employment would be terminated when Plaintiff authored the September 5, 2013 letter about wage violations and unsafe working conditions."

However, Daly never contacted with Littlepage herself, and therefore there is no proof that the September 04, 2013 email of Littlepage is genuine. Moreover, during the litigation of two consequent lawsuits No. RG19002853 and RG19039413 at the Superior Court of Alameda County, my former employer AHS didn't confirm Daly's allegation that on December 02, 2013 Harding and Cole said to Daly that I had been fired for medical negligence towards the patient. Also, AHS didn't confirm Daly's allegation that on December 6, 2013 Cole sent a September 4, 2013 email of Littlepage to Daly. Therefore, absent a specific confirmation of my former employer AHS, Daly's allegations that Cole and Harding said to her that I had been fired for medical negligence towards the patient and that Cole sent her Littlepage's email are not credible. However, all Courts believed DIR and didn't believe me. This is why I am respectfully asking the U.S. Supreme court to intervene,

On August 25, 2020, I went to Kaiser Permanente in San Leandro where Littlepage is currently working as a Nursing Director. I attempted to schedule an appointment with Littlepage and to ask her whether she wrote the September 04, 2013 email where she proposed to release me from my probationary employment. I spoke over the phone to Ms. Elena who is Littlepage's secretary. I requested to schedule an appointment with Littlepage but Ms. Elena refused. I gave a printed copy of Littlepage's email 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 confirm or to deny that she wrote this email. I provided Littlepage with my cell phone number and my email address. Up to today, I haven't heard from Littlepage.

Because Littlepage herself didn't confirm that she wrote this email, the September 4, 2013 email is a fabricated piece of evidence,

During the litigation of the lawsuit No. RG17881790, **on March 09, 2018**, DIR served me with an anti-SLAPP Motion where DIR asserted that my lawsuit No. RG17881790 was a SLAPP (Strategic Lawsuit Against Public Participation), and that I violated DIR's First Amendment right for free speech **(A156248, Vol. 1; 207-280.)** Also, **on March 09, 2018**, DIR served me with a Demurrer **(CT A156248, Vol. 1; 96-135)** where DIR claimed Governmental immunity for discretionary acts. The hearing date of both the anti-SLAPP Motion and a Demurrer was scheduled on April 10, 2018.

On March 30, 2018 that was after DIR served me with both the anti-SLAPP Motion and a Demurrer, AHS suddenly claimed in its Answering Brief during the litigation of my Appeal No. 17-16382 at the 9th Circuit that I had been fired for "poor [professional] performance" **(CT A158862, Vol. 1; page 271 to Volume 2, page 307.)** Read the plain text of the Opening Brief (CT A158862, Vol. 1, 280), "Furthermore, Appellant's complaint and attachments show that there was no retaliation or illegal working conditions during her employment with AHS. 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."

Read AHS's Answering Brief (**CT A158862, Vol. 1, 282**), "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." "

Despite my numerous demands, AHS didn't provide any explanations and evidence regarding the allegation of the poor performance. Moreover, there was no any evidence of my alleged poor performance in the Personnel Record from AHS, see (**CT A156248, Vol. 2; 473**) where AHS stated the reason of the termination of my employment as "probationary release." Moreover, AHS said to the Employment Development Department that the reason of the termination of my employment was "probationary release" (**CT A156248, Vol. 1; 43.**) While working at AHS, I didn't have a verbal warning I was not written up, and I received a good Letter of Reference from Assistant Manager Mr. Masangkay (**CT A156248, Vol. 1; 42.**)

On March 31, 2018, I attempted to meet and confer in good faith with DIR's Counsel Mr. Seitz, see my email to him at (**CT A156248, Vol. 3; 831-832.**) I explained that on March 30, 2018 AHS suddenly claimed at the 9th Circuit that I had been fired for

poor professional performance, and I was involved in an incident where the patient's safety was compromised **(CT A156248, Vol. 3; 831.)** I informed Seitz about my intention to file a Motion to Strike a part pf AHS's Answering Brief, a Second Motion to Supplement the Record on Appeal where I wanted to introduce to the 9th Circuit the following documents **(CT A156248, Vol. 3; 831.)**:

1) Littlepage's email
2) Daly's Declaration
3) My Opposition to DIR's anti-SLAPP Motion.

I asked Seitz whether he would stipulate with me to stay the proceeding in case No. RG17881790 until a full resolution of AHS's sudden allegation about the poor professional performance at the 9th Circuit **(CT A156248, Vol. 3; 832.)** I need heard back from Seitz.

On April 09, 2018, just one day before the hearing date of the anti-SLAPP Motion and the Demurrer, because Seitz didn't stipulate to stay the proceeding No. RG17881790, I filed a Motion to Stay at the Superior Court **(CT A156248, Vol. 3, 787-791.)** I informed the Court about AHS's sudden allegation of the poor professional performance **(CT A156248, Vol. 3, 788)**, that I filed a Motion to Strike a part of AHS's Answering Brief and a Motion to Hear my Appeal En Banc, and I asked the Superior Court to stay the action No. RG17881790 until AHS gives any explanations and evidence regarding the allegation of the poor professional performance.

In my Motion to Stay, I explained that I had provided the Superior Court with the copies of AHS's DIR's, and its Officers' filings at the District Court, that I was not filing a Petition for Coordination yet, and I argued that my Motion to Stay should be decided without a hearing. Further, I invoked C.C.P. §404.5 that said, "Pending any determination of whether coordination is appropriate, the judge making that determination may stay any action being considered for, or affecting an action being considered for, coordination." I specifically wrote (**CT A156248, Vol. 3; 789, lines 13-14**), "In my case, the Superior Court clearly needs to coordinate with the Court of Appeals for the 9th Circuit in order to make a proper decision regarding the allegation of medical negligence."

On April 09, 2018, I filed a Second Motion to Take a Judicial Notice (**CT A156248, Vol. 3; 796-799**) of the following documents:

1) My September 20, 2017 Motion to Take a Judicial Notice at the 9th Circuit **(CT A156248, Vol. 3; 820-826)**
2) My April 06, 2018 Motion to Hear my Case No. 17-16382 En Banc **(CT A156248, Vol.3;800-814)**
3) My April 06, 2018 Motion to Strike Parts of AHS's Answering Brief in Appeal No. 17-16382 **(CT A156248, Vol. 3; 815-819)**

On April 10, 2018, there was a hearing of DIR's anti-SLAPP Motion and Demurrer. During the hearing, I argued that my former employer AHS hadn't said during the litigation at the District Court that I had been fired for medical negligence towards the patient. I argued that DIR was ineligible to strike my First Cause of action "Libel" using

the anti-SLAPP statute because this cause of action didn't arise from DIR's First Amendment right for free speech and petitioning. I also argued that DIR was ineligible to strike the Second Cause of action 'Professional Negligence" using the anti-SLAPP statute 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. I also argued that DIR was ineligible to invoke Governmental immunity pursuant to various statutes of Government Code and privilege pursuant to Civil Code Section 47. I argued that DIR's actions were ministerial, not discretionary (DIR's failure to interview a claimant and a respondent, to interview witnesses, to review the documents from AHS, to finish the investigation of my both retaliation and unlawful termination claim and my wage claim for 60 days, and DIR's failure to send me the December 29, 2016 Determination Letter.)

On March 22, 2018, I submitted my first Request to Public Records to DIR **(CT A156248, Vol. 4; 935-936)** where I asked to provide me with the Records that were related to DIR's processes of investigation of my both retaliation and unlawful termination claim and my wage claim. On March 22, 2018, I received DIR's first Response to my Request for Public Records. With this response, I received three pages of handwritten notes that were impossible to read **(CT A156248, Vol. 4; 943-945)** and a second version of Littlepage's email **(CT A156248, Vol. 4; 949-950.)** Please, compare it with the first version of Littlepage's email that I received as a part of DIR's anti-SLAPP Motion **(CT A156248, Vol. 4; 951-952)**, see also **(CT A156248, Vol. 1; 236-237.)** Obviously, these two versions looked very differently. On April 24, 2018, I filed a

document named "Public Records from DIR" **(CT A156248, Vol. 4; 926-956.)** I explained to the Court the obvious difference between these two versions of Littlepage's email **(CT A156248, Vol. 4; 953-954)**, and I argued that this email could be fabricated. However, both the Superior Court and the Court of Appeal didn't listen to me, granted DIR's anti-SLAPP Motion and sustained a Demurrer without leave to amend.

On May 08, 2018, DIR opposed my "Request for Public Records" **(CT A156248. Vol. 4; 963-966.)** DIR didn't present any convincing evidence that the September 4, 2013 email of Littlepage was real. DIR didn't present an oral or written testimony of Littlepage herself that could confirm that she was really an author of this email. Instead, DIR kept insisting that DIR had Governmental immunity for discretionary acts pursuant to Government Code Sections 815.2, 820.2, 821.6, and DIR;s statements were privileged pursuant to Civil Code Section 47(b) **(CT A156248. Vol. 4; 964.)**

Here is what DIR wrote about my assertion that Littlepage's email was possibly fabricated, see **(CT A156248. Vol. 4; 964, lines 16-28)**, "Finally, Plaintiff Drevaleva argued that Defendant Labor Commissioner fabricated Dana Littlepage's September 4, 2013 email. ("Public records from DIR," at 3:15 – 4:26.) There is no merit to this allegation whatsoever. The content of the two versions of the email are *identical.* The only things that differ are the stationary, font, and formatting. But that is not unusual. Users can personalize the stationary and font of their emails. Email accounts can also format emails differently, just an an iPhone will format the same text message differently than a Samsung phone, Differing stationary, font, and formatting does not prove

fabrication, it merely proves that end users have different settings. This is just another attempt by Plaintiff Drevaleva to create chaos around a relatively simple issue. Plaintiff Drevaleva has accused Defendant Labor Commissioner in federal and state court in everything from dereliction of duty to fabrication of Dana Littlepage's September 4, 2013 email, all because she could not and can not accept that Defendant Labor Commissioner viewed the termination of her employment differently from her."

On May 08, 2018, I replied to DIR's Opposition to my "Public Records" **(CT A156248, Vol. 4; 967-993.)** In this Reply, I pointed out at two different versions of Littlepage's email. Specifically, I wrote **(CT A156248, Vol. 4,; 968, lines 15-20)**, "I pointed out at two different printed versions of Ms. Littlepage's email. I agree with Mr. Seitz that the contents of two emails are identical. However, Mr. Seitz failed to give the Court and me a detailed explanation about why these two printed versions are different. Mr. Seitz said that "an iPhone will format the same text differently from a Samsung phone." This is just a common phrase that I can't confirm and accept. I've never had an iPhone and a Samsung phone. This explanation with cell phones is inapplicable to Ms. Littlepage's email."

Further, I listed my other objections to Littlepage's email, see **(CT A156248, Vol. 4,; from 968, line 24 to 976.)** I included the copies of AHS's internal policies that described a process of an involuntary termination of employment **(CT A156248, Vol. 4, 978-988.)** These policies clearly demonstrated that Littlepage's email couldn't be real because it contradicted the established written AHS's policies regarding the involuntary

termination of employment. I also included my September 08, 2013 letter to former CEO of AHS Mr. Lassiter III **(CT A156248, Vol. 4; 990-993)** that I sent next day after the termination of my employment from AHS and where I asked to reinstate me back to work and to compensate me with my lost salary and benefits. My intention was also to include my September 08, 2013 letter to Chief of Human Resources of AHS Ms. Louden-Corbett but due to a mistake of a Process Server or a Clerk this email is not in the Domain Web of the Superior Court of Alameda County.

Also, as relevant, read my Affidavit to my Motion for Reconsideration of the Court's Order Denying my Motion for Specified Discovery Despite the Pending anti-SLAPP Motion **(CT A156248, Vol. 4; 1014, lines 13-14)**, "I believe that Ms. Littlepage's email is a fiction or the email was altered. I need to find the truth about this email. For this purpose, I need to conduct Discover."

On May 25, 2018, DIR opposed my Motion to Stay **(CT A156248, Vol. 4; 1088-1090)**, "Defendant Labor Commissioner opposes Plaintiff Drevaleva's Motion to Stay the Proceeding. Plaintiff Drevaleva moved to stay the proceeding under Code of Civil Procedure section 404.5, which provides that "[p]ending any determination of whether coordination is appropriate, the judge making that determination may stay any action being considered for, or affecting an action being considered for, coordination." (*Ibid.*) However, there is no petition for coordination of this action with another even pending (See Code Civ. Proc. § 404 [requiring a petition for coordination to be considered].} Nor could this action be coordinated with Plaintiff Drevaleva's federal case and appeal.

Accordingly, Plaintiff Drevaleva failed to show good cause why this proceeding should be stayed."

Therefore, without any explanations, DIR asserted that my lawsuit No. RG17881790 couldn't be coordinated with my Federal lawsuit and Appeal. Initially, I didn't pay much attention to this phrase "**Nor could this action be coordinated with Plaintiff Drevaleva's federal case and appeal**." Now, I understand that it was a key phrase that clearly demonstrated DIR's bad faith tactics that were exhibited in an attempt to prevent me from obtaining relief. Here are the reasons why DIR didn't want my lawsuit No. RG17881790 to be coordinated with my Federal lawsuit No. 3:16-cv-097414-LB and with my Appeal No. 17-16382:

1) Because DIR **knew** that the September 4, 2013 email of Littlepage was fabricated
2) Because DIR didn't present any explanations and evidence to the District Court regarding the allegation of the medical negligence towards the patient
3) Because DIR opposed my Motion to Supplement the Record on Appeal No. 17-16382 where I attempted to introduce Littlepage's email to the attention of the 9th Circuit
4) Because DIR falsely claimed Governmental immunity for discretionary acts and privilege whereas DIR **knew** that neither the immunity nor the privilege existed.

Therefore, DIR's Opposition to my Motion to Stay was in fact a criminal tactic that was aimed to prevent me from obtaining relief. See the California Penal Code Section 141, "(c) A prosecuting attorney who intentionally and in bad faith alters, modifies, or withholds any physical matter, **digital image**, video recording, or **relevant exculpatory material or information,** knowing that it is relevant and material to the outcome of the case, with the specific intent that the physical matter, digital image, video recording, or relevant exculpatory material or information will be concealed or destroyed, or fraudulently represented as the original evidence upon a trial, proceeding, or inquiry, is guilty of a **felony** punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years."

On June 05, 2018, I replied to DIR's Opposition to my Motion to Stay **(CT A156248, Vol. 4; 1110-1113.)** I listed the same set of facts (that on March 30, 2018 AHS claimed in its Answering Brief at the 9th Circuit that I had been fired for poor professional performance, that I filed a Motion to Stay, that the Superior Court didn't rule on DIR's anti-SLAPP Motion and the Demurrer, and that DIR opposed my Motion to Stay.) Afterwards, I stated that I really hadn't obtained a permission of a Presiding Judge to file a Petition for Coordination to submit to a Chairperson of the Judicial Council (C.C.P, §404) for the following reasons **(CT A156248, Vol. 4, 1111, lines 7-24)**:

1) Because the Superior Court hasn't made decisions regarding the anti-SLAPP Motion and the Demurrer

2) In my Federal case, three out of four DIR's Officers were not served with a Summons and an Amended Complaint
3) The 9th Circuit hasn't made a decision about the Oral Argument and hasn't issued an Opinion.

Further, I argued that DIR filed its Opposition to my Motion to Stay late (outside of a 10 day statutory period that was imposed by the California Rules of Court, Rule 3.515(d).)

On June 26, 2018, the Superior Court denied my Motion to Stay (**CT A156248, Vol. 4; 1183-1184**) for the following reasons;

1) Because my Motion to Stay was based on C.C.P. §404.5 that requires to file a Petition for Coordination, and because I didn't file a Petition for Coordination, the stay was not warranted
2) "Plaintiff has not cited sufficient authority for staying [case No. RG17881790] because of [Appeal No. 17-16382.]"

I filed a Motion for Reconsideration **(I didn't find it in the Tracscript.)** DIR opposed (**CT A156248, Vol. 6, 1799-1800**), and I replied (**CT A156248, Vol. 7, 1832-1834.**) On October 04, 2018, the Superior Court denied my Motion (**CT A156248, Vol. 7, 1859-1860.**)

Part 2. Petition for Writ of Mandate to Transfer my Claims to the Department of General Services.

On March 22, 2018, I submitted a Request to DIR to Transfer my retaliation and unlawful termination claim and my wage claim to the Office of the Administrative Hearings of the Department of General Services **(CT A156248, Vol. 3; 721.)** Here is what I wrote in this Request, "I am requesting to transfer the following cases to the Office of the Administrative Hearings of the Department of General Services:

1) Retaliation and unlawful termination claim No. 32741-SFRCI

2) Wage claim No. 07-77947 BS.

I am making this request pursuant to the Government Code Section 11500 and subsequent.

My claims No. 32741-SFRCI and 07-77947 BS were denied by your agency. I am requesting these claims to be reviewed an adjudicated by the Administrative Law Judge."

I never heard back from DIR. Speaking over the phone with the Department of General Services (DGS), I learned that the OAH didn't have a right to accept the record from me. The DGS had a right to accept the record only from DIR at my request. However, DIR never responded to my request and never transferred the record that was related to DIR's investigation of my both retaliation and unlawful termination claim and my wage claim to the DGS.

On May 24, 2018, I filed a Verified Petition for a Writ of Mandate to Compel DIR to Transfer the Record to the Department of General Services **(CT A156248, Vol. 4; 1039-1041. Please, notice that due to the Clerk's mistake only the first page of my Petition was filed with the Superior Court of Alameda County. All other pages were not filed. It was either a mistake of a Process Server or a clerical mistake.)** I filed this Petition as a Noticed Motion after obtaining the Court's permission to do it.

Here is what I wrote in this Petition, "On March 22, 2018 I submitted my Request to Transfer my case from DIR to the Department of General Services to be reviewed by the Administrative Law Judge. I made this request pursuant to the Administrative Procedure Act (Government Code Section 11500 and subsequent).

I spoke to a Supervisor at the Department of General Services (DGS) over the phone at the end of March 2018. She said that DGS would not accept a request to transfer my case from me. DGS will accept to transfer the case only from DIR. Despite I submitted a written request to DIR two months ago, DIR hasn't transferred the case to DGS.

Based on everything mentioned above, I am respectfully asking the Court to compel DIR to transfer my retaliation and unlawful termination claim and my wage claim to DGS to be reviewed by the Administrative Law Judge. I am also asking for Declaratory relief...."

On July 05, 2018, DIR opposed my Petition **(CT A156248, Vol. 4; 1186-1192)** on the following grounds:

1) DIR asserted that my Complaint for Damages was unverified **(CT A156248, Vol. 4; 1188, line 11)**
2) I failed to establish that I was entitled to a mandamus relief **(CT A156248, Vol. 4; 1188, lines 5-6)**
3) I didn't serve DIR with a Summons, a Verified Petition, a Memorandum, a Declaration, and a proposed Writ of Mandate **(CT A156248, Vol. 4; 1188, lines 14-17)**
4) I should have demonstrated that DIR had a "clear duty" to transfer my Records to the DGS, that DIR had an ability to perform this duty, and that DIR failed to perform this duty **(CT A156248, Vol. 4; 1188, lines 20-22)** and that I didn't have other plain, speedy, and adequate remedy **(CT A156248, Vol. 4; 1189, line 1)**
5) DIR opposed my attempts to invoke the Administrative Procedure Act (the APA) as a ground for my Petition. Here is what DIR wrote **(CT A156248, Vol. 4; 1189, line 13-17)**, "Plaintiff also failed to show that the relief to which she believes she is entitled is even available. Plaintiff believes that the Court should compel Defendant Labor Commissioner to "transfer" her wage and retaliation claims to the Department of General Services (DGS) for "review"

by an administrative law judge (ALJ) pursuant to the Administrative Procedure Act (APA) but that relief is not available."

6) See **(CT A156248, Vol. 4; 1189, line 18-28)**, "The APA established rulemaking and adjudication procedures for state agencies in California. As relevant here, the APA contains **two** distinct forms of adjudication. The first consists of adjudicatory proceedings described in Chapter 5 of the APA (Gov. Code § 11500 et seq.), often described as "formal hearings." This form of adjudication applies only if another statute (usually the statute creating the agency) specifically provides that it applies (Gov. Code § 11501, subd. (a).) The second form of adjudication is described in Chapter 4.5 of the APA (Gov. Code § 11400 et seq.) and consists these evidentiary hearings required by statute or the United States or California Constitutions that are not explicitly required by statute to be governed by the provisions of the foregoing "formal hearings." Hearings held by the Workers' Compensation Appeals Board, the Unemployment Insurance Appeals Board, and the State Personnel Board are typical of this second form of adjudication."

7) See **(CT A156248, Vol. 4; 1190, lines 1-13)**, "Importantly, the APA's adjudication provisions do not apply to every state agency decision. Instead, the provisions apply if an evidentiary hearing for determination of facts is required for formulation and issuance of the state agency decision (Gov. Code § 11410.10.) The question, then, is whether an evidentiary hearing for determination of facts is required for formulation and issuance of Defendant

Labor Commissioner's determination of Plaintiff's wage and retaliation claims such that the APA's adjudication provisions would apply. *Corrales v. Bradstreet* (2007) 153 Cal.App.4th 33 is illustrative. In *Corrales*, the Court considered whether *Berman* hearings held by the Labor Commissioner under Labor Code section 98 were hearings that triggered the APA's adjudication provisions. (*Id.*. at 50-64.) Labor Code Section 98 provided that the Labor Commissioner "may" hold *Berman* hearings on wage claims. (*Id.* at subd. (a).) Finding that Labor Code section 98 did not require the Labor Commissioner to hold *Berman* hearings on wage claims within the meaning Government Code section 11410.10, the *Corrales* court held that *Berman* hearings did not trigger the APA's adjudication provisions (*Corrales*, 153 Cal.App.4th at 50-64.)

8) See **(CT A156248, Vol. 4; 1190, lines 14-24)**, "Here, Plaintiff filed a wage claim under Labor Code section 98 and a retaliation claim under Labor Code section 98.7. Defendant Labor Commissioner lawfully exercised its discretion *not* to hold hearings on Plaintiff's claims. (See *Corrales*, 153 Cal.App.4th at 50-64; Labor Code §§ 98, subd. (a) [Defendant Labor Commissioner "may" hold hearings on retaliation claims].) Even if Defendant Labor Commissioner had elected to hold hearings, the hearings would not trigger the APA's adjudication provisions because the hearings were not required by Labor Code sections 98 and 98.7. (*Ibid.*) Consequently, there is nothing to be "transferred" to DGS for "review" by an ALJ as Plaintiff requested (see Gov. Code § 11502, subd. (a) [only hearings subject to the APA's adjudication provisions of

Chapter 5 (commencing with Section 11500) are conducted by ALJs employed by DGS]) and the relief to which Plaintiff believes she is entitled is not available."

On July 12, 2018, I replied to DIR's Opposition **(CT A156248, Vol. 5; 1252-1257.)** I objected to DIR's assertion that my Verified Petition for Writ of Mandate to Transfer my claims to the DGS was related to my Complaint No. RG17881790. Though this Petition was filed as a Noticed Motion with the permission of the Superior Court, it was very distinct from my Complaint.

In my Reply, I cited Government Code Section 11370.5 **(CT A156248, Vol. 5; 1253, lines 15-23)**, "(a) The office [*of Administrative Hearings of the DGS* – T.D.] is authorized and directed to study the subject of administrative adjudication in all its aspects; to submit its suggestions to the various agencies in the interests of fairness, uniformity and the expedition of business; and to report its recommendations to the Governor and Legislature. **All departments**, agencies, officers, and employees of the state **shall** give the office ready access to their records and full information and reasonable assistance in any matter of research requiring recourse to them or to data within their knowledge or control. Nothing in this section authorizes an agency to provide access to records required by statute to be kept confidential.

(b) The office may adopt rules and regulations to carry out the functions and duties of the office under the Administrative Procedure Act. The regulations are subject to Chapter 3.5 (commencing with Section 11340)."

Therefore, contrary to DIR's assertion that the APA didn't apply because there was no any mandatory obligation to conduct a hearing within DIR pursuant to Labor Code Sections 98 and 98.7, Gov. Code Section 11370.5 didn't require any initial hearing within the state agency as a prerequisite to conducting a hearing within the DGS. Further, I explained that on July 11, 2018 I spoke to Ms. Dana Dill who is a Supervisor at the OAH of the DGS, and she told me that the DGS would not accept the record regarding DIR's investigation of my retaliation and unlawful termination claim and my wage claim from me **(CT A156248, Vol. 5; 1254, lines 4-11.)** The DGS will accept the Record only from DIR. However, because DIR refused to transfer the Record to the DGS, my only option was to file a Verified Petition for Writ of Mandate to Compel DIR to Transfer my retaliation and unlawful termination claim and my wage claim to the DGS. I invoked C.C.P. §1085(a) **(CT A156248, Vol. 5; 1254, lines 17-22)**, "A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded by such inferior tribunal, corporation, board, or person."

Further, I discussed the case law *Elmore v. Imperial Irrigation District* (1984) 159 Cal.App.3d 185, 193, and I discussed five elements that are necessary for the issuance of a Writ of Mandate **(CT A156248, Vol. 5; 1255, lines 19-26)** such as: 1) DIR has a clear duty to transfer the records to the DGS, 2) I had a beneficial interest in DIR's performing

this duty, 3) DIR had an ability to perform this duty, 4) :DIR failed to perform this duty, and 5) I didn't have any other adequate remedy other than to file a Petition for Writ of Mandate.

On July 27, 2018, the Superior Court denied my Petition for Writ of Mandate **(CT A156248, Vol. 5; 1289-1290)** for the following reasons:

1) Despite the Court gave its permission to file this Petition as a Noticed Motion, the Court found that the Petition was procedurally deficient, and I failed to serve DIR with a Summons **(CT A156248, Vol. 5, 1290)**
2) Despite I specifically cited C.C.P. §1085 in my Reply, the Court declared that I "[did not] specify the statutory basis of [my] "petition for writ of mandate" "
3) The Court discussed five elements of *Elmore*
4) Despite I filed a Declaration in support to my Petition where I declared under the penalty of perjury and under the laws of the State of California that all foregoing is true and correct **(CT A156248, Vol. 4, 1041, lines 9-10)**, the Court accused me in a failure to declare under the penalty of perjury and under the laws of the State of California that all foregoing was true and correct, and the Court cited C.C.P. §2015.5 **(CT A156248, Vol. 5, 1289)**
5) See **(CT A156248, Vol. 5, 1290)**, "Second, even if the petition were procedurally compliant, it does not set forth facts or authority giving rise to a clear duty by DIR or the Labor Commissioner to hold a hearing on the claims that DIR previously investigated and determined not to pursue on Plaintiff's

behalf, or to "transfer" any such claim or hearing to the DGS. The applicable statutes and authority addressing the Labor Commissioner's duties as to such claims reflect that holding hearings on such claims is discretionary rather than mandatory (See e.g. *Corrales v. Bradstreet* (2007) 153 Cal.App.4th 33, 50 ["The commissioner is under no duty to accept an employee's claim in the first instance, and a decision by the commissioner not to conduct a Berman hearing would not be subject to de novo review..."], Lab. Code § 98(a) ["The Labor Commissioner may provide for a hearing in any action to recover wages, penalties, and other demands for compensation ..."], Lab. Code § 98.7(b)(1) ["Each complaint for unlawful discharge or discrimination shall be assigned to a discrimination complaint investigator who shall prepare and submit a report to the Labor Commissioner based on an investigation of the complaint... The Labor Commissioner may hold an investigative hearing whenever the Labor Commissioner determines that a hearing is necessary to fully establish the facts..."]

6) See **(CT A156248, Vol. 5, 1290)**, "The petition and supporting papers do not specify which, if any, of the statutes in "Government Code Section 11500 and subsequent" impose a clear duty on the Labor Commissioner to transfer a closed investigation to the DGS. Although Plaintiff's reply memorandum cites additional authority, including Government Code §§11370.2, 11370.3, 11370.5, and 11500(b), the court need not consider such authority as it was not specified in the petition or supporting papers as the basis for the requested writ.

Even if considered, however, such authority does not reflect a mandatory or "clear duty" to hold a hearing or to transfer a closed case to the DGS under the circumstances disclosed in the papers. (*Id.*)

7) See **(CT A156248, Vol. 5, 1290)**, "Third. Although the petition seeks "declaratory relief," it does not specify the form of such relief or set forth facts supporting it. (See C.C.P. § 1060.)"

On December 20, 2019, the Court of Appeal for the First District, Division Four issued an unpublished Opinion where the Court objected to a procedural deficiency of my Appeal No. A156248. Further, the Court affirmed the Order of the trial Court that denied my Motion to Stay and my Motion for Reconsideration of the Order that denied my Motion to Stay. Further, the Court of Appeal wrote, "Finally, the statutes cited by plaintiff, general provisions of the Administrative Procedures Act (Gov. Code, §§ 11370, 11370.2, 11370.5, subd. (a))[3], and Government Code section 11501, subdivision (b) addressing adjudicatory hearings of state agencies[4], do not establish that the DIR had a clear legal duty to transfer its closed investigations to DGS."

[3] Government Code section 11370 states, "Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) constitute, and may be cited as, the Administrative Procedure Act."

Government Code section 11370.2 states, "(a) There is in the Department of General Services the Office of Administrative Hearings which is under the direction and

control of an executive officer who shall be known as the director. [¶] (b) The director shall have the same qualifications as administrative law judges, and shall be appointed by the Governor subject to the confirmation of the Senate. [¶] (c) Any and all references in any law to the Office of Administrative Procedure shall be deemed to be the Office of Administrative Hearings."

Government Code section 11370.5, subdivision (a) states, "The office is authorized and directed to study the subject of administrative adjudication in all its aspects; to submit its suggestions to the various agencies in the interests of fairness, uniformity and the expedition of business; and to report its recommendations to the Governor and Legislature. All departments, agencies, officers, and employees of the state shall give the office ready access to their records and full information and reasonable assistance in any matter of research requiring recourse to them or to data within their knowledge or control. Nothing in this section authorizes an agency to provide access to records required by statute to be kept confidential."

[4] The adjudicatory provisions of the Administrative Procedures Act for formal hearings apply to agency hearings where the statutes applicable to an agency so provide and the hearing is not governed by a more specific statute. (Gov. Code, § 11501, subds. (a) & (b); *Lacy v. Orr* (1969) 276 Cal.App.2d 198, 201–202.) Labor Code sections 98.7 (retaliation claims) and 98 (wage claims) do not require formal hearings."

On January 16, 2020, the Court of Appeal denied my Petition for Rehearing.

REASONS FOR GRANTING THE WRIT.

During the litigation of my lawsuit No. RG17881790 and Appeal No. A156248, I explained to the Courts that Littlepage's email could be fabricated and that DIR can't use this piece of evidence as a basis for Governmental immunity for discretionary acts pursuant to Gov. Code §§820.2, 821.6, 815.2, 818.8, and for privilege pursuant to Civil Code §47(b.) No one Court listened to me. During the subsequent litigations No. RG19002853, RG19002840, RG19010635, and RG19039413 at the Superior Court, AHS didn't provide any explanations and evidence regarding the allegations of medical negligence and poor professional performance. AHS didn't confirm DIR's allegations that on December 02, 2013 Harding and Cole said to Daly that I had been fired for medical negligence towards the patient. AHS didn't confirm DIR's allegation that on September 6, 2013 Cole provided Daly with the September 4, 2013 email of Littlepage. AHS didn't admit my two Requests for Admission where I asked AHS to admit or to deny the genuineness of two versions of Littlepage's email. When I attempted to contact Littlepage and to ask her to confirm that she wrote this September 4, 2013 email, she never contacted with me, and she didn't confirm. Therefore, I am convinced that the September 4, 2013 Littlepage's email is a fabricated piece of evidence that DIR used as a justification to deny my retaliation and unlawful termination claim and my wage claim. DIR can't claim Governmental immunity and litigation privilege using a fabricated piece of evidence. The State court needs to stay the action and to coordinate it with the District Court. However, the Superior Court, the Court of Appeal, and the California Supreme

Court refused to stay the action and to coordinate it with the action at the Federal Courts. My only remedy is to petition to the U.S. Supreme Court and to ask for intervention.

Also, the State Courts disregarded the fact that the September 4, 2013 Littlepages email was fabricated, granted DIR's anti-SLAPP Motion, disallowed Discovery, sustained DIR's Demurrer without leave to amend, and awarded DIR with Governmental immunity pursuant to Gov. Code §§820.2, 821.6, 815.2, 818.8, and with privilege pursuant to Civil Code §47(b.) The District Court also disallowed to conduct Discovery in case No. 3:16-cv-07414-LB. Because I was disallowed to conduct Discovery in both the Federal and the State Courts, my only way to depose Littlepage, Cole, Harding, Daly, Santos, Healy, and Rood is through the Office of the Administrative Hearings of the California Department of General Services. However, the Superior Court, the Court of Appeal, and the California Supreme Court refused to compel DIR to transfer my retaliation and unlawful termination claim and my wage claim to the OAH of the DGS. My only remedy is to petition to the U.S. Supreme Court and to ask for intervention.

Absent the U.S. Supreme Court's intervention, I will be a subject to misery and poverty because DIR has consistently refused to eliminate the phrase about the medical negligence from its December 29, 2016 Determination Letter. This letter is a Public Record, and every potential employer reads it. With the phrase that I was fired for medical negligence towards the patient, nobody will hire me, my professional reputation will be permanently destroyed, and I will not be able to obtain a job in my professional field and a recognition in the professional society. DIR's allegation about the medical

negligence is a Libel. However, the California Courts refused to conduct a fair hearing and proceeding for me, and all California Courts defended Governmental Entity DIR. I need the U.S. Supreme Court's intervention in order to clear my good name and to reinstate my professional reputation.

CONCLUSION.

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,

s/ Tatyana Drevaleva

Petitioner-Appellant Pro Se

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

415-806-9864; tdrevaleva@gmail.com

Date: October 12, 2020.

VERIFICATION.

I, a Pro Se Petitioner Tatyana Drevaleva, 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 12, 2020.

Respectfully submitted,

s/ Tatyana Drevaleva

Petitioner-Appellant Pro Se

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

415-806-9864; tdrevaleva@gmail.com

Date: October 12, 2020.