

Case No. 20-608
IN THE SUPREME COURT
OF THE UNITED STATES OF AMERICA

TATYANA E. DREVALEVA,

Petitioner,

vs.

**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

CERTIFICATE, Rules of the U.S. Supreme Court, Rule 44(2.)

Tatyana E. Drevaleva, Petitioner Pro Se
3015 Clement St., Apt. 204, San Francisco, CA, 94121
415-806-9864; tdrevaleva@gmail.com

I am certifying that this Petition for Rehearing is restricted to the grounds specified in the Rules of the U.S. Supreme Court, Rule 44(2) and that this Petition for Rehearing is presented in good faith and not for delay.

The grounds for this Petition for Rehearing are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

The facts that I discovered after the Superior Court of Alameda County dismissed my Complaint No. Rg17881790 *Drevaleva v. Department of Industrial Relations* clearly demonstrated that all DIR's allegations that the DIR listed during the litigation of my lawsuit No RG17881790 were not confirmed by the Responses of the Narayan Travelstead Professional Law Corporation to my Discovery requests.

Because the DIR's anti-SLAPP Motion was based on a fabricated piece of evidence (the alleged September 04, 2013 email of Ms. Littlepage), the DIR is not entitled to the qualified or absolute immunity. The DIR's anti-SLAPP Motion shall be denied. The DIR's allegations of the immunity under the various provisions of the California Government Code shall be denied. I am entitled to an evidentiary name clearing hearing that was never done for me. The DIR's Demurrer shall be overruled. Pursuant to Government Code Section 11370(a), the DIR has a mandatory obligation to transfer 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.

My lawsuit No. RG17881790 shall be stayed at the Superior Court of Alameda County and shall be coordinated with my Federal lawsuit No. 3:16-cv-07414-LB *Drevaleva v. 1) Alameda Health System, 2) Department of Industrial Relations.*

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 January 07, 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: January 07, 2020

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PETITION FOR REHEARING

Tatyana E. Drevaeva, Petitioner Pro Se
3015 Clement St., Apt. 204, San Francisco, CA, 94121
415-806-9864; tdrevaeva@gmail.com

Statement of Facts.

On April 01, 2013, I was hired by Alameda Health System as a Part Time Monitor Technician observing cardiac monitors. Prior to being hired, I was fully certified, I possessed a few years of experience as a Monitor Technician and as an EKG Technician, I possessed good Letters of Reference from my pervious employers (Exhibit 1), and I possessed a good Performance Evaluation from the San Francisco VAMC where my performance was rated as "outstanding and exceptional" (Exhibit 2.)

On August 21, 2013, Alameda Health System gave me a good Letter of Reference (Exhibit 3.) On August 25, 2013, I spoke to my former Director Mr. Gilbert Harding, Jr., and I asked him questions about unpaid both overtime and shift differentials, missed 10 and 15 minute breaks, 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. Mr. Harding promised to think about it but nothing happened.

On September 05, 2013, I emailed my letter to Mr. Harding (Exhibit 4), and I asked the same 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. I asked Mr. Harding to answer my questions in writing. In two days, on September 07, 2013, I was fired in twenty minutes after the beginning of my shift. The September 07, 2013 Termination Letter (Exhibit 5) said, "This action is taken due to the discrepancy between acceptable employment standards and those you exhibited during your employment with us." The Termination Letter itself

didn't explain the nature of these alleged "discrepancies." On September 07, 2013, I asked both Mr. Harding and Labor Analyst Mr. Adam Cole to give me examples of these alleged "discrepancies." Mr. Harding's exact answer was, "We are not talking about it right now."

After being fired from AHS, I obtained a Personnel Record where the reason of the termination of my employment was listed as "Probationary Release" (Exhibit 6.) After being fired from AHS, I was receiving unemployment insurance benefits (Exhibit 7 which is a document from the Employment Development Department.) Please, notice that AHS stated to the EDD that the reason of the termination of my employment was "Probationary Release" (Exhibit 8.) In 2017, I obtained a full time job offer at the Raymond G. Murphy VAMC in Albuquerque, NM (Exhibit 9.) It would have never happened if I were fired for medical negligence towards the patient.

After being fired from AHS, my professional certificates remained valid, and AHS never reported me to the appropriate State Board.

On September 16, 2013, I submitted 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.

DIR never conducted any investigative hearing. On January 07, 2014, DIR 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. This case has been closed for lack of jurisdiction. The plaintiff retains the right to pursue their claim through any other appropriate forum" (Exhibit 10.)

On June 16, 2014, I received a letter from Deputy of the Labor Commissioner Ms. Catherine Daly (Exhibit 11) that stated, "AHS admitted firing you but blamed its decision on your failure to meet "acceptable employment standards." Specifically, **your negligence allegedly seriously harmed a patient.** Moreover, it asserted you already knew you faced termination when you emailed your September 5, 2013 complaints. Therefore your emailed communication could not have triggered the termination. Finally, it explained why all your complaints lacked merit."

The June 16, 2014 letter of Ms. Daly didn't explain the nature of the alleged "medical negligence" towards the patient. In her letter, Ms. Daly didn't specify what patient s/he was and what exactly wrong I did with the patient. I suggested it was Patient Mr. X. However, it was only my suggestion, and I didn't know whether Ms. Daly meant this patient or she meant anybody else.

On June 18, 2014, I sent a letter to Ms. Daly (Exhibit 12) where I explained the incident that occurred with Patient Mr. X. in July 2013. I explained that I was observing Mr. X.'s Electrocardiogram. I saw changes on the patient's EKG. I reported these changes to the patient's Nurse, to the Charge Nurse, and to Medical Doctor Mr. Sina

Rachmani who agreed with my EKG interpretation. Mr. Rachmani's exact words were, "I agree with you." In the morning after my night shift, I reported the changes on the patient's EKG to my co-worker Ms. Doniea Lawson and to Director of Step Down Unit Mr. Gilbert Harding.

Unfortunately, Patient Ms. X. passed away. After the patient's death, I reported the incident with the patient to the Committee of Alameda health System three times at three Root Cause Analysis (RCA) meetings. The Committee that was comprised of many Medical Doctors and Registered Nurses agreed with me. After the patient's death, AHS allowed me to continue performing my duties as a Monitor Technician, never revoked my professional certificates, never reported me to the appropriate State Board, and gave me a good Letter of Reference (Exhibit 3.) I was not subjected to a progressive discipline. I didn't have a verbal warning, I was not written up, and nobody told me that I had committed medical negligence towards the patient.

After I sent my June 18, 2014 letter to Ms. Daly, I didn't hear from her for two years. In August 2016, I contacted with Daly and requested to give me the time frame when she will finish investigating my retaliation and unlawful termination claim. I also requested to meet with Daly in person, and I requested to conduct an evidentiary hearing. Daly refused to meet with me, and Daly refused to conduct an evidentiary hearing. Daly informed me that she would deny my retaliation and unlawful termination claim because the evidence established that I had been fired for committing medical negligence towards

the patient. At my numerous requests, Daly refused to provide me with the explanations and evidence regarding the medical negligence towards the patient.

On December 29, 2016, DIR issued a Determination Letter (Exhibit 13) where DIR stated that “Additionally, your probationary status meant Alameda health could terminate you at any time and without due process. **Your involvement with medical negligence**, whether peripheral or not, also gave Alameda Health a compelling reason to terminate you.”

On November 07, 2017, I filed a lawsuit No. RG17881790 *Drevaleva v. Department of Industrial Relations*. On March 09, 2018, DIR served me with the anti-SLAPP Motion. With this Motion, DIR attached a Declaration of Deputy of the Labor Commissioner Ms. Catherine Daly (Exhibit 14) where she stated,

“(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.

(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)

(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."

During the litigation of my lawsuit No. RG17881790, DIR presented two versions of the alleged September 04, 2013 email of Ms. Littlepage (Exhibits 15 and 16.) The plain language of both versions of the September 04, 2013 email of Littlepage said, "

In 2019, I filed a lawsuit No. RG19002853 *Drevaleva v. Alameda Health System* at the Superior Court of Alameda County. I propounded Amended Special Interrogatories to AHS. On May 09, 2019, I received "RESPONDENT ALAMEDA HEALTH SYSTEM'S RESPONSES TO PETITIONER'S AMENDED SPECIAL INTERROGATORIES, SET ONE" (Exhibit 17),

"SPECIAL INTERROGATORY NO. 1:

“What Did Mr. Harding Say to Ms. Daly in December 2013 About the Reasons of Terminating Ms. Drevaleva’s Employment?”

RESPONSE TO INTERROGATORY NO. 1:

Respondent objects to this interrogatory on the grounds that it is not relevant to the subject matter involved in the pending action and therefore not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §§ 2017.010, 2030.010 subd. (a); *Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1417; *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12,18.) Respondent objects to this interrogatory on the grounds that it seeks information regarding the state of mind of another person.

SPECIAL INTERROGATORY NO. 2:

“What Did Mr. Cole Say to Ms. Daly in December 2013 About the Reasons of Terminating Ms. Drevaleva’s Employment?”

RESPONSE TO INTERROGATORY NO. 2:

Respondent objects to this interrogatory on the grounds that it is not relevant to the subject matter involved in the pending action and therefore not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §§ 2017.010, 2030.010 subd. (a); *Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1417; *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12,18.)

Respondent objects to this interrogatory on the grounds that it seeks information regarding the state of mind of another person.

SPECIAL INTERROGATORY NO. 3:

“Is it True that on September 04, 2013 Ms. Dana Littlepage Sent an Email that Proposed to Release Ms. Tatyana Drevaleva from Probationary Employment to Mr. Harding, Mr. Cole, and Mr. Scafaro?”

RESPONSE TO INTERROGATORY NO. 3:

Respondent objects to this interrogatory on the grounds that it is not relevant to the subject matter involved in the pending action and therefore not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §§ 2017.010, 2030.010 subd. (a); *Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1417; *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12,18.) Respondent objects to this interrogatory on the grounds that it seeks information regarding the state of mind of another person. Respondent objects to this request on the grounds that it is compound.

SPECIAL INTERROGATORY NO. 4:

“Did Ms. Littlepage Follow the Internal Policies of Alameda Health System When She Proposed to Terminate Ms. Drevaleva’s Employment in Her September 04, 2013 Email to Mr. Harding, Mr. Cole, and Mr. Scafaro?”

RESPONSE TO INTERROGATORY NO. 4:

Respondent objects to this interrogatory on the grounds that it is not relevant to the subject matter involved in the pending action and therefore not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc, §§ 2017.010, 2030.010 subd. (a); *Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1417; *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12,18.) Respondent objects to this interrogatory on the grounds that it seeks information regarding the state of mind of another person.”

Also, on May 09, 2019 I received “RESPONDENT ALAMEDA HEALTH SYSTEM’S RESPONSES TO PETITIONER’S SPECIAL INTERROGATORIES, SET TWO” (Exhibit 18),

“SPECIAL INTERROGATORY NO. 1:

“Describe in detail “the Discrepancies Between Acceptable Employment Standards and Those [Ms. Drevaeva] Exhibited During [her] Employment with [AHS.]”

RESPONSE TO INTERROGATORY NO. 1:

Respondent objects to this interrogatory on the grounds that it is not relevant to the subject matter involved in the pending action and therefore not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §§ 2017.010, 2030.010 subd. (a); *Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1417; *Columbia Broadcasting*

System, Inc. v. Superior Court of Los Angeles County (1968) 263 Cal.App.2d 12,18.)

Respondent objects to this interrogatory on the grounds that it is vague and ambiguous.

SPECIAL INTERROGATORY NO. 2:

“Is it true that on December 02, 2013 Mr. Harding and Mr. Cole said to Ms. Daly that Ms. Tatyana Drevalova Had Been Fired for Medical Negligence Towards the Patient?”

RESPONSE TO INTERROGATORY NO. 2:

Respondent objects to this interrogatory on the grounds that it is not relevant to the subject matter involved in the pending action and therefore not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §§ 2017.010, 2030.010 subd. (a); *Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1417; *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12,18.) Respondent objects to this interrogatory on the grounds that it seeks information regarding the state of mind of another person.

SPECIAL INTERROGATORY NO. 3:

“Is it true that on December 06, 2013 Mr. Cole Gave a Copy of Ms. Littlepage’s September 04, 2013 Email to Ms. Catherine Daly?”

RESPONSE TO INTERROGATORY NO. 3:

Respondent objects to this interrogatory on the grounds that it is not relevant to the subject matter involved in the pending action and therefore not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §§ 2017.010, 2030.010 subd. (a); *Kalaba v. Gray* (2002) 95 Cal.App.4th 1416, 1417; *Columbia Broadcasting System, Inc. v. Superior Court of Los Angeles County* (1968) 263 Cal.App.2d 12,18.) Respondent objects to this interrogatory on the grounds that it seeks information regarding the state of mind of another person. Respondent objects to this request on the grounds that it is compound.”

Also, during the litigation of my lawsuit No. RG19002853, I propounded Requests for Admission of two versions of the alleged Ms. Littlepage’s September 04, 2013 email that I had received from DIR. On March 29, 2019, I received “DEFENDANT ALAMEDA HEALTH SYSTEM’S RESPONSE TO PLAINTIFF’S REQUEST FOR ADMISSIONS – GENUINENESS OF DOCUMENTS, SET ONE” (Exhibit 19),

“REOUEST FOR ADMISSION NO. 1:

The original of the following documents, copies of which are attached, is genuine:
Copy of the September 04, 2013 email from Ms. Dana Littlepage.

RESPONSE TO REOUEST FOR ADMISSION NO. 1:

AHS objects to this request on the grounds that this document was not obtained from AHS and appears to have been altered, thus, AHS has no reasonable way of verifying the genuineness of this document. On this basis, AHS **DENIES** this request.”

Also, on March 29, 2019, I received “DEFENDANT ALAMEDA HEALTH SYSTEM’S RESPONSE TO PLAINTIFF’S REQUEST FOR ADMISSIONS – GENUINENESS OF DOCUMENTS, SET TWO” (Exhibit 20),

“REOUEST FOR ADMISSION NO. 1:

The original of the following documents, copies of which are attached, is genuine:
Copy of the September 04, 2013 email from Ms. Dana Littlepage.

RESPONSE TO REOUEST FOR ADMISSION NO. I:

AHS objects to this request on the grounds that this document was not obtained from AHS, thus, AHS has no reasonable way of verifying the genuineness of this document. On this basis, AHS **DENIES** this request.”

Therefore, the pieces of evidence that I received from the Narayan Travelstead Professional Law Corporation **didn’t confirm all of the DIR’s allegations:**

- 1) That on December 02, 2013 both Harding and Cole said to Daly that I had been fired for medical negligence towards the patient
- 2) That on September 04, 2013 Littlepage sent her email to Harding, Cole, and Scafaro where she proposed to release me from probation
- 3) That on December 06, 2013 Cole provided Daly with the copy of Littlepage’s email
- 4) That both versions of the alleged September 04, 2013 email of Littlepage were genuine.

Therefore, because all of the DIR's allegations that were listed in Declaration of Deputy Daly in support of DIR's anti-SLAPP Motion were not confirmed by the Narayan Travelstead Professional Law Corporation, I am respectfully asking the U.S. Supreme Court to grant my Petition for Rehearing and to remand my lawsuit No. RG17881790 back to the Superior Court of Alameda County for a further proceeding.

I need to clear my good name from DIR's Libel that I was fired from AHS for committing medical negligence towards the patient.

The facts that I discovered after the Superior Court of Alameda County dismissed my Complaint No. Rg17881790 *Drevaleva v. Department of Industrial Relations* clearly demonstrated that all DIR's allegations that the DIR listed during the litigation of my lawsuit No RG17881790 were not confirmed by the Responses of the Narayan Travelstead Professional Law Corporation to my Discovery requests.

Because the DIR's anti-SLAPP Motion was based on a fabricated piece of evidence (the alleged September 04, 2013 email of Ms. Littlepage), the DIR is not entitled to the qualified or absolute immunity. The DIR's anti-SLAPP Motion shall be denied. The DIR's allegations of the immunity under the various provisions of the California Government Code shall be denied. I am entitled to an evidentiary name clearing hearing that was never done for me. The DIR's Demurrer shall be overruled. Pursuant to Government Code Section 11370.5(a), the DIR has a mandatory obligation to transfer my both retaliation and unlawful termination claim and my wage claim to the Office of the Administrative Hearings of the Department of General Services.

My lawsuit No. RG17881790 shall be stayed at the Superior Court of Alameda County and shall be coordinated with my Federal lawsuit No. 3:16-cv-07414-LB *Drevaleva v. 1) Alameda Health System, 2) Department of Industrial Relations.*

Conclusion.

The Petition for Rehearing should be granted.

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 January 07, 2021.

Respectfully submitted,



s/ Tatyana Drevaleva

Petitioner-Appellant Pro Se

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Date: January 07, 2021.

**Additional material
from this filing is
available in the
Clerk's Office.**