

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

PERRY TURNER — PETITIONER

vs.

CITY OF LOS ANGELES, et al. — RESPONDENTS
ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF APPEAL OF THE STATE OF CALIFORNIA,
SECOND APPELLATE DISTRICT, DIVISION 7
PETITION FOR WRIT OF CERTIORARI

Perry Turner

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QUESTIONS PRESENTED

The questions presented for review speak to a right, privilege, or immunity specially set up or claimed under the Constitution of the United States (28 U.S. Code § 1257), framed concisely in relation to the case (Rule 14), are these:

I. Should privacy protections in the United States and California Constitutions be interpreted as meaning in part that there is and should be a Constitutionally dimensioned privacy right not to be expected by law to worry, or to have worried, as though paranoid about unknown and practicably unimaginable events during delayed discovery and during fraudulent concealment? This arose in context of delayed discovery and fraudulent concealment rules.

II. Since statutory tort claims procedures anticipate an antecedent claim, and if need be also application for leave to file late claim and if that is denied then also petition to the Superior Court for relief from requirement to file a claim, before facts can be properly alleged in verified claim or complaint while their discovery is delayed concurrently by consequences of alleged tortfeasors' own acts and their own fraudulent concealments of strict accrual, and since Appellate Districts differ over whether accrual dates, discovery delayed by consequences of tort, fraudulent concealment of accruals, claim filing dates, filing claims, not filing claims, filing claims late, denials of leave by entities, or in virtual vacuo only "mistake, inadvertence, surprise, or excusable neglect" fall within trial courts' purview, exactly what issues are or are not properly before a trial court in hearing a petition for relief when a claim is actually filed but whether it is even late is in dispute before those facts can be properly even alleged in a verified claim or

verified pleading, alike?

III. Opinions are split among Divisions of the Second District Court of Appeal, as well as among Districts of the Court of Appeal, in applying principles elucidated by the Supreme Court over metes and bounds of delayed discovery and fraudulent concealment in relation both to commonly understood lexical and judicially redefined terms for mistake, inadvertence, surprise, and excusable neglect, and to unavoidably extenuating practical and personal circumstances of forcible and violent home invasion that effectively destroys the home and leaves victims in chaos that impedes their filing tort claims.

LIST OF PARTIES

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

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

A. Petitioner:

1. Perry Turner, Petitioner

B. Respondents:

4. City of Los Angeles, Respondent. This Respondent has been active in the appeal.

5. Reverse Mortgage Solutions, Inc., Respondent. This Respondent has not participated in the appeal but has been consistently served appellate papers anyway from the outset of the appeal. Petitioner does not expect this respondent to participate now.

6. Does 1–100, Respondents. These Respondents have not participated in the appeal, nor in the trial court; are unrepresented; and have been served no appellate papers.

7. The Attorney General and the State of California are not parties and have not participated in the appeal, but the Attorney General has been served appellate papers anyway. As constitutionality of any statute of a State is drawn into question, and

neither the State nor any agency, officer, or employee thereof is a party, 28 U. S. C. § 2403(b) may apply and the petition is served on the Attorney General of that State (Rule 29.4.(c).

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS AND ORDERS BELOW

☐ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix ____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix ____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from state courts:

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

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The order of the highest state court to deny rehearing and modify its opinion but not to amend its judgment appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The order of the Superior Court of California, County of Los Angeles appears at Appendix C to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The order of the highest state court, denying review, appears at Appendix D to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from federal courts:

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

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

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

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

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

☒ For cases from state courts:

The date on which the highest state court decided my case was December 13, 2017. A copy of that decision appears at Appendix A.

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

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

Jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a) (as well as under this Court's Rule 10(c)):

"Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari [. . .] where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States."

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The United States Constitution in its Amendment IX, Section 1, provides for the implicit penumbral right to privacy:

"Certain Rights Not Denied to the People[.] [Section 1.] The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

The California Constitution in its Article I, Declaration of Rights, Section 1, provides expressly for right to privacy:

"All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."

Privacy right has several implicit and explicit nuances, as legislatively or judicially expressed by the United States or by California or other States. This case addresses an implicit nuance of privacy right, not to be required, by law or judicial presumption to worry about something that is not self-evidently imaginable or possible to pursue. These issues arise in context of the delayed discovery and fraudulent concealment

rules, which in federal as well as state courts subject litigants to the same risk that befell petitioners.

STATEMENT OF THE CASE

Petitioner Perry Turner lives in Porter Ranch in Los Angeles, California, alone as a single elder citizen, and is Trustee of both copetitioners Trust, of the same address. (1 CT 65, 66, 67, 72 at E, 74; then 16, 17, 18, 25 at E; then 29, 32, 44, 45.) The action at bar began with litigation pursuant to forcible and violent home invasion (at that address) in mid October, 2013 and thereafter ongoing criminal trespass well into 2014, during and as result of which severe burglary, including plural computers, complete ransacking, including more than 50,000 leaves of organized paperwork, severe vandalism, including theft of virtually all copper water pipes below the floor joists and damage to electrical wiring, identify theft, criminally fraudulent attempted adverse possession, and other acts left what had been a veritable fortress reduced to a house, and left Turner unable to function for several months while amidst the chaos they attempted as best they could to discover exactly who had done exactly what to them exactly when, before the sole owner–occupant could responsibly file, and on April 15 and May 20, 2014 filed, verified claims against respondent City of Los Angeles (City); on October 30, 2014 filed verified petition and declaration for relief from provisions of Government Code section 945.4 concerning City’s denial of leave to file a late claim for events well prior to mid October, 2013 (1 CT 8–28); and on October 30, 2014 filed verified unlimited civil complaint alleging acts by criminal actors as well as by City over its police department (LAPD) and utility department (LADWP), including

100 as yet unidentified but discoverable criminal or public Does alleged in several capacities (1 CT 8–28, 29–45.) Appeal followed the order entered on February 2, 2014 denying to Turner that relief (1 CT 103–106.). The order was appealable. (1 CT 103–106; Govt. Code §945.4, §946.6; *Docter v. City of Santa Ana* (1968) 261 Cal.App.2nd 69, 74; Opinion, p. 12.)

Turner as claimant filed two verified claims with the Office of the City Clerk of respondent City, using City’s form Claim for Damages to Person or Property, with attachments. The first claim was filed on April 15, 2014. (1 CT 65–75.) City responded on April 30, 2014 to the first claim, accepting and denying it in part, as to matters on and after October 16, 2013; rejecting it in part as late, as to matters antedating October 16, 2013; with the added *non sequitur* of rejecting without action “all loss dates prior to 4–16–13” (City conceded October 15, 2013; Opinion p. 10–11); and advising that the “only recourse at this time is to apply for leave to present a late claim.” (1 CT 76–77, 98–99.) The second claim was filed May 20, 2014 and again May 29, 2014 with application to leave to file late claim. (1 CT 15–28, 95–97.) City responded on June 26, 2014 to the second claim and application, denying application for leave to file a late claim, with notice that “to file a state court action on this matter, you must first petition the appropriate court for an order [. . .].” (1 CT 100–101.)

Turner filed the court papers on October 30, 2014, within six months after City denied claims and denied application for leave to file a late claim (April 30 began gradually discovering the scope of ongoing chaos they confronted soon after midnight on October 20, 22.)

Respondent City is the primary respondent, and effectively several Doe respondents are alleged officers, agents, or employees of City. (1CT 32 at ¶¶19, 20, 22.)

On February 2, 2014 the trial court denied the petition below on implicit ground that Turner should have discovered soon enough to have filed by January 1, 2014 the alleged involvements of LADWP with the criminals on or about July 1, 2013. (1 CT 103–106.)

Turner returned home immediately after the 2013 Columbus Day holiday week end only to discover that he was a victim of crimes, and the house leaving at least two criminals in the house. (1 CT 68 at B ¶4, 19–20 at B¶4, 18 lines 7–10, 20 ¶30.) On or about November 19–20, 2013 upon recent appearance of a dumpster in the back yard, Turner spoke with police who came to the house by accident, gave some advice, and took a police report which after it was filed and requested by Turner and finally turned over to them and June 26, 2014), and within one year after Turner on November 19–20, 2013 turned out to be riddled with errors and falsehoods as well as missing items that were lost after Turner had submitted them. (1 CT 68–69 at B ¶5, 70 at D ¶3; 20 at B ¶5, 22 at D ¶3; 24–25 at D ¶¶9–12; 34 ¶27.) On or about November 19–21, 2013 Turner discovered water that was supposed to be off for non–payment was instead on, ordered the dumpster removed and it was, and obtained proof of ownership and ordered the utilities turned back off. (1 CT 68–69 at B ¶5, 70 at D ¶3; 20 at B ¶5, 22 at D ¶3.)

The first reference to July 1, 2013 and the first reference to January 10, 2014 appeared together in one sentence in the first claim, and were reiterated in the second claim, at their attachments' A ¶1, D ¶1. “When on or about [July 1, 2013], and unknown

to me until on or about [January 10, 2014], somebody whose identity LADWP has never given me took over the LADWP utilities for my residence, evidently, by implication of what I asked and was or was not told, LADWP was told and accepted the criminals' absolute falsehood that the residence was unoccupied and the resident was no longer there or had moved." (1 CT 67–68, then 21, 19.) By April 15, 2014, well within six months (within 95 days, actually) of January 10, 2014, Turner was able to aver, in the ensuing sentence, "Evidently LADWP never required a formal affidavit or declaration to support that utter falsehood and instead put the utilities in the name of a person or persons still unknown to me, and failed, refused, and neglected to prevent even minimally the criminal takeover of the utilities and the criminal events following that." The second reference to the utilities takeover appeared together in one sentence in the first claim, and were reiterated in the second claim, at their attachments' D ¶13. "On or about [November 19, 2013] a neighbor took me back to the house, where a recently delivered dumpster occupied the rear lawn and changes had occurred indoors since [predawn October 16, 2013] and in the relative safety of his presence I rephotographed the premises. As we found the water on at the meter but off in the house, we learned soon afterward that the utilities were supposed to be on but in the name of a person or persons unknown to [me] and not identified by LADWP. We still didn't know that their arrangements with LADWP began on or about [July 1, 2013]." (1 CT 70, then 22.)

The first reference to LAPD on October 16, 2013 appeared in the first and second claims, whose averments as to that date were first filed within six months, on April 15, 2014. (1 CT 66, 68 ¶¶2, 3, then 19 ¶¶2, 3.) The first reference to LAPD leaving

criminals in the house at unknown time prior to November 19, 2013 but discovered enough to suspect on and not before on or about November 19–20, 2013 appeared in the first claim, whose corresponding averments were first filed on April 15, 2014, within six months of discovery or reason for suspicion. (1 CT 66, 68 ¶¶4, 5, then 19 ¶¶4, 5.) The first reference to further acts of commission or omission by LAPD on November 19 and 20–21 *et seq.* appeared in the first claim, whose averments as to those dates were first filed on April 15, 2014, within six months (1 CT 66, 68 ¶4, then 19 ¶4.)

The claims were timely within six months of observed facts or *responsibly* supportable suspicions.

REASONS FOR GRANTING THE PETITION

Compelling reasons exist for the exercise of the Court’s discretionary jurisdiction, and for national importance of having the Supreme Court decide the question involved. The importance of the case applies nationally to petitioners and to others similarly situated in federal and state courts. In those contexts the decision of the lower court in this case was erroneous.

In keeping with 28 U.S. Code § 1257, in this case “title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.”

I. The present case ripens for review the issue of privacy protections in the California and the United States Constitutions as including right not to be expected

by law to worry, or to have worried, as though paranoid about unknown and practicably unimaginable events during delayed discovery and during fraudulent concealment.

The trial court and Court of Appeal impose an obligation upon petitioners and appellants (Turner) to engage in that very worry, in contexts of delayed discovery by Turner January 10, 2014 and fraudulent concealment by respondent City of Los Angeles (City) till January 10, 2014 of facts raising City's likely culpability for complicity in criminals' takeover of Turner's utilities as early as July 1, 2013—as to which application for leave to file late claim was denied and petition for relief ensued—before the criminals forcibly and violently invaded Turner's home in mid October, 2013—as to which date the claims and unlimited civil complaint were timely—by holding elder citizen Turner responsible, despite several months of *status quo* after July 1, 2013 and several months of complete chaos in a destroyed home after mid October, 2013, for somehow discovering the earlier date before the meanwhile stonewalling City finally divulged it to Turner after the six month claims filing period for that date had passed. Neither lower court expressly held that Turner's delay till mid April, 2014 (less than one year after July 1, 2013, and less than a week more than three months after January 10, 2014) was *not* “reasonable” delay; and both of them found no mistake, surprise, or excusable neglect under those circumstances of combined chaos and stonewalling. Till November 19– 20, 2013 Turner had no reason to suspect that utilities had been taken over; utilities

had been off as expected, and when he knew they were on anyway he abruptly ordered them off as they were supposed to be. Till January 10, 2014 Turner had no rational basis for imagining July 1, 2013, none for verifying claim of it, and none for imagining that hiring counsel would discover it, either, but Turner was expected to have done so anyway. The constitutional issue speaks at once against strict accrual and for both the delayed discovery and the fraudulent concealment rules under these circumstances. What aspects of *status quo* (while utilities that were supposed to be off were off) are supposed to startle sane elder citizens or anyone else into imagining concealed events or dates; or to bring the events or dates to light despite silence or stonewalling? What aspects of complete chaos after severe home invasion are supposed either to spur sane elder citizens or anyone else to dedicate themselves to even more accelerated and focal investigation than already cannot overcome silence or stonewalling in the first place, or instead not to interfere with their doing so? How is hiring counsel to discover either unimaginable or imaginable but sequestered facts *before verified claim or suit* as suggested by the opinion (p. 17) supposed to bring them to light that soon? How is imposed duty to imagine the unimaginable and then discover it despite silence as well as stonewalling supposed to arise, during either antecedent *status quo* or subsequent ongoing complete chaos? Since City's stonewalling thwarted even Turner's own statutory privacy rights to knowledge about his own account when he tried to discover from City who took over his utilities and when, what controls are supposed to govern such

stonewalling that protects only wrongdoers? The constitutional issue speaks under these circumstances at once against strict accrual and for both the delayed discovery and the fraudulent concealment rules, and moreover subtends the foregoing questions. The constitutional issue pertains in deeply rooted principle to any crime victim in isolation but becomes all the more broadly a public concern of fundamental importance while prevalence of forcible and violent home invasions' aftermaths of destruction escalates and neither complicit entities nor criminals can be expected to volunteer but both can be expected to conceal claimable or actionable facts, and the Supreme Court should examine its metes and bounds.

II. The present case ripens for review discrepancies between statutory language and trial practices over inserting or validating claims before facts expected by statutory terms to be preceded by claims can be properly alleged, as well as for review how if at all one is supposed to have an entity's denial of leave examined.

What the Legislature enacted over entities' denials of leave to file claims they protest are late even if they engaged in fraudulent concealment preempts effectiveness allegations which if made are subject to demurrer (on pleadings) or to motions in the fashion envisioned by the opinion (pp. 13–15), but does not preempt the well established delayed discovery and fraudulent concealment exceptions that presumably belong within trial courts' purview. The trial court and Court of Appeal enforce strict accrual and necessity to discover all facts

despite both fraudulent concealment and complete ongoing chaos after a severe home invasion, severe burglary, complete ransacking, and severe vandalism of what had been an elder citizen's home that was a virtual fortress which the criminal acts well nigh instantly turned into an elder citizen's destructively and forcibly entered mere house that also caused delayed discovery; and enforce an obligation to function normally and pursue with vigor and dispatch what interests jurists even if it was unknowable and unimaginable beyond even paranoid imagination. Palpably neither lower court viewed those circumstances as impeding progress toward a "timely" claim over well concealed facts but palpably both lower courts viewed progressing toward a claim notwithstanding those circumstances as mandatory and effectively treated strict accrual dates as paramount. The Court of Appeal, citing splits among appellate opinions, moreover withdrew timeliness from the trial court's purview of surprise, mistake, or excusable neglect and invited as the appropriate mechanism demurrer or motions to overcome allegations barred by statute from being properly made prematurely in the first place—before *verified* germane claims over unknowns would be filed with public entities—but made anyway; whereas Turner petitioned expressly *in order to* allege them in amendment. If such a petition is supposed not to address an entity's very denial of leave to file late claim, then is one supposed to address that via the discretionary means of administrative or regular mandamus? Are delayed discovery and fraudulent concealment supposed to be explicitly pleaded and subsequently tried in an action in order to

overcome self-serving rejections of claims or denials of leave look to strict accrual dates whose discovery was justifiably delayed fraudulently concealed? Where in plain lexical English does that entail or not the “inadvertence, mistake, surprise, or excusable neglect” anticipated by petitioning for relief? Where in plain lexical English do the latter four entail the former two? Can a petition for relief speak to all six terms; lexically or as terms of art? Only the Supreme Court can settle those discrepancies between statutory language and trial-level practices over inserting or validating a claim. The Supreme Court is left yet again to revisit whether fraudulent concealment spawns and contributes to delayed discovery in contexts of both lexical and legal intendments of “surprise, mistake, or excusable neglect” that for mounting months after severe home invasion lingered for Turner and as obviously linger so for also many other victims while incidence of germane crimes in concert escalates statewide.

III. The present case ripens for review the metes and bounds of delayed discovery and fraudulent concealment in relation both to commonly understood lexical and judicially redefined terms for mistake, inadvertence, surprise, and excusable neglect, and to unavoidably extenuating practical and personal circumstances of forcible and violent home invasion that effectively destroys the home and leaves victims in chaos that impedes their filing tort claims.

Illustrating that point within the Second District Court of Appeal, a fairly recent unpublished opinion (*Zenga v. Greenberg Gluster Fields Claman &*

Machtinger et al. (2014) 1, 5, 7, 9 [No. B248318, Second Appellate District, Division 8, unpublished, posed as example of disparities]) reviews cases favorable to Turner but ignored in the present opinion, relative to latitude in construction of delayed discovery and fraudulent concealment, alone as well as in concert. Being unpublished they could not be cited but were instead allowably “mined” by Turner for citations and arguments that the Second District had found controlling but in the present case were ignored outright toward diametric result. Illustrating the same point among Appellate Districts are appellate splits of opinion cited in the present opinion (p. 13–14). Among Appellate Districts arise cases that the Supreme Court has addressed over its own fundamental concerns for distinction between relative trivialities that litigants might purport and fair extremes that some litigants will suffer during delayed discovery and fraudulent concealment before they can reasonably even file verified claims and complaints, but in contexts of severe home invasions’ aftermaths several issues of fundamental interest to the general public and to litigants remain unresolved.

Illustrating that point within the District Court of Appeal, Second District, several fairly recent unpublished opinions reach a result at once favorable to Turner, and diametric to the present opinion, relative to latitude in construction of delayed discovery and fraudulent concealment, alone as well as in concert. Being unpublished they could not be cited but were instead allowably “mined” by Turner for citations and arguments that the Second District had found

controlling but in the present case were ignored outright. Illustrating the same point among Appellate Districts are appellate splits of opinion cited in the present opinion. Among the Appellate Districts arise cases that the Supreme Court has addressed over its own fundamental concerns for distinction between relative trivialities that litigants might purport and fair extremes that some litigants will suffer during delayed discovery and fraudulent concealment before they can reasonably even file verified claims and complaints, but in contexts of severe home invasions' aftermaths several issues of fundamental interest to the general public and to litigants remain unresolved.

We turn here to view issues in two contexts (A, B, *infra*).

A. Both the delayed discovery rule and the fraudulent concealment rule involve federal constitutional and California Constitutional privacy rights that these rules when properly applied protect.

The case at bar alleges below that criminally orchestrated gangs wilfully and wrongfully availed themselves both of fraudulent privacy and fraudulent adverse possession against Turner, and of witting LADWP and LAPD complicity in those wrongdoings against the Turner, the result of which was to take and destroy Turner's possessions, identity, home, and peace. The case at bar appeals the trial court's order to effect that Turner should have imagined and labored to discover the wrongdoings and complicity absent any reasonable impetus to do so, absent any discernible hint of the still ongoingly clandestine and concealed acts, while they were still remote and unthinkable, complained of. (1 CT 103, 106.)

It should and does go without saying that under both the constitutionally rooted federal penumbral privacy right (U.S. Const., Amend. I, IV, V, IX, and XIV; *Griswold v. Connecticut* (1965) 381 U.S. 479; *Lawrence v. Texas* (2003) 539 U.S. 558) and the constitutionally rooted California privacy rights (Cal. Const. Art. 1 at §1, §3 subd. (b)(3), §4, and §28 subd. (b)(1)), augmented or not by the growing plethora of federal and state privacy statutes (*e.g., inter alios*, Civ. Code §§1798.2, 1798.4, 1798.5 subd. (a), 1798.5, 1798.7, 1798.8), ordinary reasonable and prudent people, encountering no unusual or untoward circumstances to suggest it, will not spend time vigilantly and diligently imagining remote or unthinkable intrusion into their privacies, evidence for it, and pleadable consequences of it. To require by law that they do spend that time would run counter to both constitutional principles and the delayed discovery rule and fraudulent concealment rule. If in intent or net effect such a “paranoia mandate” arises in misconstruction or misapplication of the delayed discovery rule and fraudulent concealment rule, as in the trial court’s order, then it is wrong. Ordinary reasonable and prudent people, in ordinary lexical usage, should be expected to perceive remote, unthinkable, and egregious wrongdoings as practicably successive in ever slim but increasing likelihoods of arriving into their own daily lives.^{fn. 1}

^{fn. 1} Remote: 2 a : far removed in space, time, or relation. 4 b : not arising from a primary or proximate action. Unthinkable: 1 : not conceivable by the mind. 2 : contrary to what is reasonable or probable. Egregious: 2 : conspicuously bad. (Merriam-Webster, *New Collegiate Dictionary*, 7th edn., 264, 725, 974.)

Fundamental right to privacy arises in the United States Constitution, under penumbras of the Bill of Rights through Amendments I, IV, V, IX, and XIV. (*Griswold v. Connecticut* (1965) 381 U.S. 479, 484–485, overturning statute that barred helping others with contraceptive devices; *Eisenstadt v. Baird* (1972) 405 U.S. 438, 453.) A statute, regulation, or policy cannot be sustained if it infringes on the federal right to privacy unless the law is narrowly enough tailored to subserve a compelling state interest. (*Lawrence v. Texas* (2003) 539 U.S. 558, 593.) Upon that pivot, law cannot bar abortion or bar consensual coition. (*Roe v. Wade* (1973) 410 U.S. 113; *Lawrence, supra*, at 593.) The federal right to privacy, at least under Amendment XIV, applies to actions of states, but “not to any action of private individuals” (*Virginia v. Rives* (1880) 100 U.S. 313, 318; on Amend. XIV.) Freedoms of speech and of behavior are scarcely exhaustive, since freedoms of thought and of essential peace of mind are as fundamental. California courts are constitutional components of the state, and are subtended by tort claims requirements. (Cal. Const., art. I, §3; art. VI, §1; Govt. Code §910.4, §912.7, §946.6 subd. (c), §955.9.) Sitting judges and thereby the state itself have capacity to render law, of case or of precedent, that can violate the privacy rights, thereby subserving or subverting compelling state interests in respective exercise or prejudicial abuse of discretion. At bar, the latter circumstance produced the trial court’s order and raises infringement of fundamental federal constitutional privacy rights, in furtherance of no compelling narrow or broad state interest contrary to and worthy of overriding

the same rights, in consequence of misconstruing and denying applicability of both the delayed discovery rule and the fraudulent concealment rule, singly and in concert, to the subject statutes of limitation.

Fundamental right to privacy is explicit in the California Constitution. (Cal. Const., art. I, § 1.) It applies to both public entities, private entities, and individuals. (*American Academy of Pediatrics v. Lungren* (1997) 16 Cal.4th 307, 326.) It has three elements: (1) a legally protected privacy interest, of which there are two kinds: informational privacy and autonomy privacy; (2) reasonable expectation of privacy, under “widely accepted community norms”; and (3) “[a]ctionable invasions of privacy [] sufficiently serious in their nature, scope, and actual or potential impact [as] to constitute an egregious breach of the social norms underlying the privacy right.” (*Hill v. National Collegiate Athletic Association* (1994) 7 Cal.4th 1, 26–27, 36–37.) Of course, one does not “sue” immune courts; one instead seeks to reverse an outcome, by writ (Code Civ. Proc., §§1084–1097, 1102–1105) or in context that “actionable” practicably subtends appealable. At bar is autonomy privacy; with reasonable expectation not to be required (by City or by court) to reason about unthinkable unknowns in order to discover them sooner than rational delayed discovery and fraudulent concealment would orderly bring to light (to reason as though mad despite community norms that eschew it); in egregious breach of the social norms underlying the autonomy privacy right not to do that. At bar, the latter circumstance instilled prejudicial error in the trial court’s order and raises

infringement of fundamental California constitutional privacy rights, in furtherance of no compelling narrow or broad state interest contrary to and worthy of overriding the same rights, in consequence of misconstruing and denying applicability of both the delayed discovery rule and the fraudulent concealment rule, singly and in concert, to the subject statutes of limitation.

Additionally, City's alleged fraudulent concealment of participating in alleged utilities takeover by persons who attempted alleged adverse possession constitutes violation of Turner's California and federal due process rights. Turner was unnotified, then penalized by both means to recover the utilities as well as to recover in safety, with no police presence, the house still being burglarized even upon his return, and means to discover and plainly identify culprits, before the trial court's order protected the culprits from discovery that would impliedly be later objected to by City (and RMS) as irrelevantly and immaterially prior. "Stolen property may be replaced or recovered, but where does one go to restore one's reputation *or home or both?*" (*Rephrased* from conclusion of *Bernson v. Browning-Ferris Industries* (1994) 7 Cal.4th 926 [30 Cal.Rptr.2d 440; 873 P.2d 613], landmark allowance of combined delayed discovery and fraudulent concealment in libel; *Hale v. Morgan*, 22 Cal.3d 388, resolving statutory issue over due process in "harsh impact, approaching confiscation" in penalty imposed upon landlord.)

One would routinely expect that judicial interpretations as well as ameliorizations of statutes, alike judicial interpretations of statutes themselves, will

counterbalance conflicting interests for sake of both reason and constitutionality. In statutes' instance, "a statute which is reasonably susceptible of two constructions should be interpreted so as to render it constitutional." (*San Francisco Unified School Dist. v. Johnson* (1971) 3 Cal.3d 937, 942.) Where uncertainty seems apparent, "consideration should be given to the consequences that will flow from a particular interpretation." (*Central Pathology Service Medical Clinic, Inc. v. Superior Court* (1992) 3 Cal.4th 181, 187.) Constitutionality is a question of law reviewed de novo. (*Zubarau v. City of Palmdale* (2011) 192 Cal.App.4th 289, 307 [speaking to statutes; here taken broadly]. Essentially those paths have been taken in tempering statutes of limitation with delayed discovery and fraudulent concealment rules, and in qualifying both to conform to limitation statutes' point.

The foregoing goes beyond and deeper than reasonably unexpected and illegitimate invasion of informational privacy or autonomy privacy under "widely accepted community norms" where the Supreme Court held, "Actionable invasions of privacy must be sufficiently serious in their nature, scope, and actual or potential impact to constitute an egregious breach of the social norms underlying the privacy right." (*Hill v. National Collegiate Athletic Association* (1994) Cal.4th 1, 30, 31, 35.) Here, instead, the reach is into privacy of not worrying and not being expected or required to worry about whatever sorts of pure and unknown phantoms have not as yet detectably invaded autonomy privacy in its more ordinary broad sense. Neither statutes of limitation, even as

truncated by tort claims against public entities, nor the delayed discovery rule and fraudulent concealment rule, even as relaxing rather than dispensing with limitations, impose any sort of “paranoia mandate” upon victims of wrongdoing to discover it before it becomes rationally detectable.

Moreover, rational law cannot require even irrational crime victims to have *imagined* private and “civic” culprits and have then filed *verified* claims of their imaginings so as “timely” to subtend yet *unknown* acts and dates, let alone in anticipation of judicial adherence to crucial clocks, amidst clandestine and concealed acts, that are not even reasonably yet suspected or known to be ticking over injuries to person, personal property, and real property at once.

Utilities’ takeover by criminals with impunity, let alone with LADWP’s blessing, was not an expectation of Turner, for whom such takeover was and is successively unfathomable, unthinkable, and egregious. There was no rational reason for Turner to fret *in vacuo* over it; none on July 1, 2013 when it presumably began, none on October 15, 2013 when the home was still being destroyed but utilities were detectably off as expected, and none till January 10, 2014 when LAPD divulged takeover by somebody unidentified and it was a fait accompli. There was certainly no rational ground meanwhile for demanding then or afterward that as a matter of law Turner should have fretted over it then anyway. Appellants submit that most owner–occupants of residences or other structures have utterly no rational expectation that their privacy of utilities usage and enjoyment will be taken over by criminals, have utterly no rational cause to fret

that it will be taken over, and would deem outrageous any legal mechanism that would condone or protect it as untimely discovered and acted upon only when it became apparent. What statutes of limitation accomplish in setting as timely, the delayed discovery rule and fraudulent concealment rule accomplish in interjecting reason, albeit within then relaxed limits, but they do not mandate paranoia to fret *in vacuo*. A legislator proposing an explicit paranoia mandate might well be deemed a tad demented. Jurists grappling with statutes of limitation and the delayed discovery and fraudulent concealment rules are not demented in the least, but if they accomplish an effective paranoia mandate, then they step into prejudicial abuses of discretion arising in both constitutional privacies and the delayed discovery rule and fraudulent concealment rule. Certainly even jurists without cause to fret *in vacuo* have unexpectedly fallen prey to bogus liens filed by disgruntled malcontents, and not known about it for an extended while. (18 USC, §1521; *United States v. Reed* (2012) 668 F.3d 978, first impression, affirmed.) The restraint of staunch morals and ethics to avoid “legal” chaos prevents any array of jurists and other licensed attorneys from “legally” putting one another’s utilities under instead their own names, leaving one another to overcome utility companies’ purported “obligation” to allow requested bogus service and foster the same chaos. (1 CT 88–89 at ¶19.) Tenants used to be vulnerable to utility takeovers by landlords. (Civ. Code, §789.3, subd. (a), since prevents it; *Hale v. Morgan* (1978) 22 Cal.3d 388; *Kinney v. Vaccari* (1980) 27 Cal.3d 348.) Petitioners seriously challenge any

legislative “intent” or local policy to set up such any such “obligation” that would encompass or should ever encompass such chaos, whether by any array of jurists and other licensed attorneys who would never cause it in the first place, or by any array of criminals who patently lack the restraining morals and ethics not to cause it but who are aided and abetted by utilities purporting to perform “obligation” to provide bogus service upon their mere request, and in the case at bar were aided and abetted by respondent City’s own LADWP to perform “obligation” to specific Does that very way. (1 CT 88–89 at ¶19.) City’s LAPD did not investigate and then “lost” relevant hardcopy about a Doe (1 CT 21–25 at attachment D ¶¶2–12), and City’s LADWP will evidently divulge nothing germane without formal discovery.

Adverse possession, notwithstanding any public policy for it, presupposes that real property is actually unoccupied, and would be attempted brazenly. (Code Civ. Proc., §§318, 325, 318, 325, 328.) However, adverse possession rests upon absolutely no protection of owner–occupants against criminal home invasions in concert with even the most invasive and destructive invasions of privacy by criminals acting as loners or gangs to ensnare not only belongings and identity if they can get away with it, but even real title if they can get away with it. Appellants, and certainly most owner–occupants, have no reasonable daily expectation of returning home to find themselves stripped of privacy, belongings, and realty at once by carefully staged and entirely sudden criminal invasion and destruction that will potentially require extensive litigation for sake of effectively

impotent recovery or compensation or even to eject the criminals. It used to be the norm that owner-occupants, particularly in cities such as Los Angeles, did not have to post signage to forewarn criminals not to commit crimes before law enforcement would enforce anything, and it is unavoidable common knowledge that the vast majority of ordinary urban and suburban residences still do not bear “no trespassing” signage. Are we to the point where LAPD is obligated to leave trespassing criminals alone when owner-occupants are away for the day or several days, or when alert and alarmed neighbors call LAPD but there is no signage? Are we to the point where criminals can take over utilities while landlords cannot, with or without *advance* “notice” to owners or tenants? We certainly shouldn’t be, especially not if criminals by sleight of hand in terminology fraudulently attempt adverse possession of occupied residences. Whether LADWP and LAPD are afraid of their own shadows in aftermaths of legislation or court contests does not dispel their obligations to owner as well as tenant occupants *not* “to serve and protect” trespassing *criminals* or to open utility accounts to trespassing *criminals* at the juncture where criminals are only active but untried suspects whose acts are to be prevented or stopped from acting further. Have we reached the point where LAPD has only to size up whether a residence or business bears a technically correct “no trespassing” sign and either deal with suspects or leave them be and move on to the next incident? Owners’ and tenants’ own “competing” interest in important public policies that ought to protect them and already repose in constitutions and

statutes that are no longer “political” but are now “judicial” in context of what ought to be but doesn’t actually protect them any more, poses important public policy, since the most fundamental of governing community norms for California owners’ and tenants’ own expectations of privacy and security haven’t changed in pace with criminals’ consequently lesser interests, as at bar.

Appellants, upon privacy rights, according challenge constitutionality of presumption (by statute, regulation, or City ordinance or policy) that utilities must be provided merely upon request, and of statutory presumption that even fraudulent adverse possession must protect invasive and destructive criminals, with no requirement for *advance* “notice” to thereby victimized actual owners or tenants whose own “competing” privacy and ownership interests, should they happen rightfully not to waste energies imagining and investigating the remote and unthinkable, are (thereby burned) at stake. Appellants were victimized by both means, as orchestrated by alleged Doe criminals with alleged complicity of and concealments by LADWP and LAPD.

While the utilities were supposed to be off and the padlock on electrical service remained undisturbed (1 CT 152 lines 11–26.), there was no prudent reason or exercisable prudence meanwhile to imagine the remote and unthinkable intrusion by LADWP putting the utilities into control of one or more criminal strangers, or worse, yet, even remote or unthinkable coverup by or collusion between LADWP and one or more criminals who took over the utilities, let alone in order to facilitate theft. A criminals’ bolt cutter would have freed water

at the meter. There was no prudent reason or exercisable prudence meanwhile to imagine the remote or unthinkable intrusion by LADWP keeping completely to itself that takeover of utilities, until that inexplicably popped out January 10, 2014. (1 CT 69 at attachment D ¶1, 21 at attachment D ¶1.) Appellants at bar first encountered unthinkably complete destruction of the home on the night of October 15, 2013, and unthinkable nonchalance of LAPD commencing in the wee hours of the morning of October 16, 2013. (1 CT, 68 at attachment B ¶3, 19 at attachment B ¶3.) There was no prudent reason or exercisable prudence meanwhile to imagine the remote and unthinkable intrusion by LAPD leaving in the house at least two criminals whose presence and conduct had prompted a neighbor to call LAPD, and then by LAPD never divulging to appellants anything about the matter. (1 CT 68 at attachment B ¶4, 20 at attachment B ¶4.)

Turner discovered what he could of facts once given impetus of destroyed home and curiously stonewalling LADWP and LAPD, while an elder citizen was under consequent ongoing duress that is fairly viewed as extreme and nonetheless within what ordinary reasonable and prudent people should consider timely submitted to City two claims, which City denied in part and rejected as late in part, and application for leave to file late claim, which City denied. (1 CT 76–77, 98–99, 100–101.) That duress is apparently beyond the lower courts' apprehension and experience.

Owner–occupants have no ongoing reason to presuppose that strangers who

were never hired or allowed to work on property or who never won an enforceable judgment would file retaliatory bogus liens against their properties. They also have none to check their own recorder records almost daily against such liens. Owner-occupants have no ongoing reason to presuppose that total strangers would take over their utilities or attempt adverse possession, let alone with witting complicity of and concealment by a public entity, while they still reside in the premises but are suddenly confronted with a criminally well orchestrated aftermath. They also have none to check their own utility providers almost daily against such takeovers. However, they have a *right*, a *privacy* right, to know such matters upon request or demand. (Civ. Code, §§1798.32, *et seq.*, *infra.*)

City and its LADWP and some among the 25 relevant Does refused, with records before them, to tell Turner *who* took over the utilities, falsely claimed that the house was vacant and unoccupied, created or tried to create a presumption by way of the utilities that their attempted adverse possession was somehow legitimate, and gave themselves a way to facilitate grand and identify theft. Turner claimed that. (1 CT 69 and 73 at attachments D ¶1, 21 and 26 at attachments F.) Turner are fully entitled to know, upon demand, *who* took over the utilities under false guises to create a presumption that their fraudulently attempted adverse possession and grand and identity theft were somehow legitimate. (Information Practices Act of 1977, as follows.) Individuals “have the right to inquire and be notified” as to what information agencies maintain about them. (Civ. Code, §1798.32.) Agencies must permit

such individuals to inspect the records about them. (Civ. Code, §1798.34.) Agencies must amend incorrect records upon request. (Civ. Code, §1798.35, subd. (a).) An individual can bring civil action against an agency that refuses to comply with “any provision” (Civ. Code, §1798.45.) The plaintiff can obtain injunction. (Civ. Code, §1798.47.) The plaintiff can obtain actual damages sustained, including damages for mental suffering, and costs of the action with attorney’s fees. (Civ. Code, §1798.48.)

Meanwhile, balance of competing privacy interests may differ between private entity and government entity defendants, since, *inter alios*, with the greater power and resources government intrusion into privacy can be the more detrimental to personal privacy, and individuals have the greater choice in dealing with private actors than with government. (Paraphrased, *Hill v. National Collegiate Athletic Association* (1994) Cal.4th 81, 37.)

B. Both the delayed discovery rule and the fraudulent concealment rule engage both the dates of discovery of causes of action and corresponding tort claims filed within six months of each date.

Turner’s discovery dates included October 16, 2013 upon returning to the house that had been a home (destroyed), November 19–20 *et seq.*, 2013 when and after returning to the house and investigating (water on at curb sprayed under house), January 8, 2014 as to notice from LAPD (Officer York), January 10, 2014 as to a fact finally and only then divulged by LADWP (July 1, 2013), and April 11, 2014 while at the house (trespasser). Turner’s claims as to City

and its 25 own Does were effective April 15, 2014, and May 20 repeated with application for leave May 25, 2014; reaching back to October 15 and November 20 and 25, 2013. If Turner is to be held accountable *as to City and its 25 own Does* for July 1, 2013, which was discovered January 10, 2014 from City itself, there being no other source, then all claims and all torts were covered under principles laid down by *Fox v. Ethicon Endo-Surgery* (2005) 35 Cal.4th 797, 803, 807–808, 813–815: “It would be against public policy to require plaintiffs to file a lawsuit when the evidence available to them failed to indicate a cause of action.[.]”—or impliedly to file a tort claim, as well. Since those thus clock properly from discovery rather than from initial accrual, and since LADWP and LAPD withheld facts that only they knew.

In present context the crucial elements of asserting the delayed discovery and fraudulent concealment rules are four. One is reason even to discover a cause of action or to suspect a factual basis for it. The second is when such reason reasonably arises. The third is articulating and submitting a timely claim against a public entity. The fourth is timely filing of application and if need be then even a petition for relief from an *objectively or subjectively* late filing. Those four emerge from language and intendments of opinions. (*Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 397–398, 399 [87 Cal.Rptr. 2d 453, 981 P. 2d 79]; *Jolly v. Eli Lilly & Co.* (1988) 44 Cal.3d 1103, 1109 [245 Cal.Rptr. 658, 751 P.2d 923]; *Fox v. Ethicon Endo-Surgery* (2005) 35 Cal.4th 797, 803, 807–808 [27 Cal.Rptr.3d 661, 110 P. 3d 914].)

Under Government Code section 945.4 and the delayed discovery and fraudulent concealment rules in concert, four clocks run. One, under the statute, starts when an event actually occurred. The second, under the two rules, starts when an event becomes discoverable. Those each run for six months. The third, under the statute, starts when an event either actually occurred or became discoverable, runs past six months, and stops when a claim is filed *objectively or subjectively* late. The fourth, under the statute and the two rules, starts when a claim filed *objectively or subjectively* late is then rejected as late, and stops when late filing of a claim is either unreviewably denied or forgiven.

Notwithstanding distinction between elements and defendants that can at least be named as Does, public entities are not and cannot be Does for sake of antecedent tort claims, which effectively collapse to six months virtually all potentially effective statutes of limitations. Public entities are seen in different light than are private actors, partly with regard to power and resources, as a matter partly of important public policy. (*Hale v. Morgan, ibid.*) Whether strict accrual or delayed discovery should temper tort claims' collapse of statutes of limitations to six months depends upon the acts to be complained of as well as upon concealments of actionable acts or omissions, as there are exceptions even as to public entities. (*Hale v. Morgan, ibid.*)

Anyone stonewalled by public entities which they might question based upon even fuzzy to even sharpened suspicions is left without undivulged facts if there is no other effective source, and accordingly there was by happenstance finally

reason on and not before January 10, 2014 to entertain suspicion that the utilities were in one or more criminals' name or names with, moreover, respondent's own complicity and concealment, and Turner's claim filed well within six months of that anyway on April 15, 2013 spoke to that pursuant to what Turner learned first on that date and from LADWP itself. Concealment by City as a public entity of facts where petitioners as prospective claimants and plaintiffs as a matter of privacy right seek disclosures over interests protected by statute (such as among Civ. Code §§1798.2, 1798.4, 1798.5 subd. (a), 1798.5, 1798.7, 1798.8), notwithstanding criminals' competing privacy interests in sequestration (by the crime-fighting City, no less), not only raises which of those should prevail, but whether City is positioned to decide that all by itself once and for all, at risk only that the crucial six months will dispense with its liability if it can show an early enough date of strict accrual. The trial court looked only to the six months starting July 1, 2013 when criminals apparently gained control of utilities, rather than to six or more months starting with lack of notice and concealment even in defiance of Turner's bona fide requests. Both complicity and concealment by City were claimed and pleaded. However, the actionably studious or negligent act of permitting the utilities takeover on or about July 1, 2013 as a purported "obligation" to provide utilities upon the criminals' fraudulent request defies the rational expectations, of appellants and, no doubt, of all unsuspecting owner-occupants along with them, that City should neither have done it nor concealed it, nor gotten away with it, and that imagining it *in vacuo*

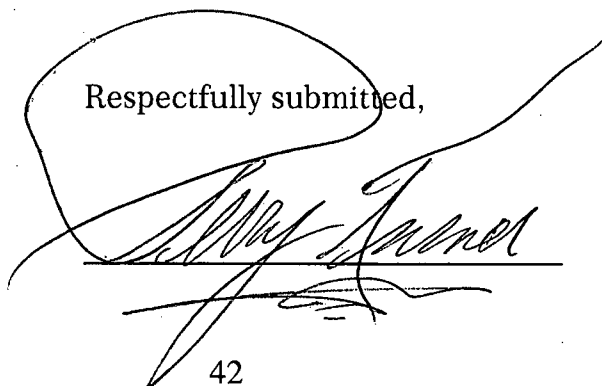
without plain reason to imagine it for sake of claim or action should not be an imposition imposed by weight of either a legislative or a judicial gavel.

A fundamental constitutional expectation of rationally composed law is to effect that ordinary reasonable and prudent people suffer no compulsion of whatsoever nature to worry as though madmen about potentially actionable but utter unknowns no evidence for which is anywhere in sight. The substantial evidence is not to effect that no discovery was made or attempted during at the very least the first nearly four months to nearly five months after an event unknown to appellants occurred on or about July 1, 2013, but is instead to effect that there was during that time no discovery to be made, as during that time there were no facts to suspect or to discover, an outwardly evident *status quo* continued, City remained silent and concealed facts for six months and nine days, and the criminals were nowhere in sight during at the very least the first nearly four months till the destruction. Upon either as well as upon both of those two fundamental pivots the delayed discovery rule and fraudulent concealment rule apply to both the law and the facts in the case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Amy L. Jones", is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.