

26-5648

ORIGINAL

No. 26-_____

SUPREME COURT OF THE UNITED STATES

MICHAEL DEVIN FLOYD,

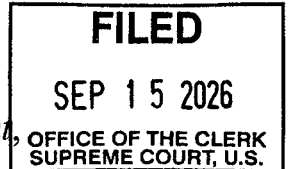
Plaintiff-Appellant,

v.

24 Hour Fitness USA, LLC

Defendants-Appellees.

On Petition for a Writ of Certiorari to
the United States Court of Appeals
for the Ninth Circuit



PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

- 1) Whether a federal district court violates a civil litigant's Fifth Amendment Due Process rights by refusing a plaintiff's motion to compel the disclosure of witnesses, and subsequently granting summary judgment to the defendant based entirely on anonymous declarations from those same concealed witnesses?
- 2) Whether an unauthenticated declaration from an unidentifiable individual satisfies the strict admissibility and competency requirements for summary judgment, mandated by Federal Rule of Civil Procedure 56(c)(4)?
- 3) Whether a federal court can weigh credibility and resolve disputes of material fact at the summary judgment stage by adopting anonymous allegations as true over conflicting, physical business records?
- 4) Whether a business can insulate itself from false arrest liability of its customer when its managers explicitly ordered the unlawful citizen's arrest and subsequently terminated its customer's contract?

Parties to the Proceeding

Plaintiff Michael Devin Floyd is the Plaintiff-Appellant. He is not a corporation and does not need to disclose anything under the corporate disclosure statement under Rule 29.6.

Defendant 24 Hour Fitness USA, LLC is the Defendant-Appellee for this Petition for a Writ of Certiorari.

Related Proceedings

U.S. Court of Appeals for the Ninth Circuit:

Floyd v. 24 Hour Fitness USA, LLC (9th Cir. July 22, 2026, No. 25-4460) 2026 U.S. App. LEXIS 21779.

U.S. District Court for the Northern District of California:

Floyd v. 24 Hour Fitness USA, LLC (N.D.Cal. May 23, 2025, No. 23-cv-00871-EMC) 2025 U.S.Dist.LEXIS 99131.

Floyd v. 24 Hour Fitness USA, LLC (N.D.Cal. July 10, 2025, No. 23-cv-00871-EMC) 2025 U.S.Dist.LEXIS 131550.

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PETITION FOR A WRIT OF CERTIORARI

I, Plaintiff Michael Devin Floyd, respectfully petitions for a writ of certiorari to review the order from the Ninth Circuit in this case. Defendant 24 Hour Fitness USA, LLC was permitted to breach my gym membership contract after its manager walked into the locker room, slandered my reputation by claiming I grabbed a woman's ass and then immediately placed me, while I was half-naked, under a false citizen's arrest using local police.

This petition arose from a fundamental structural breakdown in federal civil litigation: 24 Hour Fitness was able to secure summary judgment—and completely dismiss my claims—by relying on unauthenticated declarations from anonymous witnesses. By upholding a protective order that restricted witness disclosure to 'initials only' while simultaneously allowing those same hidden identities to serve as the focal evidentiary basis for dismissal, the lower courts have created a dangerous precedent that subverts Due Process under law.

In United States v. Rylander, 460 U.S. 752, 758 (1983), this Court unequivocally held that un-cross-examined, ex parte affidavits must be completely disregarded when a witness declines to subject themselves to cross-examination. The Ninth Circuit's affirmation in the instant case directly conflicts with this Court's holding in Rylander. Here, the district court did not merely permit a witness who “declined” cross-examination; the court prevented me from ever discovering the

witnesses' identities. Allowing 24 Hour Fitness, a corporate defendant, to affirmatively win a lawsuit via summary judgment using evidentiary materials that were shielded from any means of scrutiny could happen only under the Federal *Charades* of Civil Procedure in the United *Shams* of America.

I petition this Court to re-address and clarify the rules in the Federal Rules of Civil Procedure for the United States of America.

OPINIONS BELOW

The Ninth Circuit's opinion is not published/reported but is available at 2026 U.S. App. LEXIS 21779.

Floyd v. 24 Hour Fitness USA, LLC (9th Cir. July 22, 2026, No. 25-4460) 2026 U.S. App. LEXIS 21779.

The California Northern District Court's opinions are not published/reported but are available at 2025 U.S. Dist. LEXIS 99131 and 2025 U.S. Dist. LEXIS 131550.

Summ Judg Order #2 Floyd v. 24 Hour Fitness USA, LLC (N.D. Cal. May 23, 2025, No. 23-cv-00871-EMC) 2025 U.S. Dist. LEXIS 99131.

Summ Judg Order #1 Floyd v. 24 Hour Fitness USA, LLC (N.D. Cal. July 10, 2025, No. 23-cv-00871-EMC) 2025 U.S. Dist. LEXIS 131550.

Motion to Dismiss Order Floyd v. 24 Hour Fitness USA, LLC, No. 23-CV-00871-EMC, 2025 WL 91174 (N.D. Cal. Jan. 14, 2025), clarified on denial of reconsideration, No. 23-CV-00871-EMC, 2025 WL 436718 (N.D. Cal. Feb. 9, 2025), aff'd, No. 25-4460, 2026 WL 2111746 (9th Cir. July 22, 2026), and aff'd, No. 25-4460, 2026 WL 2111746 (9th Cir. July 22, 2026)

JURISDICTION

The Ninth Circuit entered its order affirming the district court's dismissal of all claims on July 22, 2026. (App 1a-10a). It denied panel rehearing on August 5, 2026. (App 47c). This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

INVOLVED

5th Amendment No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

14th Amendment All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Federal Rule of Civil Procedure 26 Duty to Disclose; General Provisions

Governing Discovery (a) Required Disclosures (1) Initial Disclosure

(A) In General. Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

Federal Rule of Civil Procedure 56 Summary Judgment (c) Procedures

(4) Affidavits or Declarations. An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

California Code of Civil Procedure § 2016.090 General Provisions of CIVIL

DISCOVERY ACT (a) The following shall apply in a civil action unless modified by stipulation by all parties to the action:

(1) Within 60 days of a demand by any party to the action, each party that has appeared in the action, including the party that made the demand, shall provide to the other parties an initial disclosure that includes all of the following information:

(A) The names, addresses, telephone numbers, and email addresses of all persons likely to have discoverable information, along with the subjects of that

information, that the disclosing party may use to support its claims or defenses, or that is relevant to the subject matter of the action or the order on any motion made in that action, unless the use would be solely for impeachment. The disclosure required by this subparagraph is not required to include persons who are expert trial witnesses or are retained as consultants who may later be designated as expert trial witnesses, as that term is described in Chapter 18 (commencing with Section 2034.010) of Title 4 of Part 4.

INTRODUCTION

My gym membership to 24 Hour Fitness was terminated due to misconduct, even though I never received a complaint from a gym member. I was removed from the same gym by police on two different occasions. On the last occasion, I was accused of sexual harassment, defamed and then removed from the premises under arrest by police. I was arrested for trespassing in a gym where I was a paying member.

When my original complaint was introduced into the California Northern District Court in early 2023, that complaint was flooded with federal claims of racism and discrimination. Not much has changed in my view on the reasons for 24 Hour Fitness's actions. However, my pro se knowledge about evidence needed for proving claims increased. The operative complaint was amended after discovery and rests on even stronger showings of discrimination.

What has brought forth this petition is a normal David and Goliath story. I have represented myself in a lawsuit against 24 Hour Fitness USA, LLC, one of the largest gym franchises in the country. All interim, interlocutory orders in the district court swung in favor of Goliath. For examples, 24 Hour Fitness USA was not compelled to disclose key witnesses, a procedural error under federal and California law. (App 325M, 329N-333N, 334O-339O). My request for court-appointed assistance was denied. Another example is the false arrest tort was

dismissed, although there was sufficient evidence to grant its judgment in my favor. (App 282J-285J). 3 different requests at reconsideration for that claim could not persuade the district court to properly credit the evidence presented: the charges stemming from my citizen's arrest were later dismissed in the interest of justice. (App 282J-285J).

But this is not the only claim where summary judgment was warranted in my favor and the district court was not the only court to overlook compelling evidence. The 9th Circuit also favored Goliath in its judgment somehow, seeing no reason to judge from evidence presented in the appeal. (App 1a-10a).

Despite timely requests to preserve evidence, 24 Hour Fitness's sexual harassment accusation came with no alleged victim and no one to corroborate that claim. The gym's manager walked into the locker room with police, confronted me for the first time, and proclaimed that a woman complained that I grabbed her ass. That manager who had me arrested was unable to be located for deposition during the lawsuit. Even the alleged complaints prior to that sexual harassment accusation were riddled with conflicting testimonies. As mentioned before, requests to compel witness identities were blocked by the district court. Affirmed in the 9th Circuit. Respectfully, I petition for a writ of certiorari to review the affirmation of the Ninth Circuit in this case.

STATEMENT

Procedural Background

On February 27, 2023, I commenced the civil rights lawsuit in California Northern District Court with the belief that Defendant 24 Hour Fitness USA, LLC used discriminatory practices to terminate my gym membership. During the discovery period, the District Court denied compelling the identification of key witnesses, allowing 24 Hour to deliver witness declarations with initials only. (App 325M, 329N-333N, 334O-339O). (District ECF No 44). The Court allowed me to file an Amended Complaint in September 2024. (District ECF No. 65). 24 Hour's dismissal motion was partially granted in January 2025. (District ECF No. 85). Although summary judgment was requested by both parties on the remaining claims, summary judgment was granted in favor of 24 Hour. (District ECF No. 130).

While the summary judgment was being briefed, the Court allowed me to amend the Complaint to add two of the claims previously dismissed after several attempts at reconsideration. (District ECF No. 106). On those remaining claims, summary judgment was requested and granted in favor of 24 Hour after the first summary judgment hearing. (District ECF No. 132).

The 9th Circuit had jurisdiction pursuant to 28 U.S.C. § 1291 to hear the appeal. That court affirmed judgment on July 22, 2026. (App 1a-10a). Panel rehearing was denied on August 5, 2026. (App 47c).

Relevant Factual Background

The Plaintiff Michael Devin Floyd purchased a gym membership at Defendant 24 Hour Fitness USA, LLC on January 5, 2022 in Milpitas, California. (App 141i). Floyd purchased the Platinum membership, giving him access to all 24 Hour Fitness clubs. (App 139i). While a member at 24 Hour Fitness, Floyd was involved in various incidents with other gym members. All of these incidents were at the 24 Hour Fitness off Whipple Rd in Hayward, CA.

The first incident occurred on June 15, 2022. (App 154i). Floyd alerts staff that another gym member insulted Floyd by calling him a racial slur, but since the perpetrator denied the accusation, Floyd's abuser was given only verbal warnings. (App 154i).

The next incident occurred on July 18, 2022. (App 154i). A list of Defendant employees on that day was obtained through discovery. (App 279i). Defendant manager Martinez is not on that list. Martinez declares in his deposition that this day is his first day working at that gym. (App 176i). Now, on his first day working at the gym, Martinez admits to confronting Floyd concerning a complaint. (App 170i). Defendant employee Adam Sanchez accompanied Martinez. Martinez

admits to demanding Floyd leave the premises. (App 172i). Martinez proclaims he tried to talk to Floyd (App 171i), but somehow also never told Floyd any details about the complaint (App 175i). Martinez admits to telling Floyd to return and speak to a higher manager concerning the complaint he has not described at all to Floyd. (App 181i). Floyd refuses to leave the premises. (App 176i). Floyd had never seen these employees [Martinez and Sanchez] prior to this encounter, yet Floyd visited this facility frequently. The Defendant employees claimed there was a complaint about him with absolutely no additional details provided. (App 176i). Floyd declared he did not attempt to speak to anyone in the gym that day prior to the conversation with Martinez; Floyd had just entered the gym and began working out. Police were called and Floyd was escorted out of the gym by police. (App 176i). Floyd returns to the gym in the following days and speaks to Defendant general manager Alyese Bryant and Michael Martinez together. (App 189i). Floyd was provided no further information nor details regarding the complaint. Floyd is informed he is allowed to re-continue his membership. Floyd provided the declaration in Exhibit 2 of the operative complaint to Bryant during this time and through email. (App 281i).

The Defendant records an event on September 9, 2022. (App 154i). The notes in Defendant's computer, written the day after, states Floyd yelled at a gym member from across the gym when she was attempting to use the dumbbells he was using.

(App 154i). Floyd was never informed of this incident. This is ordinary behavior in a gym. Floyd was using the dumbbells and someone attempted to use the dumbbells.

The final incident occurred on October 1, 2022. Floyd was approached by 24 Hour Fitness staff and police after his workout in the locker room. On Oct 1, 2022, Defendant manager Walter Kane demanded Floyd leave the gym in front of police. (App 297i). When Floyd asked why he was being forced to immediately leave, the Defendant manager Kane stated a woman complained that Floyd grabbed her ass. Floyd was informed that this accusation occurred that day. (App 207i). Floyd was informed that there were also multiple other complaints throughout his membership. Floyd was only informed of one prior complaint: when he was removed on 07/18/2022 for an unexplained reason. Defendant manager Kane told police to arrest him immediately, while Floyd was undressed and half-naked. Floyd's request to finish activities in the locker room first was denied by Kane.

Through discovery, the Plaintiff has learned that there was only one complaint made on Oct 1, 2022 against the Plaintiff. (App 210i). That complainant only reported her complaint to Defendant employee Andrew Pratt. (App 210i). Pratt testified that the complainant never mentioned inappropriate touching; the complaint was about a sexual comment. (App 223i). Pratt also testified he told Defendant manager Kane about a sexual comment complaint. (App 225i). Thus,

Kane was not informed by a gym member nor a gym employee that the Plaintiff inappropriately touched a woman that night; any allegation of inappropriate touching was false. Yet, Kane walked into the locker room and demanded the Plaintiff leave, stating the false allegation as the reason. (App 207i). Floyd declares he neither inappropriately touched anyone nor made a sexual comment that night. Pratt also mentioned the complaint occurred an hour and a half prior to police arrival. (App 225i). No one confronted Floyd during this time window.

Floyd's membership to Defendant's gym was subsequently frozen, placed on hold. (App 153i). Floyd visited the gym multiple times after the 10/01/2022 police removal, attempting to get his membership reinstated and obtain more information concerning the alleged assault. He wasn't provided any additional information, speaking with Defendant General Manager Bryant on most of these occasions. Floyd received a call from Defendant's District Manager Kesan Pillai on October 13, 2022. Pillai informed Floyd his membership to 24 Hour Fitness was revoked. (App 151i).

Defendant cannot identify the 10/01/2022 complainant. (App 255i). At the Plaintiff's demand prior to filing this lawsuit, Defendant retained video surveillance of its facility during that night. Pratt stated the complaint convo occurred at the front desk an hour and a half prior to police arrival. (App 167i, 171r). This provides an exact location and approximate time of the complaint.

Defendant has a timestamp of every member entering the facility. (App 262i-264i). Only members accessed the facility that night. (App 273i). Defendant should be able to locate the woman who complained. It is out of 21 possible people. (App 108g). It is inexcusable that the complainant who caused Floyd's membership to be canceled was never identified.

Floyd sought deposition testimony from Defendant manager Walter Kane, but he was somehow unable to be located. Floyd sought deposition testimony from the only two alleged victims 24 Hour Fitness provided, but the district court ordered their identities to remain anonymous. (App 325M, 329N-333N, 334O-339O). 24 Hour Fitness was allowed to provide anonymous declarations as evidence to support their summary judgment. (App 111h-116h).

REASONS FOR GRANTING PETITION

There are four sets of notes within the Defendant's system that have reports against Floyd in 2022: 07/18, 09/10, 09/30, 10/01. (App 154i). These notes record five different events; accusers are unidentifiable in the two events on 09/30 and 10/01. (App 257i). From the remaining three events, the Defendant has identified a pair of female member friends; those two females reported problems with Floyd on three different occasions. (App 111h-116h). Floyd does not know who these female members are. During the span of his membership, Floyd did not know how he caused a problem. It was only months after the revocation of his membership did he discover those aforementioned notes, finally giving him some minor clue as to what the issues were. (App 154i). A touch on the stomach. An attempt at conversation. A request to not occupy equipment in use. As juvenile as these reports may seem, this is an adult world where there are consequences and legal concerns if repeated, harassing behavior continues. If and when those reports occurred, Floyd was obliged to know some details. The Defendant's inaction placed the Plaintiff in a position where he is unable to divert repeated harassment claims. Knowledge of the first prevents all subsequent events.

On October 1, 2022, 24 Hour Fitness asked Plaintiff Floyd to leave based on reports he touched a female member inappropriately. But, there were no reports that Floyd touched a female member inappropriately that day. (App 223i). The

Defendant falsely imprisoned Floyd by placing him under false arrest for trespassing. The half-naked, startled Plaintiff failed in his struggle to walk out of the locker room with dignity. In the interest of justice, the Alameda County District Attorney has dropped all those charges for trespassing and resisting arrest. (App 282j-285j). There is no evidence the Plaintiff trespassed by obstructing Defendant's business; there is no evidence the Plaintiff improperly resisted arrest.

And even after Floyd provided his declaration denying the 10/01 harassment allegations to Defendant's management, Defendant management still terminated the Plaintiff's membership. These actions were not reasonable. The Defendant's management did not follow up with any alleged victim; it's not clear that they even made an attempt to identify an alleged victim anytime after the 10/01 false arrest removal. There aren't any grounds to believe Defendant's sales managers Kane and Martinez, general manager Bryant, or district manager Pillai acted in good faith and common sense.

I. THE NINTH CIRCUIT'S DECISION SANCTIONS A DANGEROUS
DISCOVERY EVASION TACTIC THAT VIOLATES PROCEDURAL
DUE PROCESS AND SUBVERTS CLEAR INTENTIONS OF THE
FEDERAL RULES OF CIVIL PROCEDURE.

This Court should grant certiorari because the lower courts have established a precedent that fundamentally breaks the adversarial system designed for litigation.

By permitting a multi-million-dollar corporate defendant to insulate its essential witnesses from depositions under the guise of ordinary privacy concerns, and then using those same hidden witnesses as an offensive weapon to dismiss the case on summary judgment, the Ninth Circuit has denied me a "meaningful opportunity to be heard." Under Federal Rule of Civil Procedure 26(a), initial disclosures mandate that a party provide the name, address, and phone number of every individual likely to have discoverable information. The initial disclosure rules do not contain a corporate exception for "initials only"; summary judgment under Fed. R. Civ. P. 56(c) does not allow "nameless declarations". The district court explicitly forced Petitioner to litigate against a shadow. Petitioner Floyd filed timely discovery requests to uncover the identities of his accusers, which was critical not only to cross-examine them but to prove the elements of his claims. By denying his Motion to Compel, the court created a structural trap: it blocked Floyd from gathering evidence, and then threw out his case because he lacked the very evidence they blocked him from obtaining.

II. THE LOWER COURTS VIOLATED WELL-SETTLED LITIGATION MECHANICS BY WEIGHING CONTRADICTORY EVIDENCE IN FAVOR OF THE MOVING PARTY AT SUMMARY JUDGMENT.

On certiorari review of a case decided by summary judgment, the Supreme Court views the evidence in the light most favorable to the nonmoving party.

Lombardo v. City of St. Louis, Missouri, 594 U.S. 464, 141 S. Ct. 2239, 210 L. Ed. 2d 609 (2021)

Summary judgment under Federal Rule of Civil Procedure 56 explicitly requires that a court view all evidence in the light most favorable to the non-moving party. It is a foundational tenant of American jurisprudence that a court may not judge witness credibility or weigh conflicting evidence at the summary judgment stage. Yet, the lower courts did exactly that. As explicitly documented in the record: Respondent's concealed witness ("V.H.") alleged an incident occurred on July 18, 2022. (App 114h-116h). Respondent's own physical business check-in logs directly proved that the witness never checked into the facility on that date. (App 289k). Respondent's manager testified to facts that directly contradicted the anonymous statements. (App 114h-116h, App 131h). In the face of glaring, verifiable, material disputes of fact, the district court chose to adopt the unauthenticated, un-sworn statements of anonymous corporate drop-ins over the concrete, physical records of the facility. This represents an egregious departure from the de novo standard of review and directly violates this Court's binding instructions in Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986).

III. THIS CASE PRESENTS AN EXTREMELY IMPORTANT QUESTION OF
FEDERAL LAW THAT IMPACTS EVERY CIVIL LITIGANT IN THE
UNITED STATES.

If allowed to stand, the Ninth Circuit's ruling provides an incredibly dangerous blueprint for institutional and corporate defendants nationwide. It signals to any employer, business, or entity that they can easily escape a civil rights or breach of contract lawsuit simply by manufacturing internal, anonymous notes or corporate "declarations" from unidentifiable persons. A party cannot use anonymity as a shield to block discovery and later use it as a sword to win an active dismissal.

Since [he] declined to be cross-examined with respect to [declaration], the District Court was entirely justified in concluding, as it did, that [he] failed to introduce any evidence ... This was a time for testimony, and [his] *ex parte* affidavit and uncross-examined testimony were properly disregarded by the District Court.

United States v. Rylander, 460 U.S. 752, 758, 103 S. Ct. 1548, 1553, 75 L. Ed. 2d 521 (1983).

In Rylander, this Court upheld the district court's decision to reject as evidence both an affidavit and direct testimony from a witness who refused to be cross-examined in regards to his presented evidence.

California law also prohibits this by placing a requirement on witness identifications during initial disclosures. See Cal CCP § 2016.090. The lower courts' refusal to compel also went against state law.

“Generally, witnesses are not permitted to decline to participate in civil discovery, even when the information sought from them is personal or private.” Puerto v. Superior Ct., 158 Cal. App. 4th 1242, 70 Cal. Rptr. 3d 701 (2008).

Review is urgently required to clarify that the Federal Rules of Civil Procedure strictly prohibit these charades: federal courts cannot grant summary judgment based on evidence that was hidden from the scrutiny of the non-moving party.

Date: September 5, 2026

A handwritten signature in black ink, reading "Michael Floyd", written over a horizontal line.

Michael Devin Floyd
Pro Se for Appellant