

## Two Year Statute of Limitations Applies to HIV Patient's Privacy Suit

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A New Jersey appeals court recently [ruled](#) that a two-year statute of limitations applies to a claim by an HIV-positive patient asserting one of his doctors improperly disclosed his medical status to a third party without consent. The three-judge Appellate Division panel rejected arguments by the doctor that the suit should be dismissed as time-barred by the one-year statute of limitations typical of defamation claims.

The dispute arose out of a single incident on July 25, 2013, when the patient, given the fictitious name John Smith, was being treated for acute kidney failure by the defendant, who owns a kidney treatment center. Over the course of treatment, the defendant allegedly disclosed Smith's HIV status to a third party, described as a long time friend of Smith, who was unaware that Smith was HIV-positive.

Nearly two years after the incident, Smith filed suit in Mercer County Superior Court in New Jersey, on July 1, 2015, alleging violations of his common law right to privacy, medical malpractice and wrongful disclosure of his medical status under the state's [AIDS Assistance Act](#).

The defendant, in his motion to dismiss, argued that the one-year statute of limitations, typical of defamation claims, should apply in this case. Conversely, Smith argued that his claim was more akin to a personal injury or discrimination claim, as opposed to defamation, and thus a two-year statute of limitations should apply.

Superior Court Judge Douglas Hurd agreed with Smith that the defamation statute of limitations was not applicable, and the two-year statute of limited should apply. The defendant appealed the decision.

On appeal, affirming the Superior Court's ruling, Appellate Division Judge Richard Geiger stated, "Unlike a typical defamation claim, the confidential information allegedly disclosed by [defendant] to the third person was true, not false...The disclosed medical information did not place plaintiff in a false light." Gieger went on to say, "Patients have a privacy right in their medical records and medical information...We find that the claims for unauthorized disclosure of a person's HIV-positive status align more closely with discrimination claims."

The AIDS Assistance Act was passed because the “effective identification, diagnosis, care and treatment of persons” with AIDS was declared by the New Jersey Legislature to be of “paramount public importance.”

Judge Geiger echoed the sentiments of the legislature in his decision stating that it was “strong public policy”, and an “important social goal” to maintain the privacy rights of individuals who are HIV-positive.

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National Law Review, Volume VII, Number 234

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