



## Doe v. City of New York

15 F.3d 264 (1994)

**Country:** United States

**Region:** Americas

**Year:** 1994

**Court:** 2nd Circuit Court of Appeal

**Health Topics:** Health information, HIV/AIDS, Infectious diseases, Sexual and reproductive health

**Human Rights:** Freedom from discrimination, Right to privacy

### Facts

The Appellant, Doe, brought this suit against the City of New York (the City) and the City of New York Commission on Human Rights (the Commission) alleging that they breached his constitutional right to privacy.

Doe filed an action with the Commission against his former employer, Delta Air Lines (Delta), alleging that Delta did not hire him because he was a single gay male and because Delta suspected he was HIV positive. The claim was settled and the subsequent conciliation agreement contained a confidentiality clause stating that Delta and the Commission would not disclose Doe's name or identifying information except as required by any court or agency or upon the written consent of Doe or his attorney.

Despite the confidentiality clause, the Commission issued a press release disclosing the terms of the conciliation agreement without the knowledge or consent of Doe or his attorney. Soon after, various New York newspapers published articles based on the press release, describing the nature of the settlement. Although the press release did not expressly identify Doe by his given name, Doe claimed that it contained sufficient information to allow those who knew or worked with him to identify him as the individual described in the release. Doe further claimed that his colleagues at Delta became aware of his HIV status as a result, which caused him to suffer discrimination and embarrassment at work and the emotional manifestation of extreme anxiety.

The lower court dismissed Doe's claim and this appeal followed.

### Decision and Reasoning

The court held that Doe had a constitutional right to privacy in his HIV status. It held that there is a constitutional right to confidentiality of personal medical information, which is especially true with regard to those infected with HIV or living with AIDS. The court declared that when an individual reveals he is HIV positive he is exposed not to understanding or compassion but to discrimination and intolerance. The court further held that there are few matters quite so personal as the status of one's health, and few matters the dissemination of which one would prefer to maintain greater control over.

The court held that Doe did not waive his constitutional right to privacy when he brought a discrimination complaint to the Commission, even though doing so made his HIV status a matter of public record in which there could be no reasonable expectation of privacy. The court noted that while an individual does not have a right to privacy in matters of public record Doe's status had not become a matter of public record when he filed a claim with the Commission. The court rejected the City's contention that all information provided to the Commission was automatically a matter of public record because the Commission was a public agency. The court cited City of New York Administrative Code § 8-115(d), which provided that conciliation agreements "shall be made public unless the complainant and respondent agree otherwise and the commission determines that disclosure is not required" [emphasis added].

The court held that the City's claim (that all information provided to the Commission automatically became a public record) entirely undermined the purpose of the Commission, which was to protect the human rights of the people of New York, including the right to privacy in certain types of personal information.

The court, however, remanded to the trial court the issue as to whether the Commission had established a substantial interest in disseminating information about Doe's conciliation agreement that outweighed Doe's constitutional right to privacy. The court clarified that it was the Commission's decision to exercise its

discretion and reveal the details of Doe's conciliation agreement that was objectionable. The court thus held that the trial court must determine whether the Commission's interest in disseminating information about Doe's conciliation agreement was "substantial," which then must be balanced against Doe's right to the confidentiality of his HIV status.

### Decision Excerpts

Individuals who are infected with the HIV virus clearly possess a constitutional right to privacy regarding their condition. 15 F.3d, p. 267.

Extension of the right to confidentiality to personal medical information recognizes there are few matters that are quite so personal as the status of one's health, and few matters the dissemination of which one would prefer to maintain greater control over. 15 F.3d, p. 267.

Clearly, an individual's choice to inform others that she has contracted what is at this point invariably and sadly a fatal, incurable disease is one that she should normally be allowed to make for herself. This would be true for any serious medical condition, but is especially true with regard to those infected with HIV or living with AIDS, considering the unfortunately unfeeling attitude among many in this society toward those coping with the disease. An individual revealing that she is HIV seropositive potentially exposes herself not to understanding or compassion but to discrimination and intolerance, further necessitating the extension of the right to confidentiality over such information. 15 F.3d, p. 267.

[T]he city's argument ignores the very nature of a Commission on Human Rights. The city essentially contends that any individual seeking assistance from the particular public agency specifically authorized to vindicate his human and civil rights automatically relinquishes any rights of privacy he might have regarding his claim. This ignores the fact that the purpose of the Commission is to protect the human rights of the people of New York, which include the right to privacy in certain types of personal information. An Orwellian statute that mindlessly and indifferently mandated that any and all information provided to the Commission automatically became a public record even in cases where the reason the complainant went to the Commission was because of a violation of a right to privacy would be patently inconsistent with the protection of individual privacy rights . . . 15 F.3d, p. 268.

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