

*Expanded Background Summary*

*Hebrew Academy of San Francisco et al. v. Goldman et al.* (George, C.J. and Werdegar, J., not participating; Mallano and Manella, JJ., assigned justices pro tempore) (S134873)

Rabbi Pinchas Lipner and the Hebrew Academy of San Francisco sued Richard Goldman and others for damages caused by statements Goldman made about Rabbi Lipner in an interview conducted more than 15 years ago. The Supreme Court must decide whether the lawsuit was filed too late.

In 1992, Goldman was interviewed as part of an oral history project and made several insulting comments about Rabbi Lipner, including that he is not “an honorable man” and that on “a couple of occasions” when Lipner entered a classroom, “the children would stand at attention as if it were the Fuhrer walking in.” Fewer than 10 copies of the transcripts of this interview were printed. One was placed in the Bancroft Library at U.C. Berkeley and another in the Charles E. Young Research Library at UCLA. Copies were made available to other libraries. The transcript may be located using publicly available online catalogs.

Rabbi Lipner was not aware of the interview until 2001 when a colleague who was writing a book about Rabbi Lipner found the interview in the library at U.C. Berkeley and told Rabbi Lipner about it. The Superior Court (the trial court) held that it was too late for Rabbi Lipner to sue Goldman, because the lawsuit was barred by the statute of limitations, which requires that a suit for defamation be brought within one year.

The California Supreme Court must consider whether two rules apply in this case: the single-publication rule and the discovery rule. The single publication rule creates an exception to the usual rule that someone who is defamed may sue anytime the defamatory statement is published again. But the single-publication rule provides “that, for any single edition of a newspaper or book, there was but a single potential action for a defamatory statement contained in the newspaper or book, no matter how many copies of the newspaper or the book were distributed.” The court must decide whether this rule applies in this case in which only a few copies of the transcript were printed.

The discovery rule may delay the running of the statute of limitations until the plaintiff discovered (or reasonably should have discovered or suspected) that he or she has a reason to sue. Some cases have applied the discovery rule when the defamatory statement was hidden from the plaintiff. The California Supreme Court in *Shively v. Bozanich* (2003) 31 Cal.4th 1230, held that the discovery rule did not apply when the defamatory statement was published in a book that was generally distributed to the public. The Supreme Court must decide whether the

discovery rule applies in this case in which the interview was not hidden, but also was not generally distributed to the public like the book in *Shively*.