

CDT Statement on Supreme Court Decision in Sorrell v. IMS Health

June 23, 2011

Washington -- Today, the Supreme Court in *Sorrell v. IMS Health et al.* struck down a Vermont statute that would have prohibited the use of records of doctors' prescriptions for pharmaceutical marketing purposes but would have permitted the use of those records for a range of other purposes.

Although Vermont argued that the statute was intended to protect doctors' privacy, the Court concluded that it did little to protect privacy, and was instead aimed at suppressing a particular type of speech (marketing messages) that the State did not like. As the Court understood the law, it presented a classic "content based" speech discrimination that the First Amendment does not permit.

The Supreme Court's decision explicitly states that a statute imposing a more comprehensive privacy regime "would present quite a different case than the one presented here." The Court explained that had the State restricted ALL disclosure except in "a few narrow and well-justified circumstances," then the Court would have viewed the challenged law through quite a different lens. As the Court wrote, "Privacy is a concept too integral to the person and a right too essential to freedom to allow its manipulation to support just those ideas the government prefers." The Court in this case refused to allow privacy to be used as a smokescreen to shield a law that on its face discriminated based on the type of speaker.

CDT memo: [Sorrell v. IMS Health, Inc: Supreme Court Case Requires Nuanced Understanding of Privacy](#) [1]

CDT blog post: [Sorrell v IMS Health Has Far-Reaching Privacy Implications](#) [2]

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