

No. _____

**In the Supreme Court of the United
States**

**NINA ALLISON,
Petitioner,**

v.

Dr. ROBERT DAR-TEH LIOU and

Dr. TUAN T. LAM,

Respondent.

**On Petition for a Writ of Certiorari to
the United States Court of Appeals for
the Second District**

**PETITION FOR A WRIT OF
CERTIORARI**

**Zulu Ali
Counsel of Record
2900 Adams Street
Suite C-13
Riverside, CA.
(951) 782-8722
Counsel for the Petitioner**

QUESTION PRESENTED

This Petition involves the issue of attorneys with undiagnosed mental disabilities, not being properly accommodated by the court in order to effectively advocate for their client.

According to Institute of Mental Health, The Numbers Count, Mental Disorders in America; “One in four American adults suffers from a diagnosable mental disorder.” Lawyers are among these Americans and suffer from mental illness at alarmingly higher rates than the general population. Despite the commonality and significance of mental illness in the legal profession, lawyers do not often discuss mental illness and

mental well-being. Even with programs like the California Lawyer Assistance Program (“LAP”), many practicing lawyers remain undiagnosed and are unwilling to receive help, League of California Cities, Mental illness in the legal.

Mental illness in the legal profession is an important and relevant topic that has garnered an increasing amount of media attention in recent years. A 1990 John Hopkins University study found that out of over 100 occupations, lawyers lead the nation with the highest incidence of depression. Eaton, Occupations and the Prevalence of Major Depressive Disorder (1990)

32(11) Journal of Occupation Medicine
1079-1087.

In this case, on January 4, 2019, the Superior Court for the County of Los Angeles, CA entered a judgment in favor of defendants and against the plaintiffs [Petitioner] holding that plaintiffs will take nothing by way of their third amended complaint against defendants.

On March 5, 2019, the then attorney of record (hereinafter Counsel) filed a timely notice of appeal on behalf of Petitioner. At that time counsel was suffering from undiagnosed Post Traumatic Stress Disorder and Post-Concussion Syndrome which were causing loss of memory and

concentration. On October 17, 2019, because of his underlying mental illness counsel believed that he had filed the designation of record on appeal; however, it was not correct.

A motion pursuant to California Penal Code § 473 was filed accompanied by the counsel's sworn affidavit attesting to his undiagnosed mental illness. The motion was denied by Court of Appeals of the State of California, Second Appellate District. Petitioner appealed to the Supreme Court of California. The State Supreme Court denied the petition for review without opinion. This petition asks, whether the

v

Americans with Disability Amendment

Act requires the courts to provide

accommodations for undiagnosed mental

disabilities of attorneys? And if so, what?

PARTIES TO THE PROCEEDING

AND RULE 29.6 STATEMENT

The parties to the proceeding
below were Petitioner Nina Allison
and, Respondents Dr. Robert Dar-Teh
Liou and Dr. Tuan T. Lam. There are
private parties but no
nongovernmental corporate parties
requiring a disclosure statement under
Supreme Court Rule 29.6

RULE 14.1(B)(iii)

STATEMENT

All proceedings directly related to
the case, per Rule 14.1(b)(iii), are as
follows:

In the Matter of, Nina Alison v. Dr. Robert Dar-The Liou, Dr. Tuan T Lam, and Long Beach Memorial Hospital and Does 1-10, case number BC644870, January 04, 2019, the Superior Court of California, Los Angeles entered Judgment in favor of defendants and against the plaintiff, App P1-6. In the matter of Nina Alison v. Robert Dar-The Liou et al, case number B299362, , October 03, 2019, the Court of Appeals of the State of California, Second Appellate District, vacated the order of dismissal and reinstated the appeal , App P 7-8. In the matter of Nina Alison v. Robert Dar-The Liou et al, case number B299362, April 27, 2020, the

Court of Appeals of the State of California, Second Appellate District, dismissed Nina Alison's appeal for failure to perfect the appeal, App P 9. In the matter of Nina Alison v. Robert Dar-The Liou et al, case number B299362, May 26, 2020, the Court of Appeals of the State of California, Second Appellate District denied the motion filed pursuant to California Code of Civil Procedures §473 for relief from default and dismissal, App P 10. In the matter of Nina Alison v. Robert Dar-The Liou et al, May 26, 2020, case number B299362, the Court of Appeals of the State of California, Second Appellate District denied the application to file

declarations and exhibits under seal,
App P 11. In the matter of Nina Alison
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JURISDICTION

The Supreme Court of the State of California denied the petition for review on August 12, 2020. This court has jurisdiction pursuant to 28 U.S.C §1257(a). *Please See Koon v. Aiken, 480 U.S. 943 (1987).NAACP v. Claiborne Hardware Co., 458 U.S. 886, 907 n.42 (1982).* The United States Supreme Court has jurisdiction when the state court judgment is ambiguous or without written opinion stating the grounds that were relied on. *Department of Mental Hygiene v. Kirchner, 380 U.S. 194 (1965).* There is a substantial federal question involved in this case which is crucial and Petitioner has exhausted all the remedies available before the state courts.

STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION Amendment 14, § 1 provides

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or

authority exercised under, the United States.

AMERICANS WITH DISABILITIES ACT

1990

Americans with Disabilities Act hereinafter ADA title II requires that state and local governments give people with disabilities and equal opportunity to benefit from all the programs services and activities e.g. public education, employment, transportation, recreation, healthcare social services codes, board and town meetings, *courts*)... Title two can be enforced through private lawsuits in Federal courts. 42 U.S.C. §§ 12101-12213 (2018). A guide to disability right laws U.S. Department of Justice <https://www.ada.gov/cguide.htm#anchor623>

CALIFORNIA CODE OF CIVIL

PROCEDURE SECTION 473

“The court shall, whenever an application for relief is made no more than six months after entry of judgment, is in proper form, and is accompanied by an attorney's sworn affidavit attesting to his or her mistake, inadvertence, surprise, or neglect, [T]he court shall...vacate any (1) resulting *default* entered by the clerk against his or her client, and which will result in the entry of a default judgment, or (2) resulting *default judgment* or *dismissal* entered against his or her client, unless the court finds that the *default* or *dismissal* was not caused by the attorney's mistake, inadvertence, surprise, or neglect.”

“The attorney's mistake, inadvertence, surprise, or neglect need not be reasonable to justify mandatory relief. The purpose of the mandatory relief provision is to relieve the client of the burden caused by the attorney's error, impose a burden on the attorney instead, and avoid additional malpractice litigation.”

INTRODUCTION

This case presents an issue of vital importance about attorneys with mental disabilities not being properly accommodated by the court in order to effectively advocate for their client. This petition asks whether a public entity, such as Courts, must provide accommodations for attorneys with unknown disabilities in order to properly represent and zealously advocate on behalf of their clients. The answer is undeniably yes.

Diversity in the legal profession has been the subject of much discussion and study for a number of years. A 2003 report by the U.S. Equal Employment Opportunity Commission (EEOC), entitled Diversity in Law Firms, notes the significant role that

lawyers play in social, economic, and political life and the influence that minorities and women have been able to attain as their numbers in the legal profession increase.

To date, individuals with disabilities generally have not been a part of the discussion about diversity in the legal profession. Yet, access to the profession is important for people with disabilities for the same reasons it is important to minorities and women.

<https://www.eeoc.gov/laws/guidance/reasonable-accommodations-attorneys-disabilities>

The Americans with Disabilities Act (ADA) is a landmark civil rights bill designed to open all aspects of American life to individuals with disabilities. The

articulated purpose of the federal law is "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. "Americans with Disabilities Act, Pub. L. No. 101-336, § 2, 104 Stat. 327 (1990) (codified as amended at 42 U.S.C. §§ 12101-12 213 (2000)).

In 2007, as part of its census, the ABA found that out of the 11,784 lawyers who answered the question "do you have a disability? 833 answered "yes". THE COMMISSION ON MENTAL AND PHYSICAL DISABILITY LAW, AMERICAN BAR ASSOCIATION, GOAL IX REPORT 2 (2008), <http://abanet.org/disability/docs/2008GoalIX.pdf>.

That is for lawyers whom are aware of their disabilities. Now with an increase of mental health awareness there are tens of newly discovered cases. However, how will we account those individuals who have not yet discovered their disability. And how many more lawyers are suffering from undiagnosed disabilities.

The unfortunate reality is that mental illnesses do go undiagnosed, for years or even lifetimes. There are multiple layers to why this occurs, including the individual's failure to recognize that something is wrong or that the problem requires mental health treatment—additionally, many are hesitant to seek treatment out of fear of judgment. And for those who do take that step in receiving diagnosis and treatment, their

true conditions are at times misdiagnosed or mistaken for a different illness.

<https://thriveworks.com/blog/mental-health-disorders-often-undiagnosed-bipolar-ptsd-borderline-personality/>

This important issue of undiagnosed mental illness among the legal professionals demands attention from the Supreme Court, which could potentially affect thousands of attorneys with undiagnosed mental disabilities to date and in the future. There is no legitimate dispute that the inherent rights and equality of American Citizens suffering from unknown and undiagnosed mental disabilities are important and fundamental. These rights apply to all facets of life, including occupational accommodations. Attorneys

suffering from unknown and undiagnosed mental disabilities are not likely to know what accommodations are necessary for him/her to properly perform their duties until after the illness is diagnosed properly and advice is sought from the medical professional. If an attorney acts or fails to act properly because of undiagnosed mental illness, does an adequate measure under ADA standards require to accommodate for lack of performance during a time period in which the Attorney, courts, and clients were unaware of the disability? This is a fundamental question that must be answered.

STATEMENT OF THE CASE

This matter before the court involves the Petitioner Nina Allison (hereinafter “Petitioner”) who **sued** on the basis of Medical Malpractice because her mother died while in the care of Dr. Robert Dar-Teh Liou and Dr. Tuan T. Lam. The appealable issue arose on January 4, 2019. William Geoffrey Sorkin (hereinafter “Counsel”) appeared as counsel of record for the client at trial where an unfavorable judgment was entered. On March 5, 2019, the counsel filed a timely notice of appeal on behalf of Petitioner. On October 17, 2019, Petitioner’s counsel believed he had filed the designation of record on appeal; however, it was not correct.

The Court, Petitioner, and Counsel himself were all unaware that he was suffering from a mental disability at the time Petitioner's case was pending before the Court of Appeals. Petitioner was later diagnosed with post-traumatic stress disorder (PTSD) and post-concussive syndrome stemming from multiple car collisions that occurred in August of 2019. One of the side effects of both diagnoses is the loss of concentration and memory. Due to the attorney's unknown mental disability, he was unable to perfect the appeal because he erroneously believed that he had filed the designation of record on appeal in the timeline provided by the Court to cure the default.

Post Concussions Syndrome (hereinafter “PCS”) is defined as “the lingering symptoms following a **concussion** or a mild traumatic brain injury(TBI).”<https://www.healthline.com/health/post-concussion-syndrome>. The mayo clinic lists a number of symptoms and problems caused by “PCS” including loss of concentration and memory.

Please see <https://www.mayoclinic.org/diseases-conditions/post-concussion-syndrome/symptoms-causes/syc-20353352>

The Court determined that the Petitioner did not properly designate the record on appeal and subsequently dismissed Petitioner’s appeal on April

27, 2020. On the same day of the dismissal, Petitioner's new counsel of record, filed an application to vacate the dismissal and reinstate the appeal accompanied by counsel's declaration stating his inadvertent mistake of failing to designate the record on appeal. On May 5, 2020, new counsel for Petitioner filed a declaration requesting to substitute in as counsel because prior counsel was no longer able to manage the case due to his recent mental diagnosis making him incapable of continuing to act as counsel for Petitioner. On May 20, 2020, a declaration of prior counsel was filed stating that his failure to file the designation of records was a direct result

of his unknown and undiagnosed mental disability which affected his capacity to focus and memory. However, on May 26, 2020, the Court denied Petitioner's application.

On June 30, 2020, Petitioner filed the Petition for Review with the Supreme Court of The State of California. On July 8, 2020, Respondent filed an Answer. On July 18, 2020, Petitioner filed a reply. On August 12, 2020, the Petition for review was denied. Now the instant petition is brought on the following grounds;

REASONS FOR GRANTING THE
WRIT

I. The decision below is incorrect because the interpretation of the United States Constitution would not allow for an unconscionable deprivation and complete violation of a citizen's constitutional rights

If the decision is not remedied, it may result in depriving the thousands of attorneys from their right to work. The fundamental concept of the United States Constitution is the right to life, liberty, and property which is failed by refusing to provide accommodations to individual attorneys with unknown mental illness. If appellant's counsel was not suffering from an unknown mental illness, he would have

filed the notice of appeal timely. The “PCS” and “PTSD” were the underlying reasons for appellant's counsel's loss of memory causing him to incorrectly believe that he had filed the designation of record. The appellate court failed to consider this important aspect of the case meriting review of this honorable court. In addition, the Appellant's right to have her day in court was violated because of the Court of appeals failure to properly apply the ADA and standard provided in California Code of Civil Procedures § 473.

II. This case is good to resolve the confusion:

The Issue Demands for a resolution by the United States Supreme Court, as all individuals have a right to equal protection of the law. Furthermore, this is a question of law that has yet to be decided

As stated hereinabove, there are at least thousands of attorneys actively engaged in the legal profession who are suffering from some kind of mental illness. This issue may affect the large number of cases involving the attorneys with unknown or undiagnosed mental illness. As to the knowledge of Petitioner's Counsel, there is no guideline and a clear standard to follow, either for the attorneys or the Courts which may come across this issue on a daily basis. This important question of law also not

addressed by this Court. This issue is a tool to resolve this question and provide a uniform standard for the courts to follow.

III. This is a compelling issue to exercise jurisdiction

To Nina Allison, every aspect of this case is important. Based on the lack of accommodations for Appellant, counsel's unknown mental disability, Nina Allison's appeal was dismissed. She was deprived of her day in the Court. The consequences of this issue extend far beyond the circumstances of Nina Allison's case. If there are not mandatory accommodations based on an attorney's unknown mental disability the client and attorney will suffer.

Accordingly, this Court should grant this Petition and “require the courts to provide accommodations to all attorneys who have known or unknown disabilities that make them individuals protected by the ADA.

IV. The State Court’s interpretation of the State law is in conflict with the Federal law and restricts the protections provided to qualifying individuals under the ADA

The ADA specifically states that all individuals with disabilities be provided accommodations. If the California Rules of Court are not interpreted to protect attorneys who have known or unknown mental disabilities, attorneys with mental

disabilities will be extremely disadvantaged in the practice of law defeating the spirit and purpose of ADA.

The decision below is contrary to the congressional intent when they implemented the ADA providing accommodations for disabilities. If the California rules of court are not interpreted in harmony with provisions of ADA, attorneys with disabilities will continue to be deprived of the ability to represent their clients and ultimately depriving them of their right to life, liberty and property.

CONCLUSION:

For the foregoing reasons, Petitioner respectfully requests this Court to grant the petition for writ of certiorari and for any other relief the Court deems just and equitable.

Respectfully submitted,

/s/ ZULU ALI

Zulu Ali
Counsel of Record
2900 Adams Street
Suite C-13
Riverside, CA.
(951) 782-8722

**APPENDIX TO THE PETITION FOR A
WRIT OF CERTIORARI**

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12/3
S26

RECEIVED
LOS AMGELES SUPERIOR COURT NOV 27 2018
Sherri R. Carter, Executive Officer/Clerk
By _____

FILED
Superior Court of California
County of Los Angeles
JAN 04 2019
Sherri R. Carter, Executive Officer/Clerk
By Signature affixed, Deputy
Darrin Oura

**SUPERIOR COURT OF THE STATE CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

NINA ALLISON,
MARION LEE,
JR.,

Plaintiffs,
v.

DR. ROBERT
DAR-THE LIOU,
DR. TUAN T.
LAM, AND
LONG BEACH
MEMORIAL
HOSPITAL,

Case No. BC644870
(Transferred to Long Beach)

**Complaint Filed: December 23, 2016
Judge: Hon. Michael P. Vicencia
Dept.: S26**

[PROPOSED] JUDGMENT OF NONSUIT

AND DOES 1-
10,

Defendants.

TO ALL PARTIES AND THEIR ATTORNEYS
OF RECORD:

On November 13, 2018, following jury selection and the Opening Statement by counsel for plaintiffs, defendants ROBERT LIOU, M.D. moved this Court for a judgement of nonsuit pursuant to Code of Civil Procedure section 581c.

After careful consideration of the Opening Statement by plaintiffs' counsel, the moving papers, the oral arguments of counsel, and those other pleadings and papers on file herein, this Court granted the defendants' motion for judgment of nonsuit, holding that after giving to plaintiffs' evidence all the value to which it is

legally entitled and indulging in every legitimate inference which may be drawn from that evidence, there is no evidence of sufficient substantiality to support a verdict in favor of plaintiffs.

Therefore, IT IS HEREBY ORDERED,
ADJUDGEDM AND DECREED that:

1. Judgment is entered in favor of defendants ROBERT LIOU, M.D. and TUAN LAM M.D. and against plaintiffs.
2. Plaintiffs shall take nothing by way of their Third Amended Complaint against defendants ROBERT LIOU, M.D. and TUAN LAM M.D.
3. Defendants ROBERT LIOU, M.D. and TUAN LAM M.D. are awarded their costs of suit in the sum of \$*21,443.00 pursuant to their Memorandum of Costs on file herein.

DATE: 1/4/19

Signature affixed

Honorable Michael P. Vicencia

*Judgement amended pursuant to Memorandum
of Costs on 12/17/18 by D. Oura to include costs
of \$21,443.00

PROOF OF SERVICE BY U.S. MAIL

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 500 North Brand Boulevard, Suite 950, Glendale, California 91203.

On November 27, 2018, I served the foregoing documents described as [PROPOSED] JUDGEMENT OF NONSUIT on the interested parties in this action addressed as follows:

Zulu Ali, Esq.

Attorneys for Plaintiffs

LAW OFFICES OF ZULU ALI (951) 782-8722
2900 Adams Street, Suite C13
Riverside, CA 92504

Said service was made by placing a true copy of threof enclosed in a sealed envelope addressed as stated above AND,

Depositing The sealed envelope with the United States Postal Service with the postage fully prepaid.



Placing the envelope for collection and mailing on the date and at our business address following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

Executed on November 27, 2018 at Glendale, California.



(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



(FEDERAL) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Signature Affixed

Vicki R. Butler

IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA
SECOND APPELLATE DISTRICT

DIVISION p

COURT OF APPEAL-SECOND DIST.

FILED Oct. 03, 2019

DANEIL P POTTER, CLERK

J. Graham Deputy Clerk

NINA ALLISON et al.,
Plaintiffs and Appellants,

v.

ROBERT DAR-TEH LIOU et al.,
Defendants and Respondents.

B299362

Los Angeles County Super. Ct. No. BC644870

THE COURT:

Good cause appearing, the order of
dismissal filed September 16, 2019 is vacated and
the appeal filed March 5, 2019, is reinstated.

Appellant: **Nina Allison** is granted relief from any
and all current defaults occasioned by her failure
to perform acts required by the rules of court for
procuring the record on appeal. Appellant shall
within 15 days from the date of this order
perform any act for which the superior court has
placed appellant in default. All acts in compliance
with this relief order are to be performed in the
Los Angeles Superior Court at 111 North Hill
Street, Room 111, Los Angeles, California.

Appellant shall take immediate action to cure the default and, under no circumstances, shall appellant take more than 15 days to do so. If appellant fails to cure the default in a timely manner, the Clerk of the Superior Court shall immediately notify the Court of Appeal, and the appeal will be dismissed without further notice.

Appellant: Nina Allison Case Information Statement has been filed this date.

Elwood Lui, Administrative Presiding Justice

Administrative Presiding Justice

IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA
SECOND APPELLATE DISTRICT

DIVISION p

COURT OF APPEAL-SECOND DIST.
FILED APR 27, 2020
DANEIL P POTTER, CLERK
Apalencia-huerta Deputy Clerk

NINA ALLISON et al.,
Plaintiffs and Appellants,
v.
ROBERT DAR-TEH LIOU et al.,
Defendants and Respondents.

B299362

Los Angeles County Super. Ct. No. BC644870
THE COURT:

It appearing that the appellant Nina Allison is in default pursuant to Rule 8.140(b), California Rules of Court, the appeal filed March 5, 2019, is dismissed.

Elwood Lui, Administrative Presiding
Justice

NOTICE: This order becomes final in 30 days and thereafter is not subject to rehearing or modification. This time cannot be extended (Cal. Rules of Court, rule 8.264(b)(1)). Any party desiring reinstatement must file a motion within 15 days of the date of this order.

IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA SECOND APPELLATE DISTRICT
DIVISION: p

COURT OF APPEAL-SECOND DIST.
FILED May 26, 2020
DANEIL P POTTER, CLERK
apalencia-huerta Deputy Clerk

NINA ALLISON et al.,
Plaintiffs and Appellants,
v.
ROBERT DAR-TEH LIOU et al.,
Defendants and Respondents.

B299362
Los Angeles County Super. Ct. No. BC644870

THE COURT:

The court has read and considered appellant's motion for relief from default and any dismissal filed April 27, 2020, the opposition thereto filed April 29, 2020, and reply thereto filed May 7, 2020. The application is denied.

Elwood Lui, Administrative Presiding
Justice

IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA SECOND APPELLATE DISTRICT
DIVISION: p

COURT OF APPEAL-SECOND DIST.
FILED May 26, 2020
DANEIL P POTTER, CLERK
apalencia-huerta Deputy Clerk

NINA ALLISON et al.,
Plaintiffs and Appellants,
v.
ROBERT DAR-TEH LIOU et al.,
Defendants and Respondents.

B299362
Los Angeles County Super. Ct. No. BC644870

THE COURT:

The court has read and considered appellant's Application to File Declarations and Exhibits under Seal filed May 4, 2020, the opposition thereto filed May 6, 2020, the reply thereto filed May 13, 2020, and respondent's objection to and motion to strike appellant's second reply thereto filed May 14, 2020. The application is denied.

Elwood Lui, Administrative Presiding Justice

SUPREME COURT
FILED
AUG 12 2020
Jorge Navarrete Clerk
Deputy

Court of Appeal, Second Appellate District- No.
B299362

S263083

IN THE SUPREME COURT OF CALIFORNIA

En Banc

NINA ALLISON et al., Plaintiffs and Appellants,

v.

ROBERT DAR-THE LIOU et al., Defendants and
Respondents.

The Petition for review is denied.

CANTIL-SAKUYE
Chief Justice

No. _____

In the Supreme Court of the United
States

NINA ALLISON,

Petitioner,

v.

Dr. ROBERT DAR-TEH LIOU and Dr.

TUAN T. LAM,

Respondent,

PROOF OF SERVICE

I,-- do swear or declare that on
this ,November 09, 2020 as required by
Supreme Court Rule 29, I have served the
enclosed PETITION FOR A WRIT OF
CERTIORARI on each party to the above
proceeding or that party's counsel, and on

every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on, 2020.

/s/ ALICIA DELGADO