

USSC Case No.: 20-6881

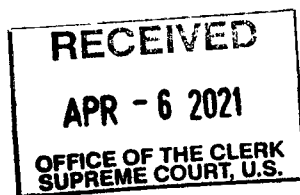
IN THE SUPREME COURT OF THE UNITED STATES

<p>ALAN DOUGLAS, Petitioner - Appellant,</p> <p>vs.</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES Respondent-Appellee,</p>	<p>Medical Malpractice INJURY <i>Res Ipsa Loquitur</i></p> <p>USSC No.: 20-6881</p> <p>Supreme Court of California Case No.: S 264351</p> <p>2nd District Court of Appeal-CA No. B294801 Remittitur issued</p> <p>Los Angeles County Super. Ct. Cases No. BC657529/BC696685 on Appeal</p>
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On Petition for a WRIT of Certiorari to Supreme Court of California Case 20-6881
Request for Panel Rehearing on ORDER issued March 22, 2021 Denying Review

In re ALAN DOUGLAS, Petitioner (Fed. R. App. P. 21(a)(2)(A))
Appeal from the Supreme Court of California
Petition for Review; Petition for Rehearing-filed; Phone: (415) 865-7000
[1] Supreme Court of California -- FRAP 9th Circuit Rule 21-2(a)
PUBLISHED OPINION REQUESTED:

PETITION FOR PANEL REHEARING FOR WRIT OF CERTIORARI, *Sua sponte*
"irreparable" injury or harm and cause immediate danger



Alan Douglas In Pro Se
1637 VINE St # 614
Los Angeles, CA 90028-8823
Home: (323)822-5141
Email: ad47usa@hotmail.com

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NON-Capital--Personal Injury Medical Malpractice

The Questions Presented for Review - US Sup Ct Rule 14.1(a)

I. Request for Panel Rehearing on ORDER issued March 22, 2021 Denying Review for Petition for Writ of Certiorari to Supreme Court of California:

The Relief Sought - Reverse and Settle Personal Injury [9th Circuit FRAP 21(a)(2)(B)(i)]

II. The issues (The Questions Presented for Review) [9th Circuit FRAP 21(a)(2)(B)(ii)]

See below [1], [2], [3], [4], [5], [6] and [7].

[1] Appellant's US Constitutional and Civil Rights Violation;

[2] Reverse Judgment issued on Feb.19, 2019 in favor of Timothy J. Daskivich, MD by TJ;

[3] Reverse Judgment issued on Feb.14, 2019 in favor of CSMC by TJ in LASC;

[4] Reverse Judgment issued on Jan. 18, 2019 in favor of Nancy Zimmerman, NP and Jay Neal Schapira, MD by TJ in LASC;

[5] Court Order for AWARD based on Documents presented, which is just and proper;

[6] Reassignment the Cases to Settlement Court if No Award is granted;

[7] Reverse, remand, reassignment and Trial Judge Disqualification based on plain ERRORS, bias with gross prejudice, willful misconduct and adverse personal reaction with cruelty.

III. The Facts necessary to understand the issue presented by the Petition.

[9th Circuit FRAP 21(a)(2)(B)(iv)]

IV. The reasons why the writ should issue [9th Circuit FRAP 21(a)(2)(B)(iv)]

Every year, about **805,000 Americans** have a heart attack. Of these, 605,000 are a first heart attack
 200,000 happen to people who have already had a heart attack - The Appellant's Case
 About **1 in 5 heart attacks is silent**—the damage is done, but the person is not aware of it. Heart disease costs the United States about **\$219 billion** each year from 2014 to 2015.
Nationwide, the Problem with 2DES [two Drug Eluted Stands] is not solved or exist Legal Regulation. The Appellant [Alan Douglas] is Victim of Medical Malpractice, because Medical Staff do not follow American Heart Association Guide Line for Procedure with Patient with implanted 2DES. The Lower Court Staff was incompetent to properly Rule and usually Summary Denied Request for Review without Decision on the Merit.

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The Los Angeles County Superior Court
Superior Court Case No.: BC657529/BC696685
List of Superior Court Judges on Both Cases

1. Hon. Benny C. Osorio – Dept.97, Room 630
2. Hon. Dennis Landin – Dept.93 Superior Court
3. Hon. Elaine Lu – Dept. 5 PI [Personal Injury] Court
4. Hon. William F. Fahey – Dept. 69, Room 621 Superior Court, Independent Calendar,
last Judge assigned for all purposes
5. Hon. Stephen I. Goorvitch – Supervising Judge for PI Court
6. Hon. Ruth Ann Kwan – Dept.1 – Supervising Civil Cases in Superior Court
7. Hon. Richard J. Burge Jr. – Dept. 1 – Supervising Civil Cases in Superior Court
8. Hon. Yolanda Orozco – Dept. 5 PI [Personal Injury] Court in Superior Court
9. Hon. Joseph R. Kalin – Dept. 21, Central District-Stanley Mosk Courthouse
10. Hon. Samantha Jessner – Dept.1, Central District- Stanley Mosk Courthouse,
- Supervising Judge Civil
11. 2DCA - Second District Court of Appeal of California
12. Supreme Court of California - en Banc - for many writs;

List of Opposite Counsels for LASC Cases BC657529 and BC696685
--

1. Kathryn S.M. Mosely, Esq., State Bar No.: 92852=>LASC BC657529 and BC696685
2. Lee M. Moulin, Esq., State Bar No.: 232843 => LASC BC657529 and BC696685
3. Robert C. Reback, Esq., State Bar No.: 58092 =>LASC BC696685
4. Stephen A. Diamond, Esq., State Bar No.: 176735 =>LASC BC696685

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USSC Case No.: 20-6881

IN THE SUPREME COURT OF THE UNITED STATES

<p>ALAN DOUGLAS, Petitioner - Appellant,</p> <p>vs.</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES Respondent-Appellee,</p>	<p>Medical Malpractice INJURY <i>Res Ipsa Loquitur</i></p> <p>USSC No.: 20-6881</p> <p>Supreme Court of California Case No.: S 264351</p> <p>2nd District Court of Appeal-CA No. B294801 Remittitur issued</p> <p>Los Angeles County Super. Ct. Cases No. BC657529/BC696685 on Appeal</p>
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Appeal from the Supreme Court of California
Petition for Review; Petition for Rehearing-filed; Phone: (415) 865-7000
[1] Supreme Court of California -- FRAP 9th Circuit Rule 21-2(a)
PUBLISHED OPINION REQUESTED:

MEMORANDUM OF POINTS AND AUTHORITIES
Request for Panel Rehearing on ORDER issued March 22, 2021 Denying Review

Alan Douglas In Pro Se
1637 VINE St # 614
Los Angeles, CA 90028-8823
Home: (323)822-5141
Email: ad47usa@hotmail.com

TABLE OF CONTENTS	PAGE
TABLE OF CONTENTS	6
TABLE OF AUTHORITIES	7
STATEMENT OF THE CASE	12
JURISDICTION [Statement of Appealability]	12
PRAYER [The Relief Sought]	12
REASONS FOR GRANTING THE PETITION	12
[1] Appellant's US Constitutional and Civil Rights Violation	12
[2] Mistake in Law and Erroneous Decision in Intermediate Court	14
[3]The facts on the Record entitled Appellant for Extraordinary Relief	28
[4] Documents presented are based for granting Award by any Court	32
CONCLUSION	33
VERIFICATION	34
CERTIFICATE OF COMPLIANCE	35
EXHIBITS (USSC Rule 14.1 " <i>Appendix A</i> " Decision of State Court of Appeals)	36
PROOF OF SERVICE	37

Document received by the CA Supreme Court.

TABLE OF AUTHORITIES

Official CASE LAW of the State of CA

CA Official Reports C A S E S

Page

[1] *Kaplan v. Mamelak*,
162 Cal. App. 4th 637, 75 Cal. Rptr. 3d 861, 2008 Cal. App

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Document received by the CA Supreme Court.

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(1993) 18 Cal. App. 4th 1768

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Document received by the CA Supreme Court.

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No. 16435-r-RAM (S.D. July 1989)

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49 N.Y. 2d 557 (1980)

Zuckerman v. City of New York,

49 N.Y. 2d 557 (1980)

OTHER CASES	Page
STATUTES – CCP	Page
<i>Cal. Pen. Code Section 243(f)(4)</i>	9
<i>FRCP Rule 21 U.S.C. § 353(g)-FDAC Act</i>	9
<i>CCP § 170.1; CCP § 170.3, subd. (d) and CCP § 170.6</i>	9
<i>(CCP § 437c, subd. (m)(1))</i>	10
<i>FRCP Rule 55(b)(2)(C); FRCP Rule 55(b)(2)(D)</i>	11,15

<i>Cal. CCP § 340.5- Time Limitation</i>	8
<i>Cal. Code, Health and Safety Code - HSC § 19954</i>	1
<i>Cal. CCP § 426.16(a)</i>	14
[ADA] 42 U.S.C. §§12101 et seq.	14
28 CFR Part 35 (Title II, Department of Justice)	14
28 CFR Part 36 (Title III, Department of Justice)	14
<i>CCP §§ 1085; 1094.5</i>	14
[1] <i>Cal. CCP § 335.1 – Time Limitation</i>	25
[2] <i>Cal. CCP § 338.1 – Time Limitation</i>	25
[3] <i>Cal. CCP §340.5 – Time Limitation</i>	25
[4] <i>Cal. CCP § 354.8 (a) – Time Limitation</i>	25
[5] <i>Cal. CCP §358 – Time Limitation</i>	25, 27

RULES	Page
-------	------

CONSTITUTIONS	Page
---------------	------

US Constitution XIV Amendment, Section One	8
--	---

TREATISES	Page
-----------	------

LAW REVIEWS AND JOURNALS & BOOKS	Page
----------------------------------	------

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-------------------------------	------

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LASC Clerk’s Transcript for Case No.: BC696685 – Vol.1 – Vol.16 [2DCA-B294801]

LASC Clerk’s Supplemental Transcript for Case No.: BC657529 [2DCA – B294801]
Total of 257 pages

2DCA Case No.: B294801 for LASC Cases BC657529 and BC696685

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STATEMENT OF THE CASES BC657529/BC696685 – 2DCA B294801

Appellant -Alan Douglas in *propria persona* filed an initial complaint as of April 11, 2017 [4/11/2017], the statute of limitations for allegations of Medical Malpractice Negligence is tree years under the *Cal. CCP § 340.5* cite: "In an action for injury or death against a health care provider based upon such person's alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers." This is because a claim of professional negligence of a dependent adult or an elder is analogous to similar torts of assault, battery or injury to others. *See Benun v. Superior Court*, 123 Cal. App. 4th 13, 126 (2004). Appellant alleging professional negligence, medical malpractice and recklessness done by Medical Doctors, Nurses and CSMC - [TJ' ERR]. The Appellant in these LASC Cases *BC657529/BC696685* is a Victim of Medical Malpractice on event happened on January 29, 2016. The Defendants moved for Motion for Summary Judgment and TJ grand in favor of Defendants.

JURISDICTION Statement of Appealability

The judgment entered pursuant to the Superior Court's order granting the motion for summary judgment for LASC Cases *BC657529/BC696685* are an appealable final judgment pursuant to Code of Civil Procedure sections 904.1.(1). The Supreme Court of California notified Appellant for Denying Rehearing on December 21, 2020. So, the Petition is filed on timely manner and The Supreme Court of United States has Jurisdiction on the Appellant's Petition for Writ of Certiorari.

PRAYER [The Relief Sought]

The Relief Sought - Reverse and Settle Personal Injury [9th Circuit FRAP 21(a)(2)(B)(i)]

REASONS FOR GRANTING THE PETITION

[1] Appellant's US Constitutional and Civil Rights Violation

Appellant's US Constitutional and Civil Rights Violation

(1) US Constitutional Rights:

Appellant do not have Jury Trial-The case was terminated by Trial Judge and violated Appellant's Constitutional right for equal protection by the Law- US Constitution -- Amendment VII (1791) ... "the right of trial by jury shall be preserved"; Amendment IX (1791)-Appellant's right to Settle the Medical Malpractice Cases in LASC; Amendment X (1791); Amendment XIV

(1868) Section 1. All persons born or naturalized in the United States ... "nor deny to any person within its jurisdiction the equal protection of the laws" *Brown v. Board of Education*]; [FRAP 9th Circuit Rule 30-1.4(a)(vi)]. See Case: 20-56105, 11/25/2020, ID: 11905943, DktEntry: 19-1, Page 188. USA Constitution Amendment VII (1791) In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, then according to the rules of the common law. See Case: 20-56105, 11/25/2020, ID: 11905943, DktEntry: 19-1, Page 189. USA Constitution Amendment IX (1791) The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. See Case: 20-56105, 11/25/2020, ID: 11905943, DktEntry: 19-1, Page 190. USA Constitution Amendment X (1791) The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. See Case: 20-56105, 11/25/2020, ID: 11905943, DktEntry: 19-1, Page 191. USA Constitution Amendment XIV (1868) Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. See Case: 20-56105, 11/25/2020, ID: 11905943, DktEntry: 19-1, Page 192. The Equal Protection Clause is from the text of the Fourteenth Amendment to the United States Constitution. In United States constitutional law, a Due Process Clause is found in both the Fifth and Fourteenth Amendments to the United States Constitution, which prohibits arbitrary deprivation of life, liberty, or property by the government except as authorized by law. See [1] *Madison, P.A. (2 August 2010). "Historical Analysis of the first of the 14th Amendment's First Section". The Federalist Blog. Archived from the original on November 18, 2019. Retrieved 19 January 2013.* [2] *"The Bill of Rights: A Brief History". ACLU. Archived from the original on August 30, 2016. Retrieved 21 April 2015.* [3] *"Honda Motor Co. v. Oberg, 512 U.S. 415 (1994), at 434". Justia US Supreme Court Center. June 24, 1994. Retrieved August 26, 2020.* The U.S. Supreme Court interprets these clauses broadly, concluding that they provide three protections: procedural due process (in civil and criminal proceedings); substantive due process, a prohibition against vague laws; and as the vehicle for the incorporation of the Bill of Rights.

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[2] Mistake in Law and Erroneous Decision in Intermediate Court - 2DCA

Please, refer to Original Filing for USSC Case No.: 20-6881 pp 19-33.

[3] The facts on the Record entitled Appellant for Extraordinary Relief

Appellant is entitled for Extraordinary Relief pursuant to CCP §§1085; 1094.5 see *Conlan v. Bonta*, 102 Cal.App.4th 745, 751-52 (2002) because of the following reason and basis for AOB relief:

[1] The issue tendered in Appellant's AOB is of widespread interest or presents a significant and novel constitutional issue - equal protection by the Law and AWARD for Compensation shall be granted based upon USA Constitution XIV Amendment, Section One. Appellant state in this AOB that in these LASC Cases there is no adequate way to address the trial court's error other than issuing an Order (this is referred to as availability of "no adequate remedy at law"). If the Order is not issued the Appellant will be harmed in a way that cannot be fixed by the appeal, which is referred to as "irreparable" injury or harm and cause immediate danger.

[2] The trial court's orders deprived petitioner of an opportunity to present a substantial portion of his cause of action – Suppression of Evidence, unlawful advance and vacate motions.

[3] Conflicting trial court interpretations of the law require a resolution of the conflict of interest by Appellant and the People of California. Also, *Writ review is necessary and proper* where a "significant issue of law is raised, or resolution of the issue would result in a final disposition as to the petitioner." *Boy Scouts of Am. Nat'l Found. v. Superior Court* (2012) 206 Cal. App.4th 428, 438. Both conditions are present here. First, the application of inverse condemnation liability to a privately-owned entity that present evidence that it cannot socialized losses as a matter of right is an issue that has not to date been addressed by the appellate courts.

See *Casterson v. Superior Court* (2002) 101 Cal. App. 4th 177, 182 (writ review warranted where "[t]he petition raises [a] first-impression issue"). Second, resolution of 33-5423123 this issue in Edison's favor would result in final disposition on Plaintiff's inverse condemnation claims. *Without Writ review* the Appellant and thousands of other litigants throughout California and USA will be forced to expend significant resources litigating inverse condemnation claims that should have been determined at the pleading stage to be inapplicable. See *City of Glendale v. Superior Court* (1993) 18 Cal. App. 4th 1768 ("Included among this category of cases are those in which relief by writ is necessary to prevent an expensive trial and ultimate reversal.")

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[4] The trial court's orders are both clearly erroneous as a matter of law and substantially prejudices petitioner's LASC Cases—BC657529 and BC696685- Medical Malpractice with serious personal heart Injury and multiple causation, including irreparable harm and immediate danger (exposure to sudden cardiac death). *This AOB raises legal issues* which can be resolved by this Court without having to make factual determination. See *Holz, supra*, 3Cal.3rd at 302 n.4

[5] The Appellant seeking the writ lacks an adequate means, such as a direct appeal, by which to attain relief – all filed Writ with 2DCA are summarily denied and lost Jurisdiction but the facts still stay and may considered as a matter of subject.

[6] The petitioner for his PETITION FOR EXTRAORDINARY WRIT OF MANDATE TO CONSIDER SUPPRESSION OF EVIDENCE FOR CORRECT ACTION – OSC (*Rule 8.487(b)*); Amicus Curiae Brief (*Rule 8.520*) will suffer harm or prejudice in a manner that cannot be corrected on appeal. (*Omaha Indemnity Co. v. Superior Court (1989) 209 Cal.App.3d 1266*) Pursuing to CCP §1085 does not have a statute of limitations, so the Appellant looks to the substantive law - See *Howard Jarvis Taxpayers Association v. City of La Habra*, 25 Cal.4th 809 (2001).

[7] The 2DCA may issue *Palma Notice* - *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171 for an alternative writ. The Appellant's petition is in proper form and states a basis for relief. The Court of Appeal may issue an alternative writ which commands the superior court to act in conformity with the prayer of the petition or, alternatively, show cause before the Court of Appeal why it should not be ordered do so and answer the Appellant's question "Who ORDER Petitioner-Alan Douglas- to stop 81 mg Aspirin and not to be given anticoagulant?" This Question was not answered and all Evidence were suppressed. If the superior court "complies" (i.e., elects to proceed as directed), the petition becomes moot. If the superior court does not comply, then the parties must serve and file briefs as set forth in the alternative writ. The matter is then a "cause" to be decided "in writing with reasons as stated," as required by article VI, section 14 of the Constitution. The Court of Appeal may grant relief as the Appellant's prayer stated. Circumstances under which a peremptory writ may issue "in the first instance" without oral argument: "when it appears that the petition and opposing papers on file adequately address the issues raised by the petition, that no factual dispute exists, and that the additional briefing that would follow issuance of an alternative writ is unnecessary to disposition of the petition."

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[8] The Appellant exhausted all available LAC-SC administrative remedies. This means not only Appellant have to go through the hearing process, but also that generally Appellant can't litigate an issue that he could have but also that issue that Appellant could have, but did not, raise at the administrative hearing. The Appellant also states the following:

1) the appealed Medical Malpractice Cases BC657529 and BC696685 are outside the LAC-SC Jurisdiction;

2) where important questions of constitutional law or public policy governing the court, authority are tendered. *Public Employment Relations Bd. v. Superior Court* 13 Cal.App.4th 1816, 1827 (1993).

3) Where CCP §1085 proceeding is based on action taken after administrative hearing, the same rules apply. *Western States Petroleum Assn. v. Superior Court*, 9 Cal.4th 559 (1995); *Poverty Resistance Center v. Hart*, 213 Cal.App.3d 295, 302 (1989) (General Relief grant amount challenge limited to evidence before Board of Supervisors). However, because Appellant is challenging the fairness of the proceeding itself, then extra-record evidence (and even discovery) may be permitted, even under CCP § 1094.5. *Western States Petroleum Assn.*, 9 Cal.4th at 575, n 5.

[9] Timing for Writ petition against LAC-SC should be applied §1094.6 and may govern: suit must be filed 90 days after challenged decision becomes final.

[10] Petitioner is beneficially interested in the outcome of the proceeding and that there are no adequate alternative remedies at law. The petitioner "need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced ..." *Green v. Obledo*, 29 Cal.3d 126, 144 (1981).

[11] Respondent has a ministerial (non-discretionary) duty to follow the law, and is breaking it.

[12] There are no plain, speedy and adequate alternative remedies at law.

[13] Accordingly, Appellant is allowed to use Combined §§1094.5 and 1085 writs. Petitioner is entitled to seek both in the same action. *Conlan v. Bonta*, 102 Cal.App.4th 745, 751-52 (2002)

[14] Discovery may be available, where there are "facts in dispute." *Bright Devpmt. v. City of Tracy* (1993) 20 Cal.App.4th 783, 795.

[15] TJ [Trial Judge] ERRORS OF LAW with prejudice for Appellant's Medical Malpractice Cases Filed with LAC-SC are:

- 1) Application of the wrong substantive standard in making the [Trial Court] decision.
- 2) Application of an invalid regulation.
- 3) A reviewing court always exercises *de novo review* in regard to questions of law.

That means the reviewing court does not defer in any way to the LAC_SC's interpretation of the law. *Ruth v. Kizer* 8 Cal.App.4th 380, 385 (1992).

[16] DENIAL OF FAIR TRIAL - This category includes all types of *procedural and substantive due process violations*. Both constitutional due process standards and any procedural statutes or regulations are relevant. Substantive due process violations fall under this category as well. For example, the failure to maintain and apply objective, written, ascertainable standards resulting in arbitrary and capricious administration of the LAC_SC program denies the petitioner a "fair trial." Other "fair trial" issues are Trial Court use of irrebuttable presumptions, interference with petitioner's right to put on his case at the administrative level, biased fact finders, etc.

[17] DECISION NOT SUPPORTED BY FINDINGS-- FINDINGS NOT SUPPORTED BY EVIDENCE

1. A "finding" is any determination of disputed fact and can be implicit or explicit. This is important, especially where the Appellant is dealing with irrebuttable presumptions. (a) One situation where you will frequently find that the decision is not supported by the findings is in benefits and Medi-Cal cases when the Director of DSS or DHS alternates (reverses) a decision after the ALJ has found in favor of the appellant. As the Supreme Court stated in *Topanga Assn. for a Scenic Community v. County of Los Angeles* 11 Cal.3d 506, 515 (1974) :

2. Standard of Review for Factual Issues. "Independent judgment" is a higher level of scrutiny. It applies to cases which involve *fundamental rights*. In such cases "abuse of discretion is established if the [reviewing] court determines that *the findings are not supported by the weight of the evidence*. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record." Thus, the difference between independent review cases and others is that in the former type the Court re-weighs the evidence. In the latter type, the Court defers to the lower tribunal if its decision is supported by substantial evidence even if there is

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contrary evidence which *outweighs it*. It's a questions presented by Appellant and ignored in the low Court Review, which is the case with Petitioner - Alan Douglas.

The Petitioner/Appellant in LAC-SC filed with 2DCA Record by Superior Court Clerk's Transcript of 29 Volume contain 7,020 pages , Augment of Record with recent Medical Record from CSMC which are proof of undisputable facts that proceeding in Superior Court was wrong [unlawful] with multiple EERS in LAW with gross prejudice and gross bias and False Statement by Opposite Counsels. In addition to all of the above TJ used willful misconduct to make the Cases nastier. Therefore, the LASC Cases BC657529/BC696685 are reversible and entitled for reward. Writ shall be granted.

[4] Documents presented are based for granting Award by any Court

Please, refer to Appendix 5: pages 234, 235, 237, 238, 240, 242, 243 and 244. The Administration of Superior Court of California, County of Los Angeles-Stanley Mosk Courthouse-not Trial Judge, block prematurely Default Judgment because of Summary Judgment - entered at a later data. The Defendant fail to respond to all Documents filed with Default Department to enter Default by the Clerk. How do I know? The deputy Clerk explained to the Appellant. Later, the Defendants ask 2DCA not to enter Default and was granted by the RP [Reviewing Panel].

END OF PETITION

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CONCLUSION

Based on the above, Appellant believe that the Petition for Rehearing - Writ of Certiorari shall be granted. Final ORDER by 2DCA may be modified and all Judgment in LASC for Cases BC657529/BC696685 shall be reversed , settle based on the Record or Reassigned to Settlement Court. Reassignment to Settlement Court is the proper remedies for relief. Accordingly, correct Direction shall be given to 2DCA and any other remedies in favor of Appellant he may be entitled to them as just and proper.

All parties shall bear their own costs. (*Solberg v. Superior Court of San Francisco*, 19 Cal. 3d 182, 561 P.2d 1148, 137 Cal. Rptr. 460, 1977 Cal.)

Respectfully submitted,

Dated: March 26 , 2021
Los Angeles, CA

Signed by:


Alan Douglas

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VERIFICATION

I am Petitioner/Plaintiff/Appellant In Pro Se in this case. I have read the foregoing Appellant's "*Petition for Rehearing - Writ of Certiorari to Supreme Court of California*" and know its contents. The facts alleged in the Appellant's "Petition for a WRIT of Certiorari to Supreme Court of California" are within my own knowledge and I know these facts to be true. I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on this 26th of March, 2021 at Los Angeles, California.

DATED: March 26, 2021
Los Angeles, CA

Signed by:


~~ALAN DOUGLAS~~

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<p align="center">CERTIFICATE OF COMPLIANCE WITH LENGTH LIMITATION <i>United States Supreme Court Rule 14</i></p>

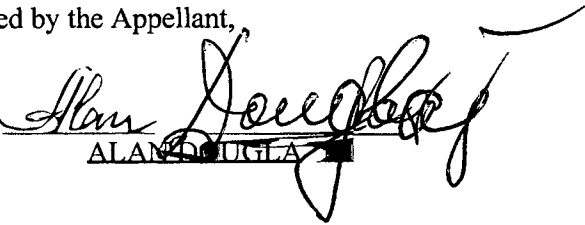
Pursuant to *United States Supreme Court Rule 14*, I hereby certify that this **APPELLANT'S** *Petition for Rehearing to Supreme Court of California* contain 2,651 words, including footnotes. In making this certification, I have relied on the word count of the Microsoft WORD for Mac2019 Word processing Program used to prepare this Petition for Writ of Certiorari.

(*Petition for Rehearing must not exceed 3,000 words - USSC Rule 14*)

Respectfully submitted by the Appellant,

DATED: March 26, 2021
 Los Angeles, CA

Signed by:


 ALAN DOUGLAS

END OF PETITION

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