

No. 20-7951

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IN THE SUPREME COURT OF THE UNITED STATES

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EDUARDO FLORES  
Petitioner

v.

PETER M. HOAGLAND et al.  
Respondents

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ON PETITION FOR WRIT OF CERTIORARI TO THE CALIFORNIA  
COURT OF APPEAL, FOURTH APPELLATE DISTRICT

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SUPPLEMENTAL BRIEF FOR PETITIONER

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Self-Represented

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## **TABLE OF AUTHORITIES**

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## **SUPPLEMENTAL BRIEF**

Petitioner files this Supplemental Brief to bring to the Court's attention another intervening matter not available at the time of Petitioner's last filing.

## **ARGUMENT**

The petition asks the Court to consider whether the state Trial Court and the California Court of Appeal, Fourth Appellate Division had a duty under the 14<sup>th</sup> Amendment of the United States Constitution and the American with Disabilities Act of 1990 to provide accommodations to Mr. Flores, a disabled, self-represented litigant. The Supplemental Brief provides evidence not previously available to Petitioner, which supports Petitioner's contention that the state Trial Court erroneously dismissed Mr. Flores' complaint after Opposing Counsel agreed to Mr. Flores filing a Third Amended Complaint and the Trial Court approved the agreement.

Mr. Flores submits the following additional evidence in support of his Petition:

1. An email and letter dated February 16, 2018, from Attorney Richard V. Zavala, attorney of record for Dr. Hoagland, in which opposing counsel acknowledges the agreement that Mr. Flores would file a Third Amended Complaint. Supp. App. A.

This additional evidence was not available to Petitioner at the time of his last filing as Mr. Flores had been locked out of email account and did not have access to these documents. Prior to his last filing, Mr. Flores made multiple attempts to access this email

and attached document to no avail. After submitting his Petition, Mr. Flores was able to gain access to this email and letter attachment.

The additional evidence demonstrates that on January 12, 2018, there was a verbal agreement between the parties and the Trial Court that was not appropriately recorded. The Parties and the Trial Court agreed that Mr. Flores would file a Third Amended Complaint. The letter from Attorney Zavala explains that although Mr. Flores provided a Second Amended Complaint, this complaint was still deficient, and a Third Amended Complaint still needed to be filed as agreed. Since, the agreement at the January hearing was not recorded, the Trial Court considered only Mr. Flores Second Amended Complaint at the May 4, 2018, hearing and dismissed the action without leave to amend.

Mr. Flores being a man with a traumatic brain injury disability was left to explain the mix up to the court. Unfortunately, opposing counsel, Richard Zavala, was not present in court on May 4, 2018, and the attorney present, Mr. Gabriel Benrudi, at the hearing appearing in Mr. Zavala's place was unaware of the agreement. Mr. Flores suffering from significant cognitive defects due his disability was treated as if he made an error when the error was that of the Trial Court. There was no minute order or transcript that Mr. Flores could reference to refresh the Judge's memory about the agreement to file a Third Amended Complaint.

A written record, minute order, or transcript at *all* hearings would have accommodated Mr. Flores and provided him and the Trial Court with the clear guidance

he needed to have his case heard on its merits. However, in California, accommodations and even a request for a court reporter must be made upon request. This is not an easy task for someone who suffers from mental deficits, as it requires that the person is aware of such accommodations or their right to have an official court reporter.

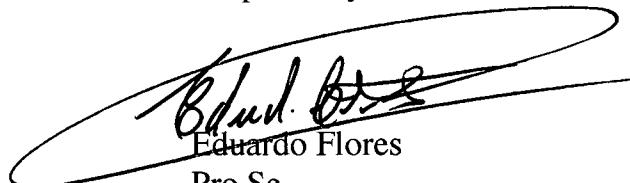
## **CONCLUSION**

The Trial Court grossly erred in this case and because Mr. Flores did not have proper accommodations for his disability, he was not able to bring the Trial Court's error to light. People like Mr. Flores should not be denied justice due to disability. The Trial Court has an obligation to provide equal access to justice and in this case the court failed.

For the foregoing reasons, petitioner requests that this Court grant the petition for certiorari.

Dated: September 23, 2021

Respectfully submitted,



Eduardo Flores  
Pro Se

**Additional material  
from this filing is  
available in the  
Clerk's Office.**