26-6005

ORIGINAL

No. _____

FILED
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SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN DOE,
Petitioner,
v.
CALIFORNIA SOUTHERN UNIVERSITY;
AMERICAN INTERCONTINENTAL UNIVERSITY SYSTEM, INC.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

John Doe

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QUESTION PRESENTED

Whether filing an amended complaint pursuant to leave granted in the same order denying preliminary injunctive relief automatically moots an appeal under 28 U.S.C. § 1292(a)(1) because the prior pleading is superseded, or whether Article III requires the court of appeals to determine whether the amendment materially changed the controversy and whether any effectual relief remains available.

No. _____

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SUPREME COURT OF THE UNITED STATES

JOHN DOE,
Petitioner,
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CALIFORNIA SOUTHERN UNIVERSITY;
AMERICAN INTERCONTINENTAL UNIVERSITY SYSTEM, INC.,
Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

SUPPLEMENTAL LIST OF PARTIES

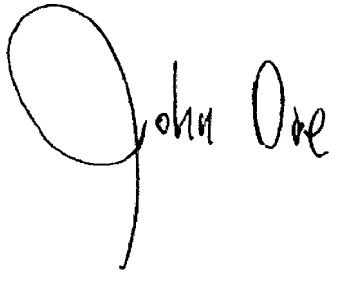
Corrected and submitted at the request of the Clerk's Office

Related proceedings: Ninth Circuit No. 26-5619; C.D. Cal. No. 2:25-cv-09549-HDV-DSR.

Petitioner respectfully submits the complete list of parties named in the proceeding below. The October 7, 2025 complaint identifies John Doe, California Southern University, American InterContinental University System, Inc., Melissa Noya, Psy.D., Evangelina Alonso, Psy.D., and Doe Defendants 1 through 10. The complaint does not state individual names for Doe Defendants 1 through 10. Each Doe is therefore listed separately below by Doe number and identified as an unnamed/unidentified party. No individual Doe names are added beyond the lower-court record.

1. John Doe - Petitioner; Plaintiff below
2. California Southern University - Respondent; Defendant below
3. American InterContinental University System, Inc. - Respondent; Defendant below
4. Melissa Noya, Psy.D. - Defendant named in the complaint below
5. Evangelina Alonso, Psy.D. - Defendant named in the complaint below
6. Doe Defendant 1 - Unidentified Doe defendant named in the complaint
7. Doe Defendant 2 - Unidentified Doe defendant named in the complaint
8. Doe Defendant 3 - Unidentified Doe defendant named in the complaint
9. Doe Defendant 4 - Unidentified Doe defendant named in the complaint
10. Doe Defendant 5 - Unidentified Doe defendant named in the complaint
11. Doe Defendant 6 - Unidentified Doe defendant named in the complaint
12. Doe Defendant 7 - Unidentified Doe defendant named in the complaint
13. Doe Defendant 8 - Unidentified Doe defendant named in the complaint
14. Doe Defendant 9 - Unidentified Doe defendant named in the complaint
15. Doe Defendant 10 - Unidentified Doe defendant named in the complaint

Dated: October 31, 2026
Respectfully submitted,



JOHN DOE
Petitioner Pro Se
California Secretary of State Safe at Home Participant

Directly related proceedings are:

John Doe v. California Southern University, et al., No. 2:25-cv-09549-HDV-DSR (C.D. Cal.). The pertinent order, ECF No. 98, was dated July 31, 2026 and entered August 3, 2026. It denied preliminary injunctive relief and granted leave to amend. The action remains pending.

John Doe v. California Southern University, et al., No. 26-5619 (9th Cir.). The order dismissing the interlocutory appeal as moot was entered October 20, 2026.

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OPINIONS AND ORDERS BELOW

The Ninth Circuit's October 20, 2026 order dismissing the appeal as moot is unpublished and reproduced at App. 1a-2a. The district court's order, dated July 31, 2026 and entered August 3, 2026 as ECF No. 98, adopted the magistrate judge's Report and Recommendation, granted Respondents' motion to dismiss with 30 days' leave to amend, and denied Petitioner's motion for preliminary injunction; it is reproduced at App. 3a-4a. The June 22, 2026 Report and Recommendation, ECF No. 83, is reproduced at App. 5a-24a.

JURISDICTION

The United States Court of Appeals for the Ninth Circuit entered the order sought to be reviewed on October 20, 2026. No petition for rehearing has been filed. This petition is timely under Supreme Court Rule 13.1. This Court has jurisdiction under 28 U.S.C. § 1254(1), which permits certiorari review of cases in the courts of appeals before or after rendition of judgment or decree.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article III, Section 2, Clause 1 of the Constitution provides:

> "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects."

28 U.S.C. § 1292(a)(1) provides:

> "Except as provided in subsections (c) and (d) of this section, the courts of appeals shall have jurisdiction of appeals from: (1) Interlocutory orders of the district courts of the United States . . . granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court."

28 U.S.C. § 1254(1) provides:

"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree."

STATEMENT OF THE CASE

1. Petitioner brought a federal civil-rights action against California Southern University and American InterContinental University System, Inc. concerning disability access and completion of an online Doctor of Psychology program. The District Court had federal-question jurisdiction under 28 U.S.C. § 1331 because Petitioner asserted claims arising under federal disability law, including the Americans with Disabilities Act and § 504 of the Rehabilitation Act, and supplemental jurisdiction under 28 U.S.C. § 1367 over related state-law claims asserted in the original complaint.

2. The record identifies Petitioner as a Black, LGBTQ+, disabled civil-rights litigant and a doctoral candidate who had progressed through substantial doctoral coursework and doctoral-project work to the final-defense stage and had been identified as a Magna Cum Laude candidate. Dist. Ct. Dkt. 112, Ex. W at 2. Petitioner does not ask this Court to adjudicate racial or sexual-orientation discrimination as an independent merits issue in this certiorari proceeding. Those facts provide context for why a procedural rule that forecloses federal civil-rights review has concrete consequences in this case.

3. During the district-court action, Petitioner sought limited preliminary relief directed to an academic-completion barrier. His motion requested release of a final passing grade and degree conferral. The magistrate judge treated that filing as a motion for preliminary injunction. App. 5a.

4. On June 22, 2026, the magistrate judge recommended granting Respondents' motion to dismiss with leave to amend and denying preliminary relief. App. 5a-24a. That recommendation followed the February 17 hearing, at which the magistrate judge explained that the necessary factual allegations had to be placed in the amended complaint itself and encouraged Petitioner to consult the Federal Pro Se Clinic for help structuring the complaint and organizing the supporting facts. The magistrate judge rejected Respondents' request to deny leave to amend and concluded that, because

Petitioner was proceeding pro se and the identified deficiencies could potentially be cured with specific factual allegations, amendment should be allowed. The written recommendation then expressly proposed 30 days' leave to amend. App. 24a.

5. The district court adopted that recommendation in ECF No. 98. The order was dated July 31, 2026 and entered on the docket August 3, 2026. It simultaneously denied preliminary injunctive relief and granted Petitioner 30 days' leave to amend. App. 3a-4a. The court did not appoint counsel or a legal assistant to litigate Petitioner's case. Petitioner remained pro se; the Pro Se Clinic referral was limited assistance with structuring and organizing a federal pleading, not representation in court or a substitute for counsel of record.

6. Petitioner complied with the court-directed amendment path. To continue the civil-rights action after dismissal with leave to amend, he filed a First Amended and Supplemental Complaint within the period the District Court allowed. The amended pleading narrowed the action to four federal disability-discrimination and retaliation claims arising from the continuing doctoral-completion dispute. It sought an accessible process for completing the disputed oral-defense component and related prospective relief. Petitioner did not amend to abandon interlocutory review; he amended because the District Court had identified amendment as the means to cure the pleading and continue the action.

7. Petitioner then filed a notice of appeal under 28 U.S.C. § 1292(a)(1) from the denial of preliminary injunctive relief. The notice expressly did not appeal the dismissal-with-leave-to-amend portion of ECF No. 98 and stated that Petitioner would continue litigating the amended pleading in the District Court.

8. Respondents moved to dismiss the interlocutory appeal as moot. They relied principally on Falck Northern California Corp. v. Scott Griffith Collaborative Solutions, LLC, 25 F.4th 763 (9th Cir. 2022), arguing that the amended complaint superseded the prior pleading and thereby eliminated appellate jurisdiction over the injunction ruling.

9. Petitioner opposed dismissal. He argued that pleading supersession did not itself answer the Article III question whether the court of appeals could still grant effectual relief. He relied on Church of Scientology of California v. United States, 506 U.S. 9 (1992), Chafin v. Chafin, 568 U.S. 165 (2013), and Mission Product Holdings, Inc. v. Tempnology, LLC, 587 U.S. 370 (2019). He also relied on the Eleventh Circuit's then-recent published decision in Upside Foods, Inc. v. Commissioner, Florida Department of Agriculture & Consumer Services, 171 F.4th 1239 (11th Cir. 2026), which rejected an automatic supersession rule in a preliminary-injunction appeal.

10. Respondents' reply acknowledged Upside Foods but argued that the Ninth Circuit had not adopted its functional approach and, alternatively, that Petitioner's amended complaint changed both the claims and requested relief enough to make the appeal moot even under Upside Foods. The governing legal standard and its application were therefore squarely joined below.

11. Petitioner also sought formal expedition because professional training opportunities were operating on timelines external to the litigation. Respondents opposed additional expedition on the ground that a preliminary-injunction appeal already receives the compressed briefing schedule prescribed by Ninth Circuit Rule 3-3(b). 9th Cir. Dkt. 14 at 1, 4-6. Petitioner replied that priority under Rule 3-3(b) is not the same as formal expedition under Rule 27-12 and General Order 3.3(f), which can accelerate calendaring as well as briefing. That exchange matters here because both sides recognized that preliminary-injunction review is designed to proceed on a priority timetable.

12. On October 20, 2026, the Ninth Circuit granted Respondents' motion and dismissed the appeal as moot. App. 1a-2a. The panel cited Falck for the proposition that amendment of a complaint on which an interlocutory appeal is based moots the appeal because the prior complaint becomes a legal nullity. It also cited Akina v. Hawaii, 835 F.3d 1003, 1010 (9th Cir. 2016), for the general proposition that a preliminary-injunction appeal is moot when no effective relief remains available. The panel did not compare the two pleadings, address Upside Foods, or explain what relief had become impossible. It denied all other pending motions as moot.

13. The district-court action continues. But the October 20 order finally terminated the separate, immediate appellate review Congress authorized through § 1292(a)(1). Review after an eventual final judgment cannot recreate the lost period in which interim relief could have mattered.

REASONS FOR GRANTING THE PETITION

This case presents a square and developed conflict over the Article III consequences of amendment after denial of preliminary injunctive relief. The Fifth Circuit treats supersession of the pleading as itself fatal to a denied-injunction appeal. The Eleventh Circuit has expressly rejected that rule in the same procedural setting and asks whether the amended pleading materially changes the substantive dispute. The order below places the Ninth Circuit on the Fifth Circuit's side by applying Falck's legal-nullity rule to Petitioner's § 1292(a)(1) appeal.

The question is not merely technical. The rule below converted compliance with a court-directed amendment process into the asserted basis for extinguishing a separate appellate review mechanism Congress expressly created. Petitioner was told how to cure the pleading, was granted 30 days to amend, remained self-represented, and followed that path. Nothing in § 1292(a)(1), Article III, or the District Court's leave-to-amend order warned that doing so would surrender immediate review of the simultaneously denied injunction.

I. THE DECISION BELOW DEEPENS A SQUARE CONFLICT ON A RECURRING FEDERAL QUESTION

The conflict is clearest between the Fifth and Eleventh Circuits, and the order below puts the Ninth Circuit on the Fifth Circuit's side.

In Falck, the Ninth Circuit dismissed an interlocutory appeal after a second amended complaint superseded the first amended complaint. 25 F.4th at 765-66. Falck did not involve a preliminary-injunction appeal under § 1292(a)(1); it involved interlocutory review of an order denying an anti-SLAPP motion to strike and dismiss. Id. at 764-65. Nevertheless, Falck announced a broad supersession rule: the pleading challenged on appeal is a legal nullity even if it is substantively

similar to the operative pleading. Id. at 766. The Ninth Circuit has since applied Falck to preliminary-injunction appeals, including Bong v. Mersereau, No. 25-6913, 2026 WL 483466, at *1 (9th Cir. Feb. 20, 2026), Zaragosa-Solis v. Gutierrez, No. 23-15306, 2023 WL 5380302, at *1 (9th Cir. Aug. 22, 2023), and the order below. App. 1a.

The Fifth Circuit applies the same categorical rule directly to denied-injunction appeals. In New Orleans Association of Cemetery Tour Guides & Companies v. New Orleans Archdiocesan Cemeteries, 56 F.4th 1026, 1034 (5th Cir. 2023), it dismissed an appeal from denial of injunctive relief because the complaint underlying the request had been superseded. It rejected the argument that similarity between the prior and amended complaints preserved the appeal; the earlier pleading's nullification itself was dispositive. Id.

The Eleventh Circuit has now expressly rejected that rule in the same procedural posture. In Upside Foods, the district court denied a preliminary injunction, encouraged amendment, the plaintiff amended, and the plaintiff filed its notice of appeal four days later. 171 F.4th at 1247-49. The Eleventh Circuit rejected the argument that amendment necessarily eliminated appellate review and held that the filing of an amended complaint does not moot an interlocutory appeal so long as the plaintiff continues to seek relief on substantively the same claims. Id. at 1248-49. The Eleventh Circuit's contrary rule is not confined to Upside Foods. In Barber v. Governor of Alabama, 73 F.4th 1306, 1316 n.16 (11th Cir. 2023), the plaintiff amended his complaint after denial of preliminary relief and before filing his notice of appeal, yet the court proceeded to review the injunction ruling on the record before the district court. Upside Foods relied on Barber and Rosen v. Cascade International, Inc., 21 F.3d 1520, 1524 n.5 (11th Cir. 1994), in rejecting the contention that amendment necessarily eliminates interlocutory appellate review. The Fifth Circuit takes the opposite approach. New Orleans Ass'n of Cemetery Tour Guides & Cos. v. New Orleans Archdiocesan Cemeteries, 56 F.4th 1026, 1034 (5th Cir. 2023).

The Second and Seventh Circuits reinforce that functional methodology. The Seventh Circuit examines whether revised pleadings affected the substantive basis of the injunction and whether appellate action would have real-world consequences. Auto Driveaway Franchise Systems, LLC v. Auto Driveaway Richmond, LLC, 928 F.3d 670, 674-75 (7th Cir. 2019). The Second Circuit likewise asks whether the revised pleading materially changes the substantive basis for the appeal. State Farm Mutual Automobile Insurance Co. v. Tri-Borough NY Medical Practice P.C., 120 F.4th 59, 73-74 (2d Cir. 2024). Those cases involved injunctions that had been granted, but their jurisdictional method is the opposite of treating supersession alone as dispositive.

The conflict is outcome-determinative. Under the Fifth and Ninth Circuit approach, the legal nullity of the prior complaint can itself end interlocutory review. Under the Eleventh Circuit's rule, amendment triggers a further inquiry into substantive continuity and the continued availability of effectual relief. The same procedural act therefore carries different Article III consequences depending on geography. Rule 10 identifies precisely that kind of conflict on an important federal question as a principal reason for certiorari.

II. THE AUTOMATIC-NULLITY RULE CONFLICTS WITH THIS COURT'S EFFECTUAL-RELIEF PRECEDENTS

This Court's mootness decisions ask whether judicial action can still produce practical relief; they do not make the operative status of an earlier pleading the constitutional test.

Church of Scientology holds that a controversy remains live when a court can grant even partial relief. 506 U.S. at 12-13. Chafin reiterates that a case becomes moot only when it is impossible for a court to grant any effectual relief whatever to the prevailing party. 568 U.S. at 172. Mission Product describes mootness as a demanding standard and asks whether the parties retain a concrete interest, however small, in the outcome. 587 U.S. at 377-78.

Pleading supersession and Article III mootness answer different questions. Supersession determines which complaint governs proceedings in the district court. Mootness determines whether

an Article III court can still grant effectual relief concerning the order under review. A superseded pleading can cease to govern below without necessarily making appellate action incapable of producing real-world consequences.

Falck began with an effective-relief formulation, 25 F.4th at 765, but then treated the prior complaint's legal nullity as dispositive even when the two pleadings were substantively similar. Id. at 766. New Orleans adopted the same result in the denied-injunction context. 56 F.4th at 1034. Upside Foods, by contrast, keeps the inquiries distinct and asks what the amendment actually changed. 171 F.4th at 1248-49. That approach fits this Court's Article III cases.

The order below illustrates the problem. It cited Falck's legal-nullity rule and Akina's effective-relief rule, App. 1a, but did not compare the operative dispute, decide whether the amendment materially changed the substantive basis of the appeal, or explain what form of appellate relief had become impossible. This Court should clarify that Article III requires that functional inquiry.

III. COURT-AUTHORIZED AMENDMENT CANNOT BECOME AN EXTRA-TEXTUAL PROCEDURAL GATE TO § 1292(a)(1) REVIEW

This case presents the procedural trap in unusually stark form. At the February 17 hearing, the magistrate judge explained how the pleading needed to be cured: the necessary facts had to appear in the amended complaint itself, and Petitioner was encouraged to use the Federal Pro Se Clinic to help structure and organize that pleading. The magistrate judge rejected Respondents' request to deny leave to amend. The June 22 recommendation then proposed 30 days' leave to amend, and ECF No. 98 adopted that recommendation while simultaneously denying preliminary relief. App. 3a-4a, 24a. Petitioner followed the path the court had laid out.

That referral did not give Petitioner counsel. He remained pro se throughout. The Clinic was not counsel of record and did not represent him in court; its role was limited assistance with the structure and organization of federal filings. Thus, Petitioner confronted two simultaneous procedural demands without appointed representation: cure the pleading in the District Court within

the leave-to-amend period, while preserving the congressionally authorized right to seek immediate review of the denial of preliminary relief. The order granting leave to amend did not state that using that amendment process would forfeit § 1292(a)(1) review.

Respondents nevertheless invoked Petitioner's compliance with that amendment process as the reason the court of appeals could no longer review the independently appealable injunction ruling. Compliance with one federal court's directive thus became the asserted basis for closing another federal court's congressionally authorized review.

Nothing in § 1292(a)(1) creates that forfeiture. Congress expressly granted appellate jurisdiction over interlocutory orders refusing injunctions. Carson v. American Brands, Inc., 450 U.S. 79, 84 (1981), explains why: some injunction rulings have serious, perhaps irreparable consequences and can be effectually challenged only through immediate review. A rule that makes amendment itself fatal forces a litigant to choose between curing a pleading and preserving the very interlocutory review Congress supplied.

This Court has repeatedly rejected threshold barriers that governing federal law does not impose. In Patsy v. Board of Regents of Florida, 457 U.S. 496, 500-16 (1982), the Court reversed a Fifth Circuit rule that would have required exhaustion before a federal civil-rights action could proceed; the underlying plaintiff alleged that a university employer denied her opportunities because of race and sex. In Felder v. Casey, 487 U.S. 131, 138, 147, 150-53 (1988), the Court held that a state procedural prerequisite could not place conditions on vindication of a federal civil-rights remedy inconsistent with federal law.

The same anti-gatekeeping principle appears in federal pleading cases. Leatherman v. Tarrant County Narcotics Intelligence & Coordination Unit, 507 U.S. 163, 168 (1993), rejected a heightened pleading rule that could not be squared with the Federal Rules. Swierkiewicz v. Sorema N.A., 534 U.S. 506, 511-15 (2002), unanimously rejected a heightened pleading requirement in a discrimination case, explaining that a greater requirement must come through amendment of the

Rules, not judicial interpretation. And Johnson v. City of Shelby, 574 U.S. 10, 11-12 (2014) (per curiam), summarily reversed a judgment that turned a civil-rights claim on an imperfect statement of legal theory.

Those cases arise under different statutes and procedural settings; Petitioner does not contend that any one mechanically decides this mootness question. They establish a principle directly relevant to the certiorari issue: judicial doctrine should not create an additional threshold condition that defeats a federal right or review mechanism when Congress and the governing Rules did not impose it. NAACP v. Button, 371 U.S. 415, 429-31 (1963), likewise recognized the central role of litigation in securing equality under law and rejected restrictions that burdened civil-rights advocacy through the courts.

That history matters here without requiring this Court to decide that any appellate judge acted from racial, sexual-orientation, or disability bias. Petitioner asks for no such finding. The narrower point is structural and fully presented: a Black, LGBTQ+, disabled civil-rights plaintiff should not lose § 1292(a)(1) review merely because he complied with a district court's leave-to-amend process. The same rule should govern every litigant. Article III asks whether the controversy remains live and whether effectual relief remains possible, not whether an amended complaint exists.

IV. THIS CASE IS A CLEAN VEHICLE FOR RESOLVING THE CONFLICT

The jurisdictional issue was squarely presented, fully adversarial, and dispositive below. Petitioner's opposition invoked this Court's effectual-relief precedents and Upside Foods. Respondents' reply defended Falck as the governing Ninth Circuit rule and separately argued that Petitioner would lose even under Upside Foods because his amended pleading changed the claims and relief. The panel then dismissed on mootness grounds without reaching the merits of the underlying civil-rights claims.

The parties' disagreement about what changed in the amended pleading is a reason to grant review, not a vehicle defect. Under a functional rule, a court must compare the relevant disputes and

decide whether amendment actually eliminated every form of effectual relief. Under the categorical rule applied below, that comparison can be bypassed because supersession itself is treated as fatal. This Court need not decide the factual application in the first instance. It can resolve the antecedent legal question and remand for the Ninth Circuit to apply the correct Article III standard.

Nor does the continuing district-court action undermine review. The October 20 order is final as to the separate § 1292(a)(1) appeal. Section 1254(1) authorizes certiorari review of cases in the courts of appeals before or after judgment. Waiting for eventual final judgment in the district court cannot restore the lost opportunity for immediate review of preliminary relief. That is precisely why this case cleanly presents the jurisdictional question now.

V. THE RECORD SHOWS WHY IMMEDIATE REVIEW MATTERS IN TIME-SENSITIVE CIVIL-RIGHTS LITIGATION

The dispute is occurring in real time. Petitioner's amended action concerns an accessible means of completing the remaining doctoral-defense requirements and alleged retaliation following disability-related requests. The record identifies Petitioner as a Black, LGBTQ+, disabled doctoral candidate who had reached the final-defense stage and had been identified as a Magna Cum Laude candidate. The case also involves a prospective Los Angeles County Department of Mental Health clinical-training pathway for which the school-side affiliation step remained unresolved. Petitioner has not represented that an internship was guaranteed or awarded; the point is that professional recruitment operates on external timelines while academic-completion barriers and litigation continue.

The expedition record makes the statutory point unusually concrete. Respondents themselves opposed additional formal expedition partly because preliminary-injunction appeals already receive the compressed schedule and priority established by Ninth Circuit Rule 3-3(b). 9th Cir. Dkt. 14 at 1, 4-6. Petitioner replied that formal expedition under Rule 27-12 and General Order 3.3(f) can further accelerate calendaring. Whether additional expedition was warranted is not a question presented

here. What matters is the premise common to that dispute: preliminary-injunction appeals receive special priority because delay can destroy the practical value of interim relief.

The rule below then extinguished that prioritized review altogether because Petitioner used the amendment process the District Court had authorized. The very feature Respondents invoked against further expedition—the special priority already afforded to preliminary-injunction appeals—underscores why an automatic supersession rule has serious consequences. A statutory mechanism designed for immediate review should not disappear by operation of a pleading doctrine unless Article III actually leaves the appellate court unable to grant effectual relief.

The Court can resolve that jurisdictional question without deciding whether Petitioner is entitled to a degree, an internship, a particular accommodation, or preliminary relief on the merits. It need decide only what Article III requires before a court of appeals declares a § 1292(a)(1) appeal moot.

VI. THE QUESTION IS RECURRING AND NATIONALLY IMPORTANT

District courts routinely decide motions to dismiss and requests for preliminary relief in the same litigation. They routinely grant leave to amend. The interaction among those ordinary procedural events, Article III, and § 1292(a)(1) therefore recurs.

The Ninth Circuit's own cases show that this issue is not confined to Petitioner. Falck's supersession rule has been carried into preliminary-injunction appeals in Bong, Zaragosa-Solis, and this case. The Fifth Circuit has adopted the same categorical approach in a published denied-injunction case. The Eleventh Circuit's published 2026 decision in Upside Foods now squarely rejects automatic mootness in the same procedural setting.

The consequences are especially significant in civil-rights, education, employment, licensing, election, and other disputes where interim relief can lose its value through delay. A rule that extinguishes immediate review merely because a litigant used court-authorized leave to amend

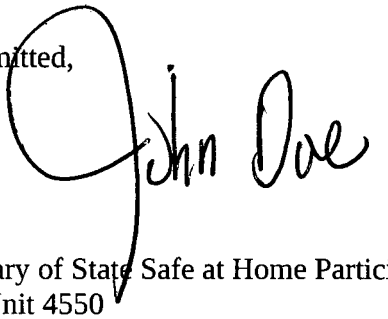
makes § 1292(a)(1) turn on pleading sequence rather than the continued existence of a live controversy and the availability of judicial relief.

Article III should have one meaning nationwide. The Court should grant review and hold that supersession of a pleading does not automatically moot an interlocutory appeal from denial of an injunction; the court of appeals must determine whether the amendment materially changed the controversy and whether any effectual relief remains available.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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October 23, 2026