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Superior Court of California
County of Los Angeles

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SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

AMERICAN FREEDOM ALLIANCE,

Plaintiff,

v.

CALIFORNIA SCIENCE CENTER
FOUNDATION,

Defendant.

CASE NO. BC 423687

DECLARATION OF JEFFREY N. RUDOLPH
IN SUPPORT OF THE CALIFORNIA
SCIENCE CENTER FOUNDATION'S
OPPOSITION TO THE EMERGENCY RELIEF
REQUEST BY THE AMERICAN FREEDOM
ALLIANCE

HEARING DATE: October 14, 2009
HEARING TIME: 8:30 a.m.
HEARING PLACE: TBD

DATE OF FILING
OF COMPLAINT: October 14, 2009

TRIAL DATE: TBD

1 the Los Angeles Unified School District, enrolling 620 students from Kindergarten through fifth
2 grade. The Amgen Center for Science Learning is the Science Center's education department,
3 offering science education to students, workshops for teachers and community educators, and
4 programs for the public.

5 5. Development of the California Science Center continues with the planned 2010
6 opening of the second phase of the California Science Center, featuring a major new exhibit on
7 ecology in a 165,000 square foot addition to the Science Center. The Foundation is spearheading the
8 completion of a \$165 million campaign and the construction of the Phase II expansion.

9 6. The California Science Center and the Foundation is one of the oldest and most
10 successful public-private partnerships in the State of California. The Foundation funds design and
11 development of exhibitions and education programs at the California Science Center. The
12 Foundation also manages and arranges for the use of areas within the Science Center for private
13 events. The State of California owns the buildings and the land upon which they are built, and is
14 responsible for the operation and maintenance of the physical facilities. This partnership is also
15 reflected in the structure of the governing authority over the California Science Center and
16 Exposition Park. A nine member Board of Directors for the CSC is appointed by the Governor of the
17 State of California for four-year terms. The California Science Center Foundation is an independent
18 non-profit charitable organization (501(c)(3)) governed by an 85 member Board of Trustees. The
19 California Science Center and California Science Center Foundation have a number of agreements
20 that govern the relationship, including a lease relating to the IMAX Theater and a Joint Operation
21 Agreement.

22 7. As one of its responsibilities, the Foundation operates the Event Services Department.
23 This department allows private groups to hold events within the Science Center, such as corporate
24 meetings, school events, or weddings. In addition to scheduling and arranging for the holding of
25 these private events, the Event Services Department of the Foundation requires all contracting parties
26 to comply with the Event Services' Policies and Procedures.

27 8. One of the provisions within the Event Services' Policies and Procedures requires the
28 contracting party to obtain the prior approval of the Event Services Office before any promotional

1 materials relating to the private event are released or broadcast. This provision is intended to ensure,
2 among other things, that the California Science Center name is not used inappropriately by private
3 groups that are contracting for use of the property. Because the Foundation and the California
4 Science Center have spent considerable resources to build a reputation as a highly regarded and
5 respected scientific institution, we are very attentive to ensure that private groups do not appropriate
6 the reputation of the California Science Center for their own benefit. This provision is intended to
7 ensure that the promotional materials do not imply that the California Science Center is sponsoring or
8 endorsing any particular position, group or product, which may be related to the private event.

9 9. On October 5, 2009, I received an email from Shell Amega, the Vice President of
10 Communications at the Foundation, forwarding a Press Release that was dated October 5, from an
11 organization known as the Discovery Institute concerning a private event scheduled for the IMAX
12 Theater on October 25, 2009. By referring to the event with the following language: "when the
13 Smithsonian institution's west coast affiliate premieres *Darwin's Dilemma*", the promotional material
14 implied that the California Science Center was sponsoring the event, which was factually inaccurate.
15 Typically, such material would refer to the California Science Center as the location only. Attached
16 as Exhibit 1 is a true and correct copy of this press release. The email from Ms. Amega also stated
17 that she was contacted by Harold Closter, Director of the Smithsonian Institution Affiliates Program,
18 who was concerned about the implication that the Smithsonian Institution was involved in sponsoring
19 the event. Mr. Closter then sent a follow-up email regarding his concerns to Ms. Amega. Attached
20 as Exhibit 2 is a true and correct copy of the email from Mr. Closter to Ms. Amega.

21 10. I do not remember any other promotional materials from private entities that have used
22 the California Science Center's name in any way other than simply indicating the location of the
23 event and I do not recall any other private event sponsor using the name of the Smithsonian
24 Institution as part of their promotional materials for an event at the California Science Center. The
25 Event Services Department generally ensures that promotional materials do not imply that the
26 California Science Center is sponsoring or hosting a private event.

27 11. The representation that the California Science Center was "the Smithsonian
28 Institution's west coast affiliate" is inaccurate. The California Science Center is not "the Smithsonian

1 institution's west coast affiliate." It is one of 20 Smithsonian affiliates in California and one of 165
2 affiliates nationwide. The Smithsonian is not directly involved in the operation of the California
3 Science Center or its internal decisions regarding private events. Mr. Closter had expressed the same
4 concerns to the Foundation in the email that he had sent to Ms. Amega and which is part of Exhibit 2.

5 12. The California Science Center's relationship as an affiliate of the Smithsonian requires
6 that it takes steps to protect the uses of the Smithsonian name in all materials related to the Science
7 Center. If we had been given the promotional materials in advance for the AFA program we would
8 have to run them by the Smithsonian for their approval, as well as our own, and we would have
9 rejected the wording in the promotional materials. We were not given that opportunity and the
10 promotional materials were made public without our knowledge on October 5.

11 13. Because of AFA's failure to comply with the provision in the Policies and Procedures
12 requiring pre-approval of all promotional material, the inaccuracy of the promotional materials, and
13 the same concerns regarding the inaccuracy of the materials expressed by the Smithsonian Institution,
14 on October 6, 2009, I decided to cancel the event scheduled for October 25, 2009 and Chris Sion sent
15 an email to the AFA with that direction.

16 14. Although the California Science Center cannot be considered "the Smithsonian
17 Institution's west coast affiliate", the California Science Center is part of the Smithsonian's affiliate
18 program, which allows the Science Center to obtain increased access to loans of rare items and
19 artifacts maintained by the Smithsonian Institution. For example, through our affiliate relationship,
20 the California Science Center was able to obtain loans of the space capsules from the Apollo,
21 Mercury and Gemini missions. In addition, an affiliate relationship with the Smithsonian Institution
22 allows access to their researchers and traveling exhibitions. Therefore, the inaccuracy of the


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promotional material caused me concern in part because it was also considered inaccurate by the Smithsonian Institution. The relationship with the Smithsonian Institution is an extremely important relationship for the California Science Center and California Science Center Foundation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration is executed on October 13, 2009 in Los Angeles, California.



Jeffrey N. Rudolph

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Intelligent Design Documentary to Premiere at Smithsonian Affiliated California Science Center

Darwin's Dilemma: The Mystery of the Cambrian Fossil Record will be screened Oct. 25th

LOS ANGELES, Oct. 5 /PRNewswire-USNewswire/ – The debate over Darwin will come to California on October 25th, when the Smithsonian Institution's west coast affiliate premieres *Darwin's Dilemma: The Mystery of the Cambrian Fossil Record*, a new intelligent design film which challenges Darwinian evolution. To view a trailer and clips from the film, please visit www.darwinsdilemma.org.

Darwin's Dilemma will be screened at 7 p.m. on Sunday, October 25th in the IMAX theater at the California Science Center, with a post-film discussion featuring Darwin skeptic Dr. David Berlinski, author of *The Devil's Delusion: Atheism and its Scientific Pretensions*, and leading intelligent design scientist Dr. Jonathan Wells, biologist and author of *Icons of Evolution*. The screening is sponsored and hosted by the American Freedom Alliance.

Darwin's Dilemma explores one of the great mysteries in the history of life: the sudden appearance of dozens of major complex animal types in the fossil record without any trace of the gradual transitional steps predicted by Darwin. Frequently described as "the Cambrian Explosion," the development of these new animal types required a massive increase in genetic information.

The film, shot on location at fossil digs in China and Canada, traces Darwin's own study of the fossil record and recreates the prehistoric world of the Cambrian era with state-of-the-art computer animation. *Darwin's Dilemma* also features interviews with leading evolutionary paleontologists such as Simon Conway Morris of Cambridge University and James Valentine of the University of California at Berkeley.

Darwin's Dilemma is produced by Illustra Media and features Discovery Institute scientists such as Dr. Stephen Meyer, Dr. Paul Nelson and Dr. Jonathan Wells. Regional premieres of the film are being organized by Discovery Institute and have included screenings at Sam Noble Oklahoma Natural History Museum, and the Seattle Art Museum. For more information see www.illustramedia.com, and www.discovery.org/csc/.

SOURCE Discovery Institute

Find this article at:

<http://www.prnewswire.com/news-releases/intelligent-design-documentary-to-premiere-at-smithsonian-affiliated-california-science-center-63527687.html>

Check the box to include the list of links referenced in the article.

From: Shell Amega
Sent: Monday, October 05, 2009 2:38 PM
To: Jeff Rudolph; William Harris
Subject: FW: Film Showing at CSC
Importance: High

FYI - Shell

From: Closter, Harold [mailto:closterh@si.edu]
Sent: Monday, October 05, 2009 2:28 PM
To: Shell Amega
Subject: Film Showing at CSC

Shell,

Thanks for lending an ear.

We earnestly hope that the California Science Center will provide an accurate statement to the media informing of your role (or non-role) in presenting or serving as the host site

of the film on October 25. The press release we talked about distorts the relationship between the Smithsonian Institution and the California Science Center by prominently featuring the Smithsonian in the title line and playing up the Affiliate relationship in a way that implies that the CSC is a west coast branch of the Smithsonian, and that the film showing is a Smithsonian event. Although we are most proud of our relationship with CSC, the Smithsonian, as you know, has no role in any of the decision making processes of your organization, and certainly has no say in films, public programs, and exhibitions.

When you issue a statement, you might also note that CSC is one of 20 Smithsonian Affiliates in California out of 165 nationally. A list is attached.

Please keep me informed of your next steps. We are concerned that this not be represented as a Smithsonian event or program or anything with which we have any involvement.

We appreciate very much any steps that you take to clarify the situation. I will be in travel the next four days, but can be reached on my cell phone, 202-425-9010, if you wish to discuss further. Thanks.

Harold A. Closter
Director, Smithsonian Affiliations
MRC 942, PO Box 37012
Washington, DC 20013-7012

Shipping:
470 L'Enfant Plaza SW
Suite 7400
Washington, DC 20024

phone: 202-633-5321
cell: 202-425-9010
fax: 202-633-5313
email: closterh@si.edu

Is there a Smithsonian in your neighborhood? Visit our website at: www.affiliations.si.edu