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10 CENTER FOUNDATION and JEFFREY
11 RUDOLPH, individually and in his official capacity
12 as President of the California Science Center
13 Foundation

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
NOV 08 2010
John A. Clarke, Executive Officer/Clerk
By [Signature] Deputy
RUGENA LOPEZ

9 SUPERIOR COURT, STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES
11 CENTRAL DISTRICT

12 AMERICAN FREEDOM ALLIANCE, a
13 nonprofit corporation;

14 Plaintiff,

15 v.

16 CALIFORNIA SCIENCE CENTER; a legal
17 entity of the State of California; CALIFORNIA
18 SCIENCE CENTER FOUNDATION, a
19 nonprofit corporation; JEFFREY RUDOLPH, an
20 individual; and DOES 1 through 50, inclusive;

21 Defendants.

CASE NO. BC 423687

Assigned to: The Honorable Terry A. Green, Dept.
14

**DEFENDANTS CALIFORNIA SCIENCE
CENTER FOUNDATION'S AND JEFFREY
RUDOLPH'S (AS PRESIDENT OF THE
FOUNDATION AND IN HIS INDIVIDUAL
CAPACITY) ANSWER TO PLAINTIFF
AMERICAN FREEDOM ALLIANCE'S
UNVERIFIED THIRD AMENDED
COMPLAINT**

DATE OF FILING
OF ORIGINAL
COMPLAINT: October 14, 2009

DATE OF FILING
THIRD AMENDED
COMPLAINT: August 18, 2010

Fees paid on

10/10
\$710.00
L. MENJIVAR

RECEIVED

1 Defendants California Science Center Foundation and Jeffrey Rudolph, as President of the
2 California Science Center Foundation and in his individual capacity, ("Defendants") by and through
3 their attorney of record, answer the unverified Third Amended Complaint of Plaintiff American
4 Freedom Alliance as follows:

5 Pursuant to section 431.30(d) of the California Code of Civil Procedure, Defendants deny
6 generally and specifically each and every allegation and cause of action in Plaintiff's Third Amended
7 Complaint. Defendants further deny that Plaintiff has sustained any injury, damage or loss by reason
8 of any act or omission of the Defendants, or at all, and further deny that Plaintiff is entitled to any
9 relief against or affecting any of the Defendants.

10 In addition, Defendants allege the following affirmative defenses:

11 **FIRST AFFIRMATIVE DEFENSE**

12 (Failure to State a Claim – All Causes of Action)

13 The Third Amended Complaint and each and every cause of action therein fail to state a claim
14 upon which relief can be granted or facts sufficient to constitute a cause of action.

15 **SECOND AFFIRMATIVE DEFENSE**

16 (Unclean Hands – All Causes of Action)

17 Plaintiff is barred in equity from claiming or recovering any relief set forth in the Third
18 Amended Complaint and each and every cause of action alleged therein because of its conduct under
19 the doctrine of unclean hands.

20 **THIRD AFFIRMATIVE DEFENSE**

21 (Waiver – All Causes of Action)

22 Plaintiff is barred from claiming or recovering any relief set forth in the Third Amended
23 Complaint and each and every cause of action alleged therein on the grounds that Plaintiff's conduct
24 was such that it constituted a waiver.

25 **FOURTH AFFIRMATIVE DEFENSE**

26 (Equitable Estoppel – All Causes of Action)

27 Under the doctrine of equitable estoppel, Plaintiff is barred from claiming or recovering any
28 relief set forth in the Third Amended Complaint and each and every causes of action alleged therein

1 by reason of acts, omissions, representations and courses of conduct by Plaintiff by which Defendants
2 were led to rely to their detriment.

3 **FIFTH AFFIRMATIVE DEFENSE**

4 (Failure to Mitigate – All Causes of Action)

5 Plaintiff is barred from claiming or recovering any relief set forth in the Third Amended
6 Complaint and each and every causes of action alleged therein because Plaintiff failed to exercise
7 reasonable care and diligence to mitigate any alleged damages, and has further unreasonably delayed
8 in the submission of its claims for any alleged losses.

9 **SIXTH AFFIRMATIVE DEFENSE**

10 (Immunity – All Causes of Action Asserted Against Defendant Rudolph)

11 To the extent liability attaches to defendant Jeffrey Rudolph based upon any finding that he
12 was operating as a “state actor,” Plaintiff is barred from claiming or recovering any relief set forth in
13 the Third Amended Complaint and each and every causes of action alleged therein against Defendant
14 Rudolph on the grounds that Defendant Rudolph is immune from liability pursuant to Section 821 of
15 the Government Code and the doctrine of qualified immunity.

16 **SEVENTH AFFIRMATIVE DEFENSE**

17 (Breach by Plaintiff – Breach of Contract Claim)

18 Plaintiff is barred from claiming or recovering any relief on the grounds that Plaintiff
19 breached their contract, if any, with Defendants and that by reason of that breach of contract,
20 Defendants have been excused from performing any duties or obligations set forth in said contract.

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 (Failure of Consideration – Breach of Contract Claim)

23 Plaintiff is barred from claiming or recovering any relief based on Plaintiff’s cause of action
24 for breach of contract on the grounds of failure of consideration.

1 **NINTH AFFIRMATIVE DEFENSE**

2 (Adequate Legal Remedy– Injunctive Relief)

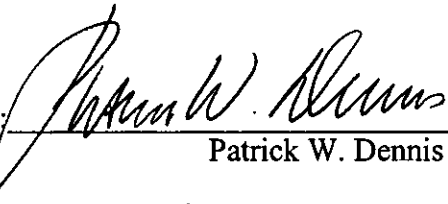
3 Plaintiff is barred from claiming or obtaining injunctive relief on the grounds that adequate
4 legal remedies exist.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Defendants pray that Plaintiff take nothing by the Third Amended Complaint,
7 and that Defendants be awarded judgment in this action, attorney fees in an amount to be determined,
8 and costs of suit incurred herein.

9
10 DATED: November 8, 2010

GIBSON, DUNN & CRUTCHER LLP

11
12 By: 
13 Patrick W. Dennis

14 Attorneys for Defendants,
15 CALIFORNIA SCIENCE CENTER FOUNDATION
16 and JEFFREY RUDOLPH, individually and in his
17 official capacity as President of the California Science
18 Center Foundation

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CERTIFICATE OF SERVICE

I, Janet Faragher, declare as follows:

I am employed in Los Angeles, California; I am over the age of eighteen years and am not a party to this action; my business address is 333 South Grand Avenue, Los Angeles, CA 90071. On November 8, 2010, I served the following documents:

DEFENDANTS CALIFORNIA SCIENCE CENTER FOUNDATION'S AND JEFFREY RUDOLPH'S (AS PRESIDENT OF THE FOUNDATION AND IN HIS INDIVIDUAL CAPACITY) ANSWER TO PLAINTIFF AMERICAN FREEDOM ALLIANCE'S UNVERIFIED THIRD AMENDED COMPLAINT

by placing a copy thereof in an envelope addressed to each of the persons named below at the address shown:

William J. Becker, Jr.
The Becker Law Firm
11500 Olympic Blvd, Suite 400
Los Angeles, CA 90064
Tel: (310) 636-1018
Fax: (310) 765-6328
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Allan S. Ono, Esq.
Deputy Attorney General
Natural Resources Law Section
Office of the Attorney General
300 S. Spring Street, 11th Floor, North Tower
Los Angeles, CA 90013
Fax: (213) 897-2802
e-mail: allan.ono@doj.ca.gov

Counsel for Plaintiff American Freedom Alliance

Counsel for Defendants California Science Center and Jeffrey Rudolph, in his official capacity as President and CEO of the California Science Center

[X] BY MAIL: I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] BY PDF FORMAT: I caused each such document to be transmitted by PDF format, to the parties and email addresses listed above.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[] (FEDERAL) I declare under penalty of perjury that the foregoing is true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the foregoing document was printed on recycled paper. This Declaration of Service was executed by me on November 8, 2010, at Los Angeles, California.

Handwritten signature of Janet Faragher with printed name below.