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11 Attorneys for Plaintiff, AMERICAN FREEDOM ALLIANCE

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JAN 31 2011

John A. Clarke, Executive Officer/Clerk
BY Mary Flores, Deputy

12
13 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

15 **AMERICAN FREEDOM ALLIANCE**, a
16 nonprofit corporation;

17 Plaintiff,

18 vs.

19 **CALIFORNIA SCIENCE CENTER**, a legal
20 entity of the State of California;
21 **CALIFORNIA SCIENCE CENTER**
22 **FOUNDATION**, a nonprofit corporation;
23 **JEFFREY RUDOLPH**, an Individual, and
24 **DOES 1 through 50**, inclusive;

25 Defendants.

Case No. BC423687

Hon. Terry A. Green, Judge Presiding

**NOTICE OF DEMURRER AND
DEMURRER TO DEFENDANT
CALIFORNIA SCIENCE CENTER
FOUNDATION'S AMENDED CROSS-
COMPLAINT**

[Memorandum Of Points And Authorities In
Support Thereof, And Request For Judicial
Notice And Exhibit Attached Thereto, Filed
Concurrently Herewith]

Complaint Filed: 10/14/2009
TAC Filed: 10/8/2010
Cross-Complaint Filed: 11/8/2010

Hearing Date: 2/23/2010
Hearing Time: 8:45 a.m.
Hearing Dept.: 14
Trial: 6/13/2011

CIT/CASE: BC423687 LEA/DEF#:
RECEIPT #: CCH478057094
DATE PAID: 01/31/11 03:25:43 PM
PAYMENT: \$40.00
RECEIVED:
CHECK#: 40.00
CASH:
CHARGE:
CAME:
0310

BY FAX

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

2 PLEASE TAKE NOTICE that on February 23, 2010 at 8:45 a.m., or as soon thereafter as
3 this matter may be heard in Department 14 of the above-entitled Court, the Honorable Terry A.
4 Green presiding, Plaintiff American Freedom Alliance ("AFA") will and hereby does demur to
5 the Amended Cross-Complaint ("Cross-Complaint") of Defendant California Science Center
6 Foundation (the "Foundation") pursuant to section 430.10(e) of the California Code of Civil Pro-
7 cedure, on the grounds that the Cross-Complaint fails to state a cause of action as to the First,
8 Second and Third Causes of Action asserted against the AFA, that the Cross-Complaint is uncer-
9 tain as to the First, Second and Third Causes of Action, and that the Cross-Complaint fails to
10 specify whether the contract is written, oral or implied by conduct.
11

12 The Demurrer is based on this Notice of Demurrer and Demurrer, the accompanying
13 Memorandum of Points and Authorities in support thereof, all records and pleadings on file with
14 the Court in this matter, all matters of which the Court may take judicial notice, and all further
15 evidence and argument that may be presented in Reply to any Opposition on this Demurrer or at
16 the hearing on this Demurrer.
17

18 DATED: January 28, 2011

THE BECKER LAW FIRM

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20
21 By:


22 **WILLIAM J. BECKER, JR., ESQ.**
23 Attorneys for Plaintiff,
24 **AMERICAN FREEDOM ALLIANCE**
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1 **DEMURRER**

2 AFA demurs to Defendants' First, Second and Third Causes of Action of the Amended
3 Cross-Complaint against it on the following grounds:

4 **Demurrer to First Cause of Action for**

5 **Breach of Contract**

6 Defendants' First Cause of Action for Breach of Contract fails to state facts sufficient to
7 constitute a cause of action. (Code Civ. Proc. §§ 430.10(e), 430.30.) Defendants have not suffi-
8 ciently alleged, and cannot allege Breach of Contract.
9

10 Defendants' First Cause of Action for Breach of Contract is uncertain.

11 Defendants' First Cause of Action for Breach of Contract does not specify, and it cannot
12 be ascertained, whether the contract is written, oral or implied by conduct.

13 **Demurrer to Second Cause of Action for**

14 **Breach of the Implied Covenant of Good Faith and Fair Dealing**

15 Defendants' Second Cause of Action for Breach of the Implied Covenant of Good Faith
16 and Fair Dealing fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc. §§
17 430.10(e), 430.30.) Defendants have not sufficiently alleged, and cannot allege Breach of the
18 Implied Covenant of Good Faith and Fair Dealing.
19

20 Defendants' Second Cause of Action for Breach of the Implied Covenant of Good Faith
21 and Fair Dealing is uncertain.

22 Defendants' Second Cause of Action for Breach of the Implied Covenant of Good Faith
23 and Fair Dealing does not specify, and it cannot be ascertained, whether the contract is written,
24 oral or implied by conduct.
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1 Demurrer to Third Cause of Action for Fraud

2 Defendants' Third Cause of Action for Fraud fails to state facts sufficient to constitute a
3 cause of action. (Code Civ. Proc. §§ 430.10(e), 430.30.) Defendants have not sufficiently al-
4 leged, and cannot allege Fraud.

5 Defendants' Third Cause of Action for Fraud is uncertain.

6
7 AFA respectfully requests that the Court sustain this Demurrer without leave to amend
8 and award such other relief as the Court may deem necessary and proper.

9 DATED: January 28, 2011

THE BECKER LAW FIRM

10
11 By: 

12 WILLIAM J. BECKER, JR., ESQ.
13 Attorneys for Plaintiff,
14 AMERICAN FREEDOM ALLIANCE
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1 PROOF OF SERVICE

2 I, William J. Becker, Jr., declare that:

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action; my business address is: 11500 Olympic Blvd., Suite 400,
5 Los Angeles, California 90064.

6 On January 28, 2011, I served the foregoing documents:

7 **NOTICE OF DEMURRER AND DEMURRER TO DEFENDANT CALIFORNIA
8 SCIENCE CENTER FOUNDATION'S AMENDED CROSS-COMPLAINT**

8 The above-referenced document was served on:

9 Allan S. Ono, Esq.
10 Erik Katz, Esq.
11 Deputy Attorney General
12 Natural Resources Law Section
13 OFFICE OF THE ATTORNEY GENERAL
14 300 S. Spring Street, 11th Floor
15 North Tower
16 Los Angeles, CA 90013
17 E-mails: allan.ono@doj.ca.gov;
18 Eric.Katz@doj.ca.gov

Attorneys for Defendants, **California Science Center and Jeffrey Rudolph in his official capacity as president and CEO of the California Science Center**

16 Patrick W. Dennis, Esq.
17 James Zelaney, Esq.
18 GIBSON, DUNN & CRUTCHER
19 Los Angeles Office
20 333 South Grand Avenue
21 Los Angeles, CA 90071-3197
22 E-mails: PDennis@gibsondunn.com;
23 JZelenay@gibsondunn.com

Attorneys for Defendants, **California Science Center Foundation and Jeffrey Rudolph in his official capacity as President of the California Science Center Foundation**

21 **BY E-MAIL:** I caused such document to be e-mailed as pdf attachments pursuant to agreement of counsel to the addressees shown above.

22 (State) I declare under penalty of perjury under the laws of the State of California that
23 the above is true and correct.

24 Executed on January 28, 2011, at Los Angeles, California.

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