

JAN 31 2011

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BY Mary Flores, Deputy

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14 SUPERIOR COURT, STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES
16 CENTRAL DIVISION

17 AMERICAN FREEDOM ALLIANCE, a
18 nonprofit corporation;

19 Plaintiff,

20 v.

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

26 Defendants.

CASE NO. BC 423687

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

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEFENDANTS
CALIFORNIA SCIENCE CENTER
FOUNDATION AND JEFFREY
RUDOLPH'S (AS PRESIDENT OF THE
FOUNDATION AND IN HIS INDIVIDUAL
CAPACITY) DEMURRER TO
PLAINTIFF'S THIRD AMENDED
COMPLAINT**

[Notice of Demurrer and Demurrer;
Memorandum of Points and Authorities in
Support of Demurrer; Appendix of Non-
California Authorities; and Declaration of Jeremy
S. Ochsenbein, filed concurrently herewith]

DATE OF FILING
OF COMPLAINT: October 14, 2009

DATE OF FILING
THIRD AMENDED
COMPLAINT: August 18, 2010

BY FAX

TRIAL DATE: June 13, 2011

HEARING DATE: October 8, 2010

HEARING TIME: 8:45 a.m.

HEARING PLACE: Dept. 14

1 Pursuant to Section 430.30 of the California Code of Civil Procedure, Sections 452 and 453 of
 2 the California Evidence Code and California Rules of Court, rules 3.1113(l) and 3.1306(c),
 3 Defendants California Science Center Foundation and Jeffrey Rudolph, individually and in his
 4 official capacity as President of the California Science Center Foundation, request that the Court take
 5 judicial notice of the following documents, which are attached as exhibits hereto, in ruling on
 6 Defendants' Demurrer to Plaintiff American Freedom Alliance's Third Amended Complaint.

Exhibit No.	Authority
1	Certified Transcript from July 19, 2010 Hearing on Demurrers to Plaintiff's Second Amended Complaint

10 When ruling on a demurrer, the trial court must consider not only the complaint itself, but
 11 also, "any matter of which the court is required to or may take judicial notice[.]" (Cal. Code. Civ.
 12 Proc. § 430.30(a).) Further, "a pleading valid on its face may nevertheless be subject to demurrer
 13 when matters judicially noticed by the court render the complaint meritless." (*Del E. Webb Corp. v.*
 14 *Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) Section 452 of the Evidence Code
 15 provides that it is appropriate for a court to take judicial notice of "[r]ecords of . . . any court in this
 16 state" as well as "[f]acts and propositions that are not reasonably subject to dispute and are capable of
 17 immediate and accurate determination by resort to sources of reasonably indisputable accuracy."
 18 (Cal. Evid. Code § 452(d) & (h).) Judicial notice is mandated for matters that comport with the
 19 requirements of Evidence Code §§ 452 and 453, provided that the requesting party: (1) gives
 20 adequate notice to the adverse party; and (2) includes sufficient information to enable the Court to
 21 take judicial notice. (*See* Cal. Evid. Code §§ 452, 453.)

22 **Judicial Notice Is Properly Taken of the Certified Transcript of the July 19, 2010**
 23 **Demurrer Hearing**

24 California courts may take judicial notice of "[r]ecords of . . . any court in this state." (Cal.
 25 Evid. Code § 452(d)(2).) "It is settled that a court may take judicial notice of the contents of its own
 26 records." (*Dwan v. Dixon* (1963) 216 Cal.App.2d 260, 265.) "The report of the official reporter, or
 27 official reporter pro tempore, of any court, duly appointed and sworn, when transcribed and certified
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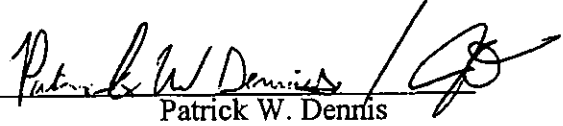
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as being a correct transcript of the testimony and proceedings in the case, is prima facie evidence of that testimony and proceedings.” (Cal. Code. Civ. Proc. § 273(a).)

Exhibit 1 is a certified transcript from this Court’s hearing on demurrers to the Plaintiff’s Second Amended Complaint on July 19, 2010.

DATED: September 16, 2010

GIBSON, DUNN & CRUTCHER LLP

By: 
Patrick W. Dennis

Attorneys for Defendants CALIFORNIA SCIENCE CENTER FOUNDATION and JEFFREY RUDOLPH individually and in his official capacity as President of the California Science Center Foundation

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PROOF OF SERVICE

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

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

On January 28, 2011, I served the foregoing documents: **PLAINTIFF AMERICAN FREEDOM ALLIANCE'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF ITS DEMURRER TO DEFENDANT CALIFORNIA SCIENCE CENTER FOUNDATION'S AMENDED CROSS-COMPLAINT; EXHIBITS**

The above-referenced document was served on:

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

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

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



William J. Becker, Jr.