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OF ORIGINAL FILED  
Los Angeles Superior Court

NOV 19 2009

John A. Clarke, Executive Officer/Clerk

By Raul Sanchez, Deputy

8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

10  
11 **AMERICAN FREEDOM ALLIANCE**, a  
12 nonprofit corporation;

13 Plaintiff,

14 vs.

15 **CALIFORNIA SCIENCE CENTER**, a legal  
16 entity of the State of California; **CALIFOR-**  
17 **NIA SCIENCE CENTER FOUNDATION**,  
18 a nonprofit corporation; **JEFFREY RU-**  
19 **DOLPH**, an Individual, and **DOES 1 through**  
20 **50**, inclusive;

21 Defendants.

Case No. BC423687

D-14

**FIRST AMENDED COMPLAINT**

1. **BREACH OF CONTRACT**
2. **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**
3. **VIOLATION OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION (42 U.S.C. SECTION 1983)**
4. **FRAUD (INTENTIONAL MISREPRESENTATION, CONCEALMENT AND DECEIT)**
5. **INJUNCTIVE RELIEF**
6. **DECLARATORY RELIEF**

BY FAX

22 Plaintiff AMERICAN FREEDOM ALLIANCE (hereinafter "Plaintiff"), by and through  
23 its attorneys of record herein, bring this Complaint against the above-named Defendants, and in  
24 support thereof allege the following:

25 ///

26 ///

1 **PARTIES**

2 1. Plaintiff, AMERICAN FREEDOM ALLIANCE, (hereinafter "Plaintiff ") is and  
3 at all relevant times was a nonprofit corporation duly organized and existing under the laws of  
4 California with its principal place of business in Los Angeles, California.

5 2. Defendant, CALIFORNIA SCIENCE CENTER, (hereinafter "CENTER") is a  
6 department of the State of California, located and doing business at 700 Exposition Park Drive,  
7 Los Angeles, CA 90037.

8 3. Defendant, CALIFORNIA SCIENCE CENTER FOUNDATION, (hereinafter  
9 "FOUNDATION") is and at all relevant times was a nonprofit corporation duly organized and  
10 existing under the laws of California with its principal place of business in Los Angeles, Califor-  
11 nia.

12 4. Defendant, JEFFREY RUDOLPH, (hereinafter "RUDOLPH") is an individual  
13 and at all relevant times is and was the President and CEO of Defendant CENTER and the Presi-  
14 dent of Defendant FOUNDATION (see [http://www.californiasciencecenter.org/GenInfo/](http://www.californiasciencecenter.org/GenInfo/AboutUs/Governance/Bio/Bio.php)  
15 [AboutUs/Governance/Bio/Bio.php](http://www.californiasciencecenter.org/GenInfo/AboutUs/Governance/Bio/Bio.php), accessed on November 16, 2009).

16 5. The true names and capacities of Defendants sued herein as DOES 1 through 50,  
17 inclusive, are unknown to Plaintiff, who therefore sues such Defendants by such fictitious names  
18 pursuant to Code of Civil Procedure §474. Plaintiff alleges that each fictitiously named Defen-  
19 dant acted or failed to act in such a manner that each has contributed in proximately causing the  
20 damages to Plaintiff as herein alleged. Plaintiff will seek leave of Court to amend this Complaint  
21 to set forth their true names and capacities when ascertained.

22 6. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants  
23 sued herein, including those named herein as DOES, are the agents, servants, employees, licen-  
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1 sees, guarantees, invitees, or assignees of each other, and in doing the things herein alleged acted  
2 within the course and scope of such agency, employment guaranty, assignment, license, invita-  
3 tion and/or relationship and with the full knowledge and consent of the remaining Defendants.

4 **FACTS COMMON TO ALL ALLEGATIONS**

5 7. Plaintiff is a non-political, non-partisan, movement of concerned Americans that  
6 promotes networking, activism and education on a variety of public issues, including the growth  
7 of Islam in Europe, the United States and Canada, media bias, and academic freedom. Plaintiff's  
8 conferences, programs, publications, websites and networking groups develop tools and strate-  
9 gies to counter ideologies which underlie these threats, including radical Islam, moral and cultur-  
10 al relativism, and academic and scientific ideological conflicts.

11 8. Defendant CENTER is a department of the State of California that purports to  
12 "aspire to stimulate curiosity and inspire science learning in everyone by creating fun, memora-  
13 ble experiences, because we value science as an indispensable tool for understanding our world,  
14 accessibility and inclusiveness, and enriching people's lives."

15 9. Defendant FOUNDATION raises funds to support exhibits and education pro-  
16 grams featured at the CENTER, and manage exhibitions and programs of scientific, educational  
17 and industrial interest.

18 10. Defendants CENTER and FOUNDATION together form a joint public-private  
19 partnership ("PPP") venture entailing investment of significant capital in the venture by the  
20 FOUNDATION, the private entity. The PPP business arrangement has been described as a form  
21 of private involvement in the financing of public functions, which "has become an increasingly  
22 pervasive and significant means of underwriting projects and events in which the general public  
23 has an important interest and from which the state derives substantial benefits. This is true espe-  
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1 cially in the context of dwindling public resources available for certain activities for which the  
2 government may be reluctant to exercise its powers to tax the entire citizenry.” People for Ethical  
3 Treatment of Animals v. Giuliani, 105 F.Supp.2d 294, 328 (S.D.N.Y., 2000). “Thus, the pri-  
4 vate entities which participate in such joint ventures with the state become critical members of  
5 the ‘public’” whose particular interests must be given special weight in any evaluation of the  
6 rules and management pertaining to the public-private enterprise. In this context, the private enti-  
7 ties’ interest in the commercial success of the venture in accordance with the regulations adopted  
8 for its management takes heightened importance and must be considered along with the interests  
9 of the government and weighed against the interests of the persons whose access to public ex-  
10 pression may be somewhat curtailed by the limitations imposed in connection with the partner-  
11 ship’s enterprise.” Id. At 328-329.

12  
13 11. On or about September 30, 2009, Plaintiff’s President Avi Davis (hereinafter  
14 “DAVIS”) entered into a written contract (hereinafter the “contract”) on Plaintiff’s behalf with  
15 Defendants, and each of them, for an event titled “We Are Born of Stars IMAX Screening”  
16 scheduled for the evening of Sunday, October 25, 2009, at the CENTER’s IMAX Theatre in Los  
17 Angeles (hereinafter the “EVENT”). DAVIS agreed to pay Defendants an estimated \$4,310.00  
18 due before October 20, 2009, as consideration for the use of the venue.

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20 12. The contract consisted of three documents: (1) an “Event Letter of Agreement;”  
21 (2) a document entitled “Event Policies and Procedures;” and (3) an “Event Price Estimate.”  
22 **(Attached hereto and incorporated by reference herein as Exhibit “A” are true and correct**  
23 **copies of the three contract documents constituting the written contract.)**

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25 13. The EVENT consisted of a screening of the IMAX film “We Are Born of the  
26 Stars (3D),” which is described as the first Anaglyph single projector 3D film created for IM-  
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1 AX/IMAX Dome projection. Using computer graphics, the film traces the development of life  
2 from the formation of atomic nuclei in stars to the molecular structure of water and DNA, zoom-  
3 ing the audience through the five-billion-year evolution of our solar system. It purports to ex-  
4 press a positive view of evolutionary theory.

5 14. The EVENT also consisted of the screening of “Darwin’s Dilemma: The Mystery  
6 of the Cambrian Fossil Record” (hereinafter “Darwin’s Dilemma” or the “Documentary”), a do-  
7 cumentary exploring one of the great mysteries in the history of life: the geologically-sudden ap-  
8 pearance of dozens of major complex animal types in the fossil record without any trace of the  
9 gradual transitional steps Charles Darwin had predicted. The Documentary was produced and  
10 released by Illustra Media, an independent film production company based in Los Angeles, and  
11 features scientists speaking both for and against the modern theory of evolution, including Uni-  
12 versity of Cal, Berkeley, paleontologist James Valentine, Cambridge University paleoecologist  
13 Simon Conway Morris, philosopher of science Stephen C. Meyer, evolutionary biologist Richard  
14 Sternberg, and biologist Jonathan Wells.

15 15. In the Documentary, some of these scientists, including Drs. Meyer, Wells, and  
16 Sternberg, propose the scientific theory of intelligent design as a an explanation for the explosion  
17 of major groups of animal life in the Cambrian period. Its argument challenges evolutionary  
18 theory on the claim that the fossil record suggests the appearance of life forms was abrupt, rather  
19 than progressive. Regional premieres of the Documentary had previously been held at the Sam  
20 Noble Oklahoma Natural History Museum and the Seattle Art Museum.

21 16. Drs. Meyer, Sternberg, and Wells are senior fellows at the Discovery Institute, a  
22 non-profit, non-partisan public policy think tank based in Seattle, Washington. Although various  
23 fellows of the Discovery Institute are featured in “Darwin’s Dilemma,” Discovery Institute did  
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1 not produce the film. Discovery Institute was not a party to the contract between the Plaintiff  
2 and Defendants for the screening of “Darwin’s Dilemma.”

3 17. Plaintiff planned to sponsor a post-screening discussion of the Documentary with  
4 Illustra Media’s Lad Allen, who directed the film, mathematician David Berlinski (also a senior  
5 Fellow at Discovery Institute), and Jonathan Wells. Discovery Institute helped organize and  
6 publicize other regional screenings of the Documentary at the Sam Noble Oklahoma Natural  
7 History Museum and the Seattle Art Museum.

8 18. Because two of its senior fellows (Berlinski and Wells) would be participating in  
9 the EVENT, and because Discovery Institute had taken an active role in publicizing previous re-  
10 gional premiers of the Documentary, on October 1, 2009, Discovery Institute issued a short  
11 statement on its news blog, EvolutionNews.org, announcing the EVENT. This announcement  
12 simply described the EVENT and noted that the EVENT was “Sponsored by the American Free-  
13 dom Alliance.” It also noted that the EVENT “will be held on Sunday, October 25th in the IM-  
14 AX Theater of the prestigious California Science Center, which describes itself as ‘the West  
15 Coast’s largest hands-on science center.’” The statement neither stated nor implied that the  
16 CENTER was co-sponsoring the EVENT.

17 19. Also on October 1, 2009, Discovery Institute posted a press release on its website  
18 erroneously purporting to be “By: American Freedom Alliance” which similarly announced the  
19 EVENT and noted that the EVENT would be “sponsored by the American Freedom Alliance.”  
20 The statement neither stated nor implied that the CENTER was co-sponsoring the EVENT.

21 20. On October 6, 2009, Discovery Institute issued a second statement about the  
22 EVENT, a short one-page press release, which again stated that “The screening is sponsored and  
23 hosted by the American Freedom Alliance.” This statement also noted that the Documentary  
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1 would “Premiere at Smithsonian Affiliated California Science Center” This second statement  
2 also neither stated nor implied that the CENTER was co-sponsoring the EVENT.

3 21. On October 6, 2009, Christina M. Sion, Vice President, Food & Event Services at  
4 the CENTER, (hereinafter “SION”) wrote an e-mail to DAVIS stating that “we are canceling  
5 your event at the California Science Center.” SION’s e-mail stated:

6 “It has come to our attention that in a press release issued October 5, 2009 by  
7 the American Freedom Alliance, it is inferred that the California Science Cen-  
8 ter as [sic] a Smithsonian Institute affiliate is co-sponsoring the Darwin De-  
9 bates. Your event is a private event held on the California Science Center  
10 property but is not affiliated in any way with the California Science Center or  
11 the Smithsonian. This press release has damaged our relationship with the  
12 Smithsonian and the reputation of the California Science Center. According to  
13 the Event Policies and Procedures that you signed to reserve the date for the  
14 event, you agreed to submit all promotional materials to the California  
15 Science Center for review and approval prior to printing or broadcast. Be-  
16 cause you did not obtain this approval and the press release has had significant  
17 negative ramifications, we are canceling your event at the California Science  
18 Center.”  
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22 22. On October 8, 2009, CENTER Board of Trustees member and attorney Patrick  
23 Dennis (hereinafter “DENNIS”), counsel of record for Defendant FOUNDATION herein, sent  
24 another letter to DAVIS offering somewhat different reasons why the CENTER planned to can-  
25 cel the EVENT. DENNIS’s letter made no mention of any “damage” to the relationship of the  
26 CENTER and the Smithsonian, or damage to the reputation of the CENTER. Instead, the letter  
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1 stated that Plaintiff had breached the CENTER's "Event Policies and Procedures," specifically a  
2 provision entitled "Promotional Materials," which states that "It is required that the Event Ser-  
3 vices Office approve, for technical and factual accuracy, all promotional materials mentioning  
4 the California Science Center produced for your event (including invitations, programs, press  
5 releases, etc.) prior to printing or broadcast." The provision says nothing concerning promotions  
6 of the event by third parties nor requires the monitoring, oversight, management or control of  
7 third-party promotions.  
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9 23. DENNIS cited the two October 1 statements and an alleged October 5th statement  
10 as the singular promotional materials allegedly constituting the CENTER's rationale for cancel-  
11 ling the EVENT on the basis of a breach of contract.

12 24. Neither SION nor DENNIS mentioned that concern had been expressed by CEN-  
13 TER employees and officials, FOUNDATION board members, and colleagues in the scientific  
14 community outside the CENTER over the subject matter of intelligent design. However, on Oc-  
15 tober 6, 2009, Dan Lewis (hereinafter "LEWIS"), the Dibner Senior Curator of Science and  
16 Technology at the Huntington Library in Pasadena, California, sent an e-mail to Ken Phillips  
17 (hereinafter "PHILLIPS"), Defendant CENTER's Aerospace Curator, questioning the screening  
18 of "Darwin's Dilemma" at the CENTER, and stating that "[s]ome of my USC colleagues are up  
19 in arms about this...." LEWIS' e-mail incorporated a thread of forwarded e-mails he had re-  
20 ceived from various professors at the University of Southern California complaining of the  
21 EVENT.  
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24 25. PHILLIPS then sent an e-mail to Defendant CENTER officials forwarding LEW-  
25 IS' e-mail and the e-mail thread it incorporated. PHILLIPS asked in his e-mail whether "Dar-  
26 win's Dilemma" was scheduled to be screened. The e-mail was delivered to the CENTER's Se-  
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1 nior Vice President for Exhibits, Diane Perlov (hereinafter “PERLOV”), the CENTER’s Curator  
2 of Ecology Programs, Chuck Kopczak (hereinafter “KOPCZAK”), and the CENTER’s Vice-  
3 President of Marketing, Joe DeAmicis, (hereinafter “DEAMICIS”).

4         26. At 11:19 a.m., less than an hour after PHILLIPS sent his e-mail, he received a re-  
5 sponse from DEAMICIS stating that “the screening event was booked through the Events Dept.,  
6 and they were unaware of the nature of the groups involved.” The e-mail further stated that “It  
7 has come to Jeff’s attention and he is ‘working on it’.” Plaintiff is informed and believes that the  
8 reference to “Jeff” was to Defendant RUDOLPH. Plaintiff is further informed and believes that  
9 RUDOLPH was aware of the e-mail exchanges protesting the screening on the ground that it ad-  
10 vocated intelligent design theory and that RUDOLPH discussed the matter with CENTER and  
11 FOUNDATION employees, officers and agents prior to ordering the event cancelled.

12         27. IMAX movies can only be shown in IMAX theatres. An IMAX projector is re-  
13 quired because the film is twice the size of conventional film stock and displays on an oversized  
14 projection screen.

15         28. The CENTER’s IMAX Theater was one of two IMAX theaters in the area that  
16 could project both IMAX films and standard DVD’s. Plaintiff was informed that an alternative  
17 IMAX facility located at Universal City’s CityWalk could not accommodate both the IMAX and  
18 the conventional formats for the showing of both films. Plaintiff was additionally informed a  
19 third IMAX facility at the Bridge Cinema IMAX at Howard Hughes Center was unavailable due  
20 to the presentation of the IMAX film, “Where the Wild Things Are.”

21         29. Therefore the CENTER’s IMAX Theater was the only IMAX Theater available  
22 on the evening of the EVENT. With the EVENT’s cancellation at the CENTER IMAX Theater,  
23 Plaintiff was unable to locate a suitable alternative venue for the showing of the two films. Ul-  
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1 timately, Plaintiff presented the two films in the basement of Davidson Hall at the University of  
2 Southern California. The film “We Are Born of the Stars (3D),” which required IMAX projec-  
3 tion in order to run color, 3D and English subtitles to translate the Japanese narration, was pre-  
4 sented in black and white, without 3D and without English subtitles, generating confusion among  
5 audience members over why the film was shown at all and what its message was.

6  
7 30. Plaintiff’s ticket sales in the alternative venue fell far short of the projected sales  
8 for the EVENT had it been presented at the CENTER, as originally planned, and Plaintiff’s rev-  
9 enue from the EVENT deprived Plaintiff of the profit it reasonably expected to realize.

10 **FIRST CAUSE OF ACTION**

11 **BREACH OF CONTRACT**

12 (Against All Defendants)

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14 31. Plaintiff realleges paragraphs 1 through 30, and incorporates them herein by this  
15 reference.

16 32. The contract’s Policies and Procedures provides that it is “required that the Event  
17 Services Office approve, for technical and factual accuracy, all promotional materials mention-  
18 ing the California Science Center produced for your event (including invitations, programs, press  
19 releases, etc.) prior to printing or broadcast.” The contract states nothing concerning promotions  
20 of the event by third parties nor requires the monitoring, oversight, management or control of  
21 third-party promotions. Nevertheless, although Plaintiff was not responsible for generating the  
22 Discovery Institute’s publicity, the expressed reason given for cancelling the EVENT, as alleged  
23 above in paragraph 21, was that Plaintiff had failed to obtain prior approval from the CENTER  
24 to publicize it. The expressed reason for cancelling the event was thus based on language in the  
25 contract that Defendants had no reasonable basis for believing that Plaintiff was responsible for  
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1 breaching. Rather, it was contrived by Defendants as a pretext for cancelling the event when the  
2 real reason for cancelling it derived from hostility to the viewpoints expressed in “Darwin’s Di-  
3 lemma” and advocated by Mssrs. Wells, Berlinki and Ladd. By asserting a breach of contract  
4 argument, Defendants sought to shroud themselves within a cloak of plausible deniability for vi-  
5 olating Plaintiff’s constitutional rights.

6  
7 33. Defendants, and each of them, breached the contract attached hereto as Exhibit  
8 “A” by repudiating it less than two weeks prior to the scheduled EVENT, resulting in immediate  
9 hardship to Plaintiff.

10 34. Plaintiff and the Discovery Institute are separate organizations and are not affi-  
11 liated in any manner. The Discovery Institute had agreed to provide two of its senior fellows as  
12 speakers at the EVENT and to supply a copy of the “Darwin’s Dilemma” DVD for the screening.  
13 Plaintiff did not authorize the Discovery Institute to promote the EVENT, had no control over  
14 the Discovery Institute’s operations or publicity and had no prior knowledge that it would use  
15 information shared for promotional purposes.  
16

17 35. Assuming, arguendo, that the publicity generated by the Discovery Institute could  
18 be imputed to Plaintiff, the pretext for cancelling the EVENT (failure to submit promotional ma-  
19 terials for review) is based on an immaterial provision of the contract, any violation of which  
20 could easily have been cured by contacting the Discovery Institute and requesting that the infor-  
21 mation be corrected or removed from its website. However, Plaintiff was not required under the  
22 “Event Policies and Procedures” to police third parties who promoted the EVENT. Plaintiff had  
23 not promoted the EVENT prior to the notification of its cancellation and therefore did not breach  
24 the contract.  
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1           36.     Moreover, the justification for cancelling the EVENT relies on the language of  
2 the “Event Policies and Procedures,” which provides that it all promotional materials mentioning  
3 the CENTER produced for the EVENT required Event Services Office approval “for technical  
4 and factual accuracy.” (Underlining added for emphasis.) Nothing contained in the press releas-  
5 es was materially inaccurate or justified cancellation of the EVENT.  
6

7           37.     As the provision of the contract cited by counsel for the FOUNDATION makes  
8 clear, the purpose of the approval requirement is to ensure “technical and factual accuracy.” In  
9 cancelling the EVENT on this pretext, Defendants did not cite any technically or factually inac-  
10 curate information contained in the Discovery Institute publicity. Thus, the purpose of the provi-  
11 sion was not frustrated by Plaintiff.  
12

13           38.     The cancellation of the EVENT constitutes a repudiation of the contract by De-  
14 fendants and a willful failure to perform by Defendants, and each of them. Even if Plaintiff had  
15 promoted the EVENT with the information alleged to have been inaccurate in the Discovery In-  
16 stitute promotional material, such a breach would have been immaterial and thus an illegitimate  
17 basis for cancelling the EVENT.  
18

19           39.     As a direct and proximate result of the Defendants’ breach, Plaintiff has sustained  
20 and is entitled to recover compensatory damages according to proof at trial, including, without  
21 limitation, costs and expenses incurred in preparation for the EVENT at the CENTER’s IMAX  
22 facility, loss of reasonably anticipate revenue from the EVENT, additional costs and expenses  
23 associated with locating, booking, advertising and presenting the EVENT at an alternative venue  
24 and lost opportunity.  
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**SECOND CAUSE OF ACTION**  
**BREACH OF IMPLIED COVENANT OF**  
**GOOD FAITH AND FAIR DEALING**

(Against All Defendants)

40. Plaintiff realleges paragraphs 1 through 39, and incorporates them herein by this reference.

41. In every contract or agreement there is an implied promise of good faith and fair dealing. This means that each party will not do anything to unfairly interfere with the right of any other party to receive the benefits of the contract.

42. Defendants violated their duty to act fairly and in good faith by cancelling the contract under the false pretext that Plaintiff had breached the contract when the Discovery Institute publicized the EVENT and thereby damaged the CENTER's reputation and relationship with the Smithsonian Institute.

43. Plaintiff did all or was prepared to do all of the significant things that the contract required it to do. All conditions required for Defendants' performance had occurred or were promised and guaranteed to occur. Defendants unfairly interfered with Plaintiff's right to receive the benefits of the contract, and Plaintiff was harmed by Defendants' conduct.

44. Plaintiff is therefore entitled to recover damages according to proof at trial.

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1 **THIRD CAUSE OF ACTION**

2 **VIOLATION OF THE FREE SPEECH CLAUSE OF THE FIRST AMENDMENT**

3 **AS APPLIED THROUGH THE FOURTEENTH AMENDMENT TO THE**

4 **UNITED STATES CONSTITUTION (42 U.S.C. SECTION 1983)**

5 (Against All Defendants)

6 45. Plaintiff realleges paragraphs 1 through 44, and incorporates them herein by this  
7 reference.  
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9 46. Defendant CENTER and Defendant FOUNDATION are a private-public partner-  
10 ship (PPP). Together, they are responsible for the management of the CENTER and public  
11 events occurring there. As a department of the State of California by statute, Defendant CEN-  
12 TER acted under color of law when it cancelled the EVENT and breached its contract with Plain-  
13 tiff, thereby discriminating against Plaintiff for the content of expressions concerning intelligent  
14 design to have been presented at its EVENT and viewpoints regarding intelligent design to have  
15 been expressed at the EVENT.  
16

17 47. Defendant FOUNDATIONS's actions are attributable to the State of California in  
18 that the CENTER and the FOUNDATION engaged in a symbiotic relationship in providing pub-  
19 lic access to the CENTER for events. The State of California has so insinuated itself into a posi-  
20 tion of interdependence with the FOUNDATION that the CENTER and the FOUNDATION are  
21 joint participants in the cancellation of the EVENT, which, because the EVENT was to be open  
22 to the general public, the FOUNDATION's actions in cancelling the EVENT were not private in  
23 nature. The contractual agreement between the CENTER and the FOUNDATION, coupled with  
24 the significant regulation and control over the EVENT that was exercised by the CENTER,  
25 created a sufficient link between the CENTER and the FOUNDATION, placing the FOUNDA-  
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1 TION's activities under the umbrella of state action sufficient to satisfy the requirements of 42  
2 U.S.C. § 1983. Thus, Defendant FOUNDATION also acted under color of law when it can-  
3 celled the EVENT and breached its contract with Plaintiff, thereby discriminating against Plain-  
4 tiff for the content of expressions concerning intelligent design to have been presented at its  
5 EVENT and viewpoints regarding intelligent design to have been expressed at the EVENT.  
6

7 48. The CENTER's IMAX Theater facility is a public forum, and the EVENT spon-  
8 sored by ALA was to have been open to the public. By their conduct, Defendants, and each of  
9 them, prevented Plaintiff from staging an EVENT involving a topic of significant interest and  
10 concern to members of the public. Plaintiff sought to present a discussion of life's origin from  
11 the perspectives of evolutionary and intelligent design theories in the public forum, a right which  
12 was denied to it.

13 49. The documentary, "Darwin's Dilemma," is critical of the modern neo-Darwinian  
14 theory of evolution and promotes an alternative explanation of intelligent design. After screen-  
15 ing the documentary, Plaintiff had planned to host a panel discussion with noted scientists, ma-  
16 thematician Dr. David Berlinski and biologist Dr. Jonathan Wells, who question neo-Darwinian  
17 evolution and support intelligent design theory as a scientific explanation for the origin of life.  
18 Wells appears in the film.

19 50. Intelligent design theory has become controversial because it is assumed by its  
20 opponents to be a repackaging of creationism theory and therefore based on religion rather than  
21 science. Opposition to it is generally manifested with irrational hostility, a product of ideological  
22 bias within the media, academia and the science community, which have demonized it to the  
23 point that its detractors will go to great lengths to suppress it from any public debate or discus-  
24 sion, even at the risk of violating the First Amendment. As Hilary Shor, USC professor of Eng-  
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1 lish, Comparative Literature, Gender Studies and Law, (hereinafter “SCHOR”) stated in an e-  
2 mail sent to PHILLIPS and others just hours before the cancellation of the EVENT, “I’m less  
3 troubled by the freedom of speech issues than why my tax dollars which support the California  
4 ‘Science’ Center’ are being spent on hosting religious propaganda?(sic)” This sentiment, writ-  
5 ten by a law professor, sadly demonstrates a purposeful indifference to constitutional protections  
6 enshrined and safeguarded in the Bill of Rights.  
7

8 51. The CENTER is a department of the State of California and an affiliate of the  
9 Smithsonian Institution. As relating above in paragraph 21, on October 6, 2009, SION, the vice  
10 president for Food & Event Services at the CENTER, e-mailed DAVIS, stating that the press re-  
11 lease “has damaged our relationship with the Smithsonian and the reputation of the California  
12 Science Center,” without also explaining how the press release could possibly have had such an  
13 effect. The EVENT’s cancellation appears to have been triggered in part by pressure from the  
14 Smithsonian, which has a long history of discriminating against academic freedom for intelligent  
15 design proponents. In a Los Angeles Daily News article published October 8, 2009, Smithsonian  
16 spokesman Randal Kremer admitted that he spoke with the CENTER after becoming “concerned  
17 by the inference ... [that] there was a showing of the [“Darwin’s Dilemma”] film at a Smithso-  
18 nian branch.”  
19

20 52. The press release mentioned by SION in her e-mail was released not by Plaintiff  
21 but by the Discovery Institute, a think tank widely known as the nation’s leading organization  
22 advocating intelligent design. While Discovery Institute’s press releases clearly stated that “The  
23 screening is sponsored and hosted by the American Freedom Alliance” and did not imply spon-  
24 sorship by the CENTER, it also noted that “The debate over Darwin will come to California on  
25 October 25th, when the Smithsonian Institution’s west coast affiliate premieres ‘Darwin’s Di-  
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1 lemma: The Mystery of the Cambrian Fossil Record,' a new intelligent design film which chal-  
2 lenges Darwinian evolution." The Discovery Institute's press release also stated that the docu-  
3 mentary "explores one of the great mysteries in the history of life: the sudden appearance of do-  
4 zens of major complex animal types in the fossil record without any trace of the gradual transi-  
5 tional steps predicted by Darwin."

6  
7 53. The CENTER has hosted events supporting evolution theory in the past, including  
8 panel discussions hosting pro-evolution speakers such as Michael Shermer and Michael S. Fan-  
9 selow, and hosts exhibits promoting evolution. The CENTER has listed a book on its website by  
10 a speaker at the CENTER titled, "Why Darwin Matters: The Case Against Intelligent Design."

11 54. The Smithsonian's opposition to and discrimination against intelligent design is a  
12 matter of public record. In 2005, the pro-intelligent design Discovery Institute contracted with  
13 the Smithsonian to show a pro-intelligent design film entitled "The Privileged Planet." The  
14 Smithsonian issued a disclaimer against the EVENT, stating that "the content of the film is not  
15 consistent with the mission of the Smithsonian Institution." At that time, the same Smithsonian  
16 spokesman – Randall Kremer – objected to "The Privileged Planet" purportedly making an inap-  
17 propriate "philosophical conclusion." Yet the Smithsonian made no complaints when showing  
18 Carl Sagan's "Cosmos" in 1996, stating a different philosophical perspective that "The Cosmos  
19 is all that is, or ever was, or ever will be."  
20

21 55. In 2004, Smithsonian-affiliated research biologist Richard Sternberg allowed a  
22 peer-reviewed scientific article to be published in "Proceedings of the Biological Society of  
23 Washington," a Smithsonian-related publication. The article was authored by Dr. Stephen C.  
24 Meyer of the Discovery Institute, and much like the "Darwin's Dilemma" documentary, argues  
25 that "purposive or intelligent design as a causally adequate--and perhaps the most causally ade-  
26  
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28

1 quate--explanation for the origin of the complex specified information required to build the  
2 Cambrian animals.” The Smithsonian-affiliated Biological Society of Washington (BSW) repu-  
3 diated Meyer’s pro-intelligent design article, claiming it “does not meet the scientific standards  
4 of the ‘Proceedings,’” and the Smithsonian launched a campaign to intimidate and harass those  
5 responsible for the publication of this article.

6  
7 56. Despite the fact that Meyer’s article was properly peer-reviewed and published,  
8 Dr. Sternberg subsequently experienced retaliation by his co-workers and superiors at the Smith-  
9 sonian, including transfer to a hostile supervisor, removal of his name placard from his door, de-  
10 privation of workspace, subjection to work requirements not imposed on others, restriction of  
11 specimen access, and loss of his keys. Smithsonian officials also tried to smear Dr. Sternberg’s  
12 reputation and even investigated his religious and political affiliations in violation of his privacy  
13 and First Amendment rights. According to an investigation by the U.S. Office of Special Coun-  
14 sel (OSC), these efforts were aimed at creating “a hostile work environment... with the ultimate  
15 goal of forcing [Sternberg]... out of the [Smithsonian].” A 2006 Congressional staff investiga-  
16 tion by the staff of U.S. Congressmen Mark Souder confirmed that the Smithsonian embarked on  
17 a campaign to punish, intimidate, and harass Richard Sternberg for allowing a pro-intelligent de-  
18 sign article to be published in its journal. The Congressional staff investigation concluded that  
19 "Smithsonian's top officials permit the demotion and harassment of [a] scientist skeptical of  
20 Darwinian evolution” and “officials explicitly acknowledged in e-mails their intent to pressure  
21 Sternberg to resign because of his role in the publication of the Meyer paper and his views on  
22 evolution.” The findings of this investigation contain striking conclusions about the intolerance  
23 of the Smithsonian towards scientists who doubt Darwinism:  
24  
25  
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1 “The staff investigation has uncovered compelling evidence that Dr. Sternberg’s civil and  
2 constitutional rights were violated by Smithsonian officials. Moreover, the agency’s top  
3 officials—Secretary Lawrence Small and Deputy Secretary Sheila Burke—have shown  
4 themselves completely unwilling to rectify the wrongs that were done or even to genuine-  
5 ly investigate the wrongdoing. Most recently, Burke and Small have allowed NMNH of-  
6 ficials to demote Dr. Sternberg to the position of Research Collaborator, despite past as-  
7 surances from Burke that Dr. Sternberg was a “Research Associate in good standing” and  
8 would be given “full and fair consideration” for his request to renew his Research Asso-  
9 ciateship. The failure of Small and Burke to take any action against such discrimination  
10 raises serious questions about the Smithsonian’s willingness to protect the free speech  
11 and civil rights of scientists who may hold dissenting views on topics such as biological  
12 evolution.”  
13

14  
15 57. In light of the fact that Sternberg, Meyer, and Wells are all featured in the “Dar-  
16 win’s Dilemma” documentary advocating intelligent design, it follows that Smithsonian officials  
17 would oppose the EVENT and seek to distance itself from it.

18 58. On information and belief, the anti-intelligent design Smithsonian had monitored  
19 the Discovery Institute’s website or had been contacted by others within a network of intelligent  
20 design opponents and pressured the CENTER into silencing Plaintiff’s message by canceling the  
21 contract. In fact, on October 5, 2009, Smithsonian Affiliates Director Harold A. Closter (herei-  
22 nafter “CLOSTER”) wrote to Shell Amega (Defendant CENTER’s Director of Development,  
23 Phase II Capital Project Launchings, Exhibitions, Science Center Executive Leadership) relating  
24 a prior conversation between them in which they purportedly discussed a “press release” and ex-  
25 pressing the concern that the press release distorted the relationship between the Smithsonian and  
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1 the CENTER. In the e-mail, he stated, "We are concerned that [the EVENT] not be represented  
2 as a Smithsonian event or program or anything with which we have any involvement.

3 59. CLOSTER's communication was consistent with the Smithsonian's history of  
4 content/viewpoint-based discrimination against intelligent design, a fact that would have been  
5 known to Defendants.

6  
7 60. By reason of the aforementioned policy, acts and omissions engaged in under col-  
8 or of state law, Defendants have violated the Free Speech Clause of the First Amendment of the  
9 United States Constitution, which has been held to be incorporated and made applicable to the  
10 states and their political subdivisions by the Fourteenth Amendment of the United States Consti-  
11 tution, and 42 U.S.C. section 1983. Defendants' actions and policies as alleged in this Complaint  
12 deprived Plaintiff and the general public of the right to free speech as guaranteed by the U.S.  
13 Constitution.

14  
15 61. In addition to the concerns expressed by the anti-intelligent design Smithsonian,  
16 Defendants were in communication with colleagues from the Huntington Library, USC and Oc-  
17 cidental College, who contacted Defendants through e-mail exchanges, including the aforemen-  
18 tioned e-mails from LEWIS and SCHOR, protesting the event. RUDOLPH, SCION and other  
19 CENTER and FOUNDATION employees, officers and agents were aware of the e-mails, but  
20 concealed to Plaintiff their knowledge of them or the controversy that had developed.

21  
22 62. Defendants, and each of them, targeted Plaintiff for presenting intelligent design  
23 as part of the EVENT, and thus sought to discriminate against Plaintiff on the basis of legitimate  
24 viewpoints and the content of the message to be expressed at the EVENT.

25 63. As a direct and proximate result of Defendants' violation of the Speech Clause,  
26 Plaintiff has suffered irreparable harm, including the infringement of Plaintiff's constitutional  
27  
28

1 rights.

2 64. As a further direct and proximate result of Defendants' violation of the Speech  
3 Clause, Plaintiff is entitled to recover reasonable attorneys fees pursuant to 42 U.S.C. § 1988  
4 should it prevail on this cause of action.

5 **FOURTH CAUSE OF ACTION**

6 **FRAUD**

7 **(INTENTIONAL MISREPRESENTATION,**

8 **CONCEALMENT AND DECEIT)**

9 (Against All Defendants)

10  
11 65. Plaintiff realleges paragraphs 1 through 64, and incorporates them herein by this  
12 reference.

13  
14 66. Defendants, by and through their agents, officers and employees, and each of  
15 them, represented to Plaintiff that it had violated the contract for the EVENT to have been held  
16 on October 25, 2009, at the CENTER's IMAX facility. Specifically, Defendants, by and through  
17 their agents, officers and employees, and each of them, represented to Plaintiff that:

- 18 (A) A press release was issued on October 5, 2009, by Plaintiff;
- 19 (B) The press release inferred that the CENTER, as a Smithsonian Institute affiliate,
- 20 was co-sponsoring "the Darwin Debates";
- 21 (C) The press release had damaged the CENTER's relationship with the Smithsonian
- 22 Institution;
- 23 (D) The press release had damaged the reputation of the CENTER;
- 24 (E) Plaintiff was required to and did not obtain approval prior to issuing the press re-
- 25 lease;
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1 (F) The press release had significant negative ramifications;

2 (G) The press release's significant negative ramifications necessitated the cancellation  
3 of the EVENT at the CENTER; and

4 (H) That the EVENT was cancelled due to Plaintiff's breach of contract.

5 67. When the Defendants made these representations, they knew them to be false and  
6 made these representations with the intention to deceive and defraud Plaintiff and induce Plain-  
7 tiff to act in reliance on these representations by cancelling the EVENT and by submitting to a  
8 false basis for its cancellation.  
9

10 68. In addition to making affirmative false representations of fact, Defendants, and  
11 each of them, acting by and through their agents, officers and employees, suppressed the actual  
12 reasons for claiming a breach of contract and cancelling the EVENT, namely, that once certain  
13 of Defendants' agents, officers and/or employees together with members of a broad network of  
14 Darwin advocates hostile to intelligent design theory employed at public institutions and/or re-  
15 ceiving public funding learned that the EVENT would involve a positive discussion on the topic  
16 of intelligent design, they jointly conspired to ensure the cancellation of the EVENT and sought  
17 to develop a plausible basis for forcing the cancellation. In addition to Defendants, these public  
18 institutions and private institutions receiving public funding included, without limitation, the  
19 Smithsonian Institution, the Huntington Library and the University of Southern California.  
20

21 69. On information and belief, the conspiracy to suppress the true reason for cancel-  
22 ling the EVENT and to deceive Plaintiff into believing that Plaintiff had issued press releases  
23 containing inaccurate and damaging information concerning the EVENT took the form of vari-  
24 ous telephone conversations and e-mail exchanges between and among the CENTER and ardent  
25 opponents of intelligent design, including, without limitation, Smithsonian Affiliations Director  
26  
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28

1 CLOSTER, National Center for Science Education Executive Director Eugenie Scott and Public  
2 Information Project Director, Steve Newton, University of Southern California professors David  
3 Bottjer and SCHOR, and others.

4 70. On information and belief, the conspiracy to suppress the true reason for cancel-  
5 ling the EVENT and to deceive Plaintiff into believing that Plaintiff had issued press releases  
6 containing inaccurate and damaging information concerning the EVENT additionally took the  
7 form of various discussions and e-mail exchanges between and among agents, officers and em-  
8 ployees of the CENTER and the FOUNDATION, including, without limitation, Defendant RU-  
9 DOLPH, SION, PHILLIPS, DEAMICIS, PERLOV, KOPCZAK, David Bibas, Kristina Eleki,  
10 William Harris, and the board members of the FOUNDATION.

11  
12 71. On information and belief, Defendant RUDOLPH participated in a meeting with  
13 members of the Board of Directors of the FOUNDATION to discuss cancelling the EVENT and  
14 to reach a collective decision in that regard. At the time of the meeting, RUDOLPH would have  
15 been aware of the e-mails circulating objecting to the EVENT on the basis of its theme regarding  
16 intelligent design theory and questions posed by the Cambrian fossil record placing evolutionary  
17 theory in doubt.

18  
19 72. On information and belief, in light of the Smithsonian's communications with him  
20 regarding the EVENT, RUDOLPH additionally would have been aware of the Smithsonian's  
21 historical objections to the advancement of intelligent design theory and would have been in the  
22 best position to understand that the CENTER, as a public facility, could not justify cancellation  
23 of the EVENT on the basis of the content or viewpoints expressed at the EVENT. Therefore,  
24 RUDOLPH, with the consent and authorization of the FOUNDATION's board members, con-  
25 trived a justification for cancelling the EVENT on the basis of immaterial and subtle errors in the  
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1 publicity generated by the Discovery Institute and without providing a single explanation as to  
2 how Plaintiff could have breached the contract as a result of actions taken by a third party not  
3 bound by the contract between Plaintiff and Defendants, thus arming him with plausible denia-  
4 bility against charges of violating Plaintiff's free speech rights.

5 73. At the time the false representations were made by Defendants, the material in-  
6 formation was concealed and suppressed and the deceptive acts occurred, and at the time Plain-  
7 tiff took the actions herein alleged, Plaintiff was ignorant of the falsity of Defendants' represen-  
8 tation, the material information that Defendants concealed and suppressed and the deceptive acts  
9 occurring, believed that the representations were true and had no knowledge of the concealed  
10 and suppressed information or the deceptive acts occurring.

12 74. In reliance on these representations and without knowledge of the concealed and  
13 suppressed information and deceptive acts, Plaintiff was induced to, and did, cancel the EVENT  
14 and expend time, money and additional resources to locate a new venue and produce the EVENT  
15 at the new location with a matter of a few days.

17 75. Had Plaintiff known the actual facts, it would not have taken such action. Plain-  
18 tiff's reliance on Defendants' representation was justified because it was given no recourse from  
19 which to respond to the false accusations made against it or to influence the decisions made by  
20 Defendants resulting in the forced cancellation of the EVENT.

22 76. As a proximate result of the fraudulent conduct of Defendants, Plaintiff was  
23 forced to locate a new venue for the EVENT on short notice, re-tool their advertising, marketing  
24 and promotions for the EVENT and incur unnecessary costs and expenses associated with the  
25 change in location. In addition, Plaintiff lost the opportunity of selling tickets to members of the  
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1 public interested in viewing the IMAX film, which could not be shown in the IMAX format at  
2 the new location.

3 77. As a proximate result thereof, Plaintiff has been damaged in an amount to be  
4 proven at trial but not less than the jurisdictional limit of this court.

5 78. The aforementioned conduct was an intentional misrepresentation, deceit and/or  
6 concealment of material facts known to Defendants, with the intention on the part of Defendants  
7 of thereby depriving Plaintiff of property, legal rights or otherwise causing injury and was des-  
8 picable conduct that subjected to cruel and unjust hardship and conscious disregard of Plaintiff's  
9 rights, so as to justify an award of exemplary and punitive damages.

11 **FIFTH CAUSE OF ACTION**

12 **INJUNCTIVE RELIEF**

13 (Against All Defendants)

14  
15 79. Plaintiff realleges paragraphs 1 through 78, and incorporates them herein by this  
16 reference.

17 80. As a result of Defendants' conduct in cancelling the EVENT and breaching the  
18 contract, Plaintiff is left without any adequate legal remedy.

19 81. Plaintiff has been irreparably harmed by the cancellation of the EVENT and  
20 breach of contract by Defendants, and the balance of hardships tips decidedly in favor of Defen-  
21 dants and against Plaintiff.

22 82. No compelling constitutional interest justifies Defendants' refusal to make a pub-  
23 lic forum available for events presenting information concerning the theory of intelligent design.  
24 Indeed, no legitimate governmental reason was articulated by Defendants for refusing Plaintiff  
25 access to the California Science Center for the presentation of events, including events present-  
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1 ing information concerning the theory of intelligent design. The decision to refuse Plaintiff  
2 access to the California Science Center facility was totally arbitrary.

3 83. Unless enjoined and restrained by this court Defendants will continue to refuse to  
4 allow Plaintiff access to the California Science Center for the presentation of events, including  
5 events presenting information concerning the theory of intelligent design.

6 84. Plaintiff is therefore entitled to a Court Order granting it preliminary and perma-  
7 nent injunctive relief.  
8

9 **SIXTH CAUSE OF ACTION**

10 **DECLARATORY RELIEF**

11 (Against All Defendants)

12 85. Plaintiff realleges paragraphs 1 through 84, and incorporates them herein by this  
13 reference.  
14

15 86. An actual controversy has arisen between Plaintiff and Defendants in that Plaintiff  
16 contends that, as a direct and proximate result of Defendants' conduct and actions, it has been  
17 prejudiced and harmed as the result of Defendants' actions manifesting hostility toward view-  
18 points it wished to present and the content of the messages and expressions relating to intelligent  
19 design theory.

20 87. Plaintiffs desire a judicial determination of the rights and duties of the respective  
21 parties under the United States Constitution and a judicial declaration that the cancellation of the  
22 EVENT and breach of the contract by Defendants violated the United States Constitution.  
23

24 88. Plaintiffs desire a further judicial determination of the rights and duties of the re-  
25 spective parties under the United States Constitution and a judicial declaration that the Defen-  
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1 dants engaged in content and viewpoint discrimination by preventing Plaintiff from addressing  
2 the topic of intelligent design in a public forum.

3 **PRAYER**

4 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as  
5 follows:  
6

- 7 1. General damages according to proof;
- 8 2. Special damages according to proof;
- 9 3. Contract damages according to proof at trial and for interest accrued thereon;
- 10 4. Punitive and exemplary damages on the Fourth Cause of Action for Fraud;
- 11 5. A declaration of rights declaring Defendants' actions, policies or practices to be un-  
12 constitutional as a violation of the U.S. Constitution;
- 13 6. A declaration that the cancellation of the EVENT and breach of the contract by De-  
14 fendants violated the United States Constitution;
- 15 7. A declaration that the Defendants engaged in content and viewpoint discrimination by  
16 preventing Plaintiff from addressing the topic of intelligent design in a public forum;
- 17 8. A preliminary injunction against Defendants, and each of them, enjoining Defendants  
18 from refusing to allow Plaintiff access to the California Science Center for the presen-  
19 tation of events, including events presenting information concerning the theory of in-  
20 telligent design;
- 21 9. A permanent injunction against Defendants, and each of them, enjoining Defendants  
22 from refusing to allow Plaintiff access to the California Science Center for the presen-  
23 tation of events, including events presenting information concerning the theory of in-  
24 telligent design;
- 25
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1 10. Reasonable attorneys' fees, costs and expenses pursuant to 42 U.S.C. section 1988  
2 and other applicable law;

3 11. Such other and further relief as the Court may deem just and proper.

4 DATED: November 18, 2009

**THE BECKER LAW FIRM**

5  
6  
7 By:

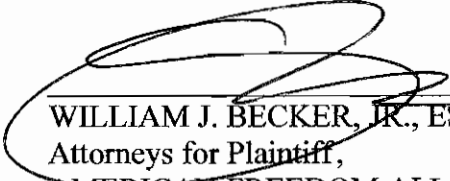
  
WILLIAM J. BECKER, JR., ESQ.  
Attorneys for Plaintiff,  
AMERICAN FREEDOM ALLIANCE

Exhibit “A”

## EVENT POLICIES AND PROCEDURES

*To assure your event functions smoothly at the California Science Center, please review the following policies and procedures. Once a client's Event Price Estimate is signed and the Science Center's Events Department has received a deposit, an Event Manager will handle scheduling and be the liaison between the client and the Science Center. By signing the Event Price Estimate, you are acknowledging your agreement with these policies and procedures.*

**REQUESTS:** Requests to reserve space for a special event at the California Science Center may be accepted up to two years in advance of the event date. Only two holds per potential client are allowed at any one time. A potential client's requested date will be held for 10 business days, by the end of which time the Science Center requires a signed contract and deposit. If a signed contract and deposit have not been received within 10 business days, the date will be released to others by the California Science Center. If a definite request from a second potential client has been received for a date on hold prior to the expiration of the 10 day period, the Science Center will contact the potential client for a right of first refusal. The client then has to 3 business days to sign a contract and make the deposit.

**RATES:** Rental rates include event space and California Science Center standard staffing as applicable (determined by the Science Center's Event Manager) -- public safety officers, an event manager, floor staff, a house engineer, janitorial services, an exhibit technician, or coat check staff. Rental of the IMAX Theater includes theater staff only. The time period for an event is three hours. Additional time will be charged on a per hour basis and will be quoted in your Event Price Estimate. Clients will be asked to sign an overtime contract if guests are in the California Science Center more than 15 minutes past the end of the contracted event time. Overtime will be billed on a net-30 day basis. Three hours of set-up/staging time and two hours of teardown time are complementary. Set-up/staging times are determined by the Science Center's Event Manager.

**DEPOSITS AND FINAL PAYMENTS:** A 50% deposit, credited towards the total rental cost, is required with the signed Event Price Estimate to secure an event date. This deposit is 100% refundable if your event is cancelled over 180 days before the event date, 50% refundable if cancelled between 180-90 days before the event date, and is not refundable if cancelled less than 90 days before the event date. A deposit will not be forfeited if the event is moved to a different available event date within one year (10 business days advanced notice required). Final payment is due 10 days before the event to prevent cancellation of your booking and is not refundable. You are liable for any vendor costs associated with your event's cancellation or date change.

**NOTIFICATIONS:** If the need to cancel your event should arise, the Event Services Office requests immediate written notification, regardless of any refund opportunity.

**START/END TIMES:** The Donald P. Loker Conference Center and the Wallis Annenberg Building are available for rent 24 hours a day, seven days a week. Events within the main visitor circulation or gallery spaces are available for rent from 6:00 P.M. to 1:00 A.M. and from 7:00 A.M. to 9:30 A.M. in most cases.

**AVAILABLE FURNITURE AND EQUIPMENT:** The California Science Center has furniture and equipment that will be available on a first come, first served basis for your event. Such equipment includes tables, chairs, portable staging equipment and A/V equipment. Please see your Event Manager for availability. The California Science Center can not be held responsible for equipment malfunction, damage, or non-availability on the day of your event.

**INSURANCE:** All clients and outside caterers are required to provide a certificate of public liability and property damage insurance in the amount of \$2,000,000, naming the California Science Center, the California Science Center Foundation and the State of California as additional insured for the term of your event (including setup, event, & teardown time). Please provide the Science Center's Event Manager evidence of your insurance coverage at least two weeks before your event date. Live performers must be covered by additional insurance.

**LIABILITIES:** By signing the Event Price Estimate (EPE), clients agree to pay the cost of repair, restoration, replacement of damage done by you, your subcontractors, vendors, agents, or invitees to the California

Science Center, its equipment or exhibits. The California Science Center shall be held harmless for all claims arising out of use of the California Science Center and the California Science Center's property. Client assumes full responsibility for theft, loss or damage to any property and equipment brought to the California Science Center by you, your subcontractors, vendors, agents, or invitees. Contracts made directly with your vendors are solely between you and your vendor. Clients are to ensure that all vendors review and agree to comply with all requirements established by the California Science Center. The Client is also responsible to abide by all fire codes set forth by the City of Los Angeles' Fire Department. By signing the Event Price Estimate you acknowledge that the California Science Center is not responsible for policing your fire code adherence and is not responsible for the refunding of rental fees due to the closure of an event by a Fire Marshall.

**LOSS OR DAMAGE:** The California Science Center is not responsible for any damage or loss of articles placed or left in the California Science Center prior to, during or following an event.

**EXCLUSIONS:** The facility rental fees do not include the following services: parking, live science demonstrations, IMAX film screenings, food or beverage service, special tour requests, décor, more than three event walkthroughs, linens, radios, or a Fire Marshall's time. All of the above services will be called out individually in a client's contract if provided. Services may not always be available.

**PAYMENT:** 100% payment of the amount stated in the Event Price Estimate is due at least 10 days before the event. Payments can be made with Visa, MasterCard, American Express, check or money order payable to the California Science Center Foundation. All charges incurred during the event, i.e. damage, additional parking, event overtime, rentals, etc. will be billed after the event and are due net-30. A service charge of 1.5% per month will be billed on all accounts over 30 days. Any invoices not paid within 120 days of invoice date will be forwarded to a collection agency.

**CHECKS RETURNED FOR INSUFFICIENT FUNDS:** The Science Center will charge a \$35.00 processing fee for any check returned for insufficient funds. If a check is returned, a cashier's check or credit card payment will be required.

**PARKING:** Self-parking in the Science Center's parking lots is \$10.00 per car and \$25.00 per commercial van, limousine, or bus (subject to change). Clients are welcome to pre-pay for their guests or let guests pay on their own. Valet parking can also be arranged per car through the Exposition Park Manager's Office (Adrianna Vasquez at 213.744.7458). Consult in advance with the Science Center's Event Services Office for information about other parking arrangements. Specific parking spaces can not be reserved ahead of time.

**EXHIBITS:** We strive for 100% exhibit operation, but some exhibits are routinely removed or shut down for scheduled maintenance based on attendance and/or use. The Special Exhibits Gallery also closes periodically for varied amounts of time to remove and replace traveling exhibits. No discounts or refunds will be made for these closures.

**MATERIAL EQUIPMENT:** California Science Center personnel are not responsible for moving, setting up, or taking down any equipment that does not belong to the Science Center with the exception of banners. All requests for movement of Science Center owned furniture and equipment must go through the California Science Center's Event Manager. All non-Science Center items must be removed immediately following the event.

**SET-UP & STAGING:** Set-up/staging of events is only permitted to take place within the Donald P. Loker Conference Center and Wallis Annenberg Building or in the service hallways during Science Center operational hours (8:30 A.M. – 5:00 P.M. daily) provided express permission is granted from the Event Services Department. Rental of the Loker Conference Center for staging purposes is also subject to availability. Three hours of set-up/staging time and two hours of teardown time are complementary with your event rental. Set-up/staging times are determined by the Science Center's Event Manager.

**TEARDOWN & CLEAN UP:** Teardown and clean up must be completed within two hours after the event ends. The client and its sub-contractors (caterer, event co., décor co., etc.) are responsible for removal of all personal and company property within that time unless other arrangements are made in advance with the California Science Center's Event Manager. Teardown and clean up for events occurring before operational hours must be

completed by 8:00 A.M. The client and its sub-contractor's responsibilities for teardown and clean up include: returning the event area(s) to the condition immediately prior to the event, removal of all trash from the Science Center property (including catering trash).

**DECORATIONS:** No candles or open flames are permitted inside the Science Center unless a permit from the Fire Marshall is submitted to the Event Manager 2 weeks prior to the event. (Note: the Fire Marshall allows some types of candles and a diagram or sample should be submitted to the Fire Marshall for approval.) Absolutely no pins, nails, staples or tapes of any kind are permitted on any walls, ceilings or floors on the Science Center property. No pyrotechnics are permissible on Science Center property. **No helium balloons** (air-filled OK) are permissible inside the Science Center. No objects can be hung from the ceiling without express prior permission and assistance from the Science Center (additional fees may apply). Also, no glitter, sequins, confetti, fake snow, etc. is allowed on the Science Center property. Decorations are not allowed in the exhibit halls. The client is responsible for removing or causing the removal of all decorations immediately following the event. Nothing is allowed in the Big Lab fountain.

Only the Science Center can hang banners. The Science Center will hang (2) banners for free – additional banners will be hung for \$50.00 per banner. Banners will most likely not be taken down immediately after your event. If you need your banners returned, please arrange for a messenger to pick them up the following day. Clients must notify the Event Manager when the messenger is scheduled to arrive. Any banner, décor or printed materials left for more than one business day will be discarded.

**SMOKE FREE FACILITY:** The California Science Center is a smoke free facility. No smoking is permitted in this building or within 20 feet of its entrances.

**MUSIC:** Live music is allowed after the California Science Center has closed to the public for the duration of your event. More information can be obtained by speaking with the Event Manager in the Event Services Office.



**ACTS OF GOD CLAUSE:** The California Science Center is not responsible for weather or road conditions (including traffic), power outages, acts of God, criminal activities, economic downturns, political changes, or any other activity, event or condition beyond its control. There will be no refunds or allowances resulting from these conditions.

**PROMOTIONAL MATERIALS:** It is required that the Event Services Office approve, for technical and factual accuracy, all promotional materials mentioning the California Science Center produced for your event (including invitations, programs, press releases, etc.) prior to printing or broadcast. Please allow sufficient time for this approval.

**MINIMUM RENTAL/MAXIMUM GUEST COUNT:** The maximum amount of guests allowed inside the Science Center for a buyout is 4,000. The maximum amount of guests allowed inside the Wallis Annenberg Building for a buyout is 1,100. Guests will be click-counted if the number of estimated guests is near Fire Marshall capacities on any room or near 500 total guests for the appropriate rate structure (See additional information under RATES).

**CATERING:** The California Science Center encourages the use of our in-house caterer, Kensington Caterers, which can be reached by calling (323) 935-4300. If a client chooses to use an outside caterer, that client will be charged the \$1,000 outside caterer fee (also, a \$1000 outside liquor fee if applicable) and the caterer must be approved in advance by the Event Services Office. A signed agreement must be entered into between the California Science Center Foundation and any outside caterer at least two weeks before your event (see also INSURANCE above). Food and beverage is not allowed inside the exhibit galleries or without contracting with a caterer. Outside caterers are responsible for bringing jack-stands and trays to be placed outside of exhibit galleries for glassware. The Science Center's Event Manager will determine upon request how many jack-stands will be needed outside exhibit galleries.

Outside caterers are not permitted to use the in-house kitchen facilities for any reason and must build an off-premise kitchen in an area designated by the Science Center's Event Manager. Equipment brought to the Science Center used to heat or cook food must be approved in advance by the California Science Center's Event Manager. Sternos are allowed inside the Science Center for warming food only. Propane stoves and ovens and charcoal grills are only allowed in designated Science Center outdoor areas. Outside caterers must bring their own trashcans/bags and remove all trash at the end of the event. A limited amount of electricity is available in the designated kitchen areas – water is not available. Any outside caterer must attend a final event walkthrough with the Science Center's Event Manager and the client at least one week before the event.

Alcoholic beverages may be served by Kensington or by approved outside caterers or other pre-approved vendors provided that they obtain written proof of a one-day serving permit from the Alcoholic Beverage Control Board (213-897-5391). The California Science Center's Event Manager must receive a copy of the permit at least one day before your event. In addition, a \$1000 outside liquor fee will be charged.

**ON-SITE EVENT WALKTHROUGH:** Once the Letter of Agreement has been signed, the Science Center's Event Manager will arrange an on-site event walkthrough with the client and any caterer to discuss plans, policies, procedures and any equipment or materials necessary for your event. Outside vendors will also be invited to attend. A final walkthrough is required no later than (2) weeks prior to the event and must include your outside caterer. All event walkthroughs are scheduled by the Science Center's Event Manager during weekday business hours and by appointment only. There will be an additional charge of \$50.00 per event walkthrough over three. Please consult the Science Center's Event Manager if more than three event walkthroughs are anticipated.

**DELIVERIES/LOADING DOCK:** The Science Center does not take responsibility for deliveries or storage of materials and equipment. Any delivery to the Science Center must be met by a representative of the client and arranged in advance with the Science Center's Event Manager. The client is responsible for bringing their own cart or hand-truck to transport materials or equipment from the loading dock to the event area if necessary. (Any overnight storage of materials or equipment is based strictly on available space and must be accompanied by a dedicated Department of Public Safety Officer at the hourly overtime rate.)

**CLIENT RESPONSIBILITIES:** Any guest management function at an event, e.g. nametags, entry restrictions, early entry, registration, etc. is solely the responsibility of the client and not the responsibility of California Science Center staff.

While the Event Manager will inform the client when the event is approaching the end of the contracted time, it is the client's responsibility to make sure all guests leave the California Science Center by the end of the contracted event time. Clients will be required to sign an overtime contract if their guests are in the California Science Center more than 15 minutes past the end of the contracted event time. Overtime will be billed on a net-30 basis.

**OUTSIDE SECURITY FORCE:** Under no circumstance is an outside company permitted to provide a security function on California Science Center property. Under certain conditions, with the express written permission of the Department of Public Safety Chief in advance, individuals may be hired to perform body-guard functions in conjunction with State DPS officers.

**IMAX THEATER:** Seats can not be reserved in the IMAX Theater for group sales. All group sale tickets are final. The IMAX Theater is not included in a Science Center buyout and will still be open to the public during regular IMAX hours (currently 9:00 A.M.-9:00 P.M.) unless contracted for separately.

**PRE-FUNCTION SPACE:** Pre-function spaces are offered to events that need an area for cocktail & hors d'oeuvres receptions before a seated event begins. Minimum setup of 8ft. tables is included. Silent auctions, large reception setups and double use (before and after a seated event) are not included. Ask an Event Manager for further details.

**AVAILABLE ELECTRICITY:** Electricity in the California Science Center is limited to approximately (2) 20 amp circuits per floor in the central atrium. The Loker Conference Center has (4) 20 amp circuits, (1) per wall. The Big Lab in the Wallis Annenberg Building has (7) 20 amp circuits. Both the Multi-Purpose room and the Muses room have (5) 20 amp circuits each. A walkthrough with an electrician can be arranged by contacting the Event Manager.

**RENTAL/BACKSTAGE SPACES:** The following spaces are available for rent in the California Science Center: Edgerton Court, Disney Court, the Donald P. Loker Conference Center, the World of Life, Creative World 2<sup>nd</sup> Floor, Creative World 3<sup>rd</sup> Floor, Sky Court Gallery, Weingart Special Exhibits Gallery, Lorsch Family Pavilion, Science Plaza, the Rose Garden Café dining area, and the IMAX Theater.

When renting the entire California Science Center (buyout), all areas above excluding the IMAX Theater are included in your rental agreement and are available for use. The IMAX Theater is not included in a Science Center buyout and will still be open to the public during regular IMAX hours (currently 9:00 A.M.-9:00 P.M.) The McDonald's area is included in a Science Center buyout (an additional staffing fee will apply).

The following spaces are available for rent in the Wallis Annenberg Building: The Big Lab, The Exploration Grove, The Muses Room and the Multi-Purpose Room.

Backstage spaces can include (at the Event Manager's discretion) certain service hallways for kitchen prep-work or setup staging.

**WALKIE-TALKIES:** Clients and vendors are not permitted to use California Science Center walkie-talkies or Nextel. They are welcome to rent their own and, if necessary, rent an additional radio for the Science Center's Event Manager at their expense.

**ESCALATOR USE:** Escalators will not be set to run in the "down" mode.

**FILMING ON STATE PROPERTY:** Production companies must have current insurance on file at the California Film Commission which names the State of California as 'additionally insured' in the amount of \$2 million general liability and \$500,000 hired and non-owned automobile coverage. The certificate holder must be named as the State of California with the following agency: California Film Commission, 7080 Hollywood Blvd., Suite 900, Hollywood, CA 90028. Student and still photography projects are not exempt from these requirements.



**California Science Center**  
**Event Letter of Agreement**

**Event Name:** American Freedom Alliance

**Event Date:** Sunday, October 25, 2009

**Company Name:** American Freedom Alliance

**Contact:** Avi Davis

**Title** Senior Fellow

**Address** American Freedom Alliance 11500 W. Olympic Blvd. Suite 400, LA, 90064

**Phone:** 310-444-3086

**Status:**

The California Science Center Foundation has extended a courtesy hold to American Freedom Alliance until Friday, October 2, 2009. Without the group's signed Event Letter of Agreement, availability can not be guaranteed after this date.

**Terms of Agreement:**

By signing this agreement, the group agrees to the following terms and conditions:

- The Event Price Estimate
- The California Science Center Foundation Policies and Procedures

**Payment Schedule:**

Payment is due according to the following schedule. Failure of the Group to deliver payment according to the schedule may result in the cancellation of this agreement by the California Science Center Foundation at any time. Group understands that in the event of a cancellation, the deposit shall be retained or returned according to the cancellation policy defined in the Policies and Procedures. You will not forfeit your deposit if you move your event to a different available event date.

10/15/09        - 50% deposit (\$2,155) due  
10/20/09        - Balance (\$2,155) due CREDIT CARD ONLY

If you would like to proceed with booking your event at the California Science Center, please sign below and return. By signing this agreement you are agreeing to the terms and conditions that are incorporated herein and with the Event Policies & Procedures. For your convenience, we also accept Visa, MasterCard, and American Express. Your date has been put on a courtesy hold, but your specific date and time will not be held beyond October 2, 2009 without receipt of the signed price estimate and sales agreement. You will not forfeit your deposit if you move your event to a different available event date. **Final payment is due October 20, 2009.**

**Approved and Accepted:**

**Group name:**

**California Science Center Foundation**  
700 State Drive, Los Angeles, CA 90037  
PH: 213-744-7523 FAX: 213-744-2078

By: \_\_\_\_\_

By: Lori Matsunaga

Print: \_\_\_\_\_

Print: Lori Matsunaga

Date: \_\_\_\_\_

Date: \_\_\_\_\_