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EDMUND G. BROWN JR.
Attorney General of California
RICHARD J. MAGASIN
Supervising Deputy Attorney General
ALLAN S. ONO,
Deputy Attorney General
State Bar No. 130763
ERIC M. KATZ
Deputy Attorney General
State Bar No. 204011
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2604
Fax: (213) 897-2802
E-mail: Allan.Ono@doj.ca.gov
E-mail: Eric.Katz@doj.ca.gov

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LOS ANGELES SUPERIOR COURT
JAN 19 2010
JOHN A. CLARKE, CLERK
BY DAWN ALEXANDER, DEPUTY

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

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

**AMERICAN FREEDOM ALLIANCE, a
nonprofit corporation,**

Plaintiff,

v.

**CALIFORNIA SCIENCE CENTER, a legal
entity of the State of California;
CALIFORNIA SCIENCE CENTER
FOUNDATION, a nonprofit corporation;
JEFFREY RUDOLPH, an Individual, and
DOES I through 50, inclusive,**

Defendants.

Case No. BC 423687

**DEFENDANTS CALIFORNIA SCIENCE
CENTER AND JEFFREY RUDOLPH'S
NOTICE OF DEMURRER AND
DEMURRER TO PORTIONS OF FIRST
AMENDED COMPLAINT ;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: May 12, 2010
Time: 8:45 a.m.
Dept: 14
Judge: The Hon. Terry A. Green
Action Filed: October 14, 2009

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on May 12, 2010, at 8:45 a.m., in Department 14 of the Los Angeles County Superior Court, located at 111 North Hill Street, Los Angeles, CA 90012, or at such other time or in such other department as this matter may be assigned, Defendants California Science Center, and Jeffrey Rudolph in his official capacity as President and Chief Executive Officer of the California Science Center ("Center Defendants"), will, and hereby do, demur to the First Amended Complaint filed by Plaintiff American Freedom Alliance ("AFA") pursuant to Code of Civil Procedure section 430.10, on the grounds that the Second, Third, Fourth and Fifth Causes of Action fail to state facts sufficient to constitute causes of action asserted against the Center Defendants.

This Demurrer is and will be based on this Notice of Demurrer and Demurrer, the Memorandum of Points and Authorities attached hereto, all pleadings and papers filed in this action and which may be filed in advance of the hearing on this Demurrer, all argument that is made at or prior to hearing on this Demurrer, matters of which the Court may take judicial notice and such other evidence as the Court may allow.

Dated: January 19, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California



By _____
ALLAN S. ONO
Deputy Attorney General
*Attorneys for Defendants
California Science Center, and Jeffrey
Rudolph in his official capacity as
President and CEO of the California
Science Center*

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STATEMENT OF DEMURRER

DEMURRER TO THE SECOND CAUSE OF ACTION

(For Breach of Implied Covenant of Good Faith and Fair Dealing)

The Center Defendants demur to the Second Cause of Action for Breach of Implied Covenant of Good Faith and Fair Dealing on the grounds that it does not state facts sufficient to constitute a cause of action against the Center Defendants. (Code Civ. Proc., §§ 430.10, subd.(e), 430.30.) Even if the Center Defendants were parties to the contract, no special relationship has been alleged. Additionally, the Second Cause of Action mirrors the factual allegations and relief sought in Plaintiff's breach of contract claim and should be dismissed on the further grounds that it is superfluous.

DEMURRER TO THE THIRD CAUSE OF ACTION

(For Violation of The Free Speech Clause Of The First Amendment As Applied Through The Fourteenth Amendment To The United States Constitution--42 U.S.C. § 1983)

The Center Defendants demur to the Third Cause of Action for Violation of The Free Speech Clause of The First Amendment (42 U.S.C. § 1983) on the grounds that the Third Cause of Action does not state facts sufficient to constitute a cause of action against the Center Defendants. (Code Civ. Proc., §§ 430.10, subd. (e), 430.30.) The Center Defendants are immune from suit under 42 U.S.C. § 1983.

DEMURRER TO THE FOURTH CAUSE OF ACTION

(For Fraud)

The Center Defendants demur to the Fourth Cause of Action for Fraud on the grounds that the Fourth Cause of Action does not state facts sufficient to constitute a cause of action against the Center Defendants. (Code Civ. Proc., §§ 430.10, subd. (e), 430.30.) The cause of action fails to, and cannot, allege that Plaintiff relied to its detriment on any allegedly fraudulent statement made by either of the Center Defendants.

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DEMURRER TO THE FIFTH CAUSE OF ACTION

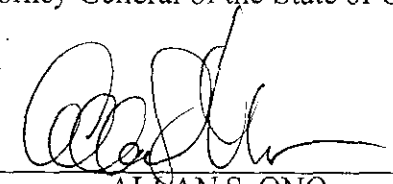
(For Injunction)

The Center Defendants demur to the Fifth Cause of Action for Injunction on the grounds that the Fifth Cause of Action does not state facts sufficient to constitute a cause of action against the Center Defendants. (Code Civ. Proc., §§ 430.10, subd. (e), 430.30.) Injunctive relief is, by definition, relief that a Plaintiff may seek but is not itself a cause of action.

Dated: January 19, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California

By 
ALLAN S. ONO

Deputy Attorney General
*Attorneys for Defendants
California Science Center, and Jeffrey
Rudolph in his official capacity as
President and CEO of the California
Science Center*

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. SUMMARY OF ALLEGATIONS AND ARGUMENT**

3 For purposes of this Demurrer only, the Court may assume that the First Amended
4 Complaint's factual allegations are true. Plaintiff's relevant allegations are set forth below.¹

5 Plaintiff claims that it is a non-political movement of concerned Americans that promote
6 networking, activism and education on a variety of public issues, including the growth of Islam,
7 media bias and academic freedom. Plaintiff further asserts that "its conferences, programs,
8 publications, websites and networking groups develop tools and strategies to counter ideologies
9 which underlie these threats, including radical Islam, moral and cultural relativism, and academic
10 and scientific ideological conflicts." (FAC, 3:5-11.)

11 In apparent furtherance of its stated mission, on or about September 30, 2009, Plaintiff
12 alleges it entered into a written contract ("Contract") with both the California Science Center
13 ("Center"), a department of the State of California, and the California Science Center Foundation
14 ("Foundation"), a non-profit corporation, to hold an event on October 25, 2009 entitled "We Are
15 Born of Stars IMAX Screening" at the California Science Center's IMAX theater in Los Angeles
16 ("Event"). (FAC, 4:14-18.)² The Event was to consist of the screening of two films. The first
17 film entitled "We Are Born of the Stars (3D)" purported to express a positive view of
18 evolutionary theory. The second documentary, "Darwin's Dilemma: The Mystery of the
19 Cambrian Fossil Record", purported to question the modern theory of evolution. (FAC, 4:25-26;
20 5:3-21.) Featured prominently in the latter documentary, were a number of senior fellows from
21 the Discovery Institute, a public policy "think tank" based in Seattle: (FAC, 5:24-26.) And while
22 Plaintiff asserts that the Discovery Institute did not produce Darwin's Dilemma nor was a party to
23 the Contract, it concedes the Institute's active role in organizing and publicizing screenings of the
24 documentary. (FAC, 6:1-11.) In this regard, Plaintiff acknowledges that the Discovery Institute

25 ¹ The Center Defendants do not adopt the factual allegations of the First Amended
26 Complaint or otherwise admit their accuracy by virtue of their recitation here.

27 ² For Party identification purposes only, the California Science Center notes that it is a
28 department of the State of California, not to be confused with the California Science Center
Foundation. The California Science Center Foundation is a separate legal entity/non-profit
corporation and is the entity that entered into the contract with Plaintiff.

1 issued certain press release(s) in Plaintiff's name announcing the Event and/or which included
2 statements such as: "The debate over Darwin will come to California on October 25, when the
3 Smithsonian Institution's west coast affiliate premieres 'Darwin's Dilemma: The Mystery of the
4 Cambrian Fossil Record,' a new intelligent design film which challenges Darwinian evolution."
5 (FAC, 16:25-26; 17:1-2.)

6 The Contract contained provisions governing the use of promotional materials. In
7 particular, the Contract required "that the Event Services Office approve, for technical and factual
8 accuracy, all promotional materials mentioning the California Science Center produced for your
9 event (including invitations, programs, press releases, etc.) prior to printing or broadcast." (FAC,
10 8:1-5; See also, FAC Exhibit A.) The press releases were never submitted to the Foundation for
11 prior approval and Plaintiff alleges that on October 6, 2009, Defendants unilaterally cancelled the
12 Event on that basis, claiming that the press releases had improperly inferred that the California
13 Science Center, as a Smithsonian affiliate, was co-sponsoring the Darwin Debates. (FAC, 7:3-19.)

14 Contrary to the claimed basis for cancellation, Plaintiff contends that, in fact, Defendants
15 had received "pressure from the Smithsonian" and others in the scientific community, to cancel
16 the Event as part of a larger conspiracy to discriminate against academic freedom for intelligent
17 design proponents. (FAC, 8:12-23, 16:13-20, 19:18-26, 20:1-5.) Plaintiff maintains that failure
18 to clear the supposedly misleading press releases was merely a pretext to suppress the true
19 reasons for canceling the Event, namely, that a broad network of Darwin advocates employed at
20 various public institutions conspired to cancel the Event once it became known that the Event
21 would involve a positive discussion of intelligent design. (FAC, 22:11-18.) In effect, Plaintiff's
22 claims are based upon a strained theory involving a far reaching conspiracy "to develop a
23 plausible basis for forcing the cancellation" which could then be used as a cover story to suppress
24 the true reasons for the Event's cancellation. (FAC, 22:17-18; 23:4-7.) Unfortunately for
25 Plaintiff, even assuming the truth of its speculative allegations, it nevertheless fails to articulate
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1 facts sufficient to state any causes of action against these Defendants for Breach of the Implied
2 Covenant, Section 1983 violations, Fraud, or, Injunction, for at least the following reasons:³

3 1. Plaintiff has not and cannot allege a special relationship to support an implied covenant
4 claim;

5 2. As a State entity or, as persons acting in their official capacities for such State entity,
6 Defendants are not persons within the meaning of section 1983;

7 3. Plaintiff has not and cannot allege a causal connection between its supposed reliance on
8 misrepresentations and any damages to support a fraud claim; and,

9 4. An injunction is not a cause of action and Plaintiff therefore necessarily fails to state a
10 claim.

11 For these reasons set forth more fully below, the Center Defendants respectfully request
12 that their Demurrer be sustained without leave to amend.

13 II. ARGUMENT

14 A. The Legal Sufficiency Standard On Demurrer

15 A demurrer tests the legal sufficiency of the pleadings. (*Committee on Children's*
16 *Television, Inc. v. General Foods Corp.* (1983) 35 Cal.3d 197, 213.) In determining the
17 sufficiency of a complaint against a general demurrer, the Court shall treat the demurrer as
18 admitting all material facts properly pleaded, but not contentions, deductions or conclusions of
19 fact or law. (*City of Atascadero v. Merrill Lynch, Pierce, Fenner & Smith, Inc.* (1988) 68
20 Cal.App.4th 445, 459.) The Court also considers matters which may be judicially noticed. (*Daar*
21 *v. Yellow Cab Co.* (1967) 67 Cal.2d 695, 716.) The complaint is then afforded a reasonable
22 interpretation, reading it as a whole and its parts in their context. (*Blank v. Kirwan* (1985) 39
23 Cal.3d 311, 318.) When viewed in this manner, a demurrer will be sustained when the complaint
24 fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc. § 430.10.)

25 ³ Plaintiff filed the original complaint on October 14, 2009 purporting to state six (6)
26 causes of action: 1) Breach of Contract; 2) Breach of The Implied Covenant of Good Faith And
27 Fair Dealing; (3) Violation of the First Amendment (42 U.S.C. section 1983); (4) Fraud; (5)
28 Injunction; and (6) Declaratory Relief. On or about November 18, 2009, plaintiff filed its First
Amended Complaint which merely added defendant Jeffrey Rudolph, an individual, in his official
capacity as the Center President and CEO and in his official capacity as the Foundation President.

1 Leave to amend is normally appropriate only when Plaintiff has carried its burden to
2 sufficiently demonstrate the reasonable possibility of an ability to cure pleading defects.
3 (*Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349.) Conversely, where the nature of the Plaintiff's
4 claim is clear, and under substantive law no liability exists, a court should deny leave to amend
5 because no amendment could change the result. (*City of Atascadero, supra*, at 459.)

6 **B. Plaintiff Cannot Plead the "Special Relationship" Needed To Assert Its**
7 **Second Cause of Action Re Breach of The Implied Covenant**
8 **of Good Faith And Fair Dealing**

9 Tort liability for the supposed breach of the implied covenant of good faith and fair dealing
10 is only available outside the insurer-insured context in rare circumstances where parties to a
11 commercial contract stand in a special relationship with respect to one another. Thus, to establish
12 a tort claim for breach of the covenant of good faith and fair dealing, California law requires the
13 threshold pleading of a special relationship between the parties characterized by elements of
14 public interest, adhesion and fiduciary responsibility. (*Premier Wine & Spirits v. E. & J. Gallo*
15 *Winery* (E.D.Cal.1986) 644 F.Supp. 1431, 1436 affirmed (9th Cir.1988) 846 F.2d 537; *Martin v.*
16 *U-Haul Company of Fresno* (1988) 204 Cal.App.3d 396, 412.) But no such special relationship
17 exists here and Plaintiff has not, and cannot, plead its existence.

18 Absent a special relationship, Plaintiff's implied covenant claim is effectively rendered a
19 reiteration of its breach of contract claim (i.e., Plaintiff's First Cause of Action) and should be
20 disregarded as superfluous. (See *Bionghi v. Metropolitan Water Dist. of So. California* (1999) 70
21 Cal.App.4th 1358.) In *Bionghi*, a contractor sued the Metropolitan Water District for breach of
22 contract and breach of the implied covenant of good faith and fair dealing. Having failed to plead
23 a special relationship with MWD, the Court found that where the claim of breach of the implied
24 covenant relied on the same acts and sought the same damages as the claim for breach of contract,
25 it was duplicative of the contractor's cause of action for breach of contract, and could be
26 disregarded. (See also, *Careau & Co. v. Security Pacific Business Credit, Inc.* (1990) 222
27 Cal.App.3d 1371, 1395 ["If the allegations do not go beyond the statement of a mere contract
28 breach and, relying on the same alleged acts, simply seek the same damages or other relief

1 already claimed in a companion contract cause of action, they may be disregarded as superfluous
2 as no additional claim is actually stated”].) So too, AFA’s implied covenant claim adds nothing
3 and should be dismissed.

4 **C. The Third Cause of Action Cannot State a First Amendment**
5 **Claim Because the Center Defendants Are Not “Persons”**
6 **Within the Meaning of 42 U.S.C. § 1983—They Are Immune**

7 42 United States Code section 1983 (Section 1983) allows persons who have allegedly been
8 deprived of their rights under the United States Constitution by “persons” – as that term has been
9 interpreted by the United States Supreme Court – to pursue a claim for damages against such
10 persons. The United States Supreme Court has squarely ruled that States, state entities (like the
11 California Science Center) and their employees (like Jeffrey Rudolph) are not “persons” within
12 the meaning of Section 1983, and thus cannot be sued under that statute. (*Will v. Michigan*
13 *Department of State Police* (1989) 491 U.S. 58.)

14 In *Will*, the Plaintiff alleged that a state department and its employees violated the
15 Plaintiff’s constitutional rights under color of state law by refusing him a promotion for an
16 unconstitutional reason. (*Will v. Michigan Department of State Police*, 491 U.S. at 63.) The
17 United States Supreme Court rejected the claim, finding that Section 1983, “does not provide a
18 federal forum for litigants who seek a remedy against a State for alleged deprivations of civil
19 liberties” on the basis that “the Eleventh Amendment bars such suits.”⁴ (*Id.*, at 66.) The Court
20 unambiguously held that, “neither a State nor its officials acting in their official capacities are
21 ‘persons’ under Section 1983.” (*Id.*, at 58).

22 It is undisputed that the California Science Center is a state entity. (FAC, 2:5-7; 3:12; 16:9.)
23 Cases interpreting Section 1983 have held that California departments, commissions and boards
24 are not persons within the meaning of Section 1983. (*See, e.g., Rossco Holdings, Inc. v. State of*
25 *California* (1989) 212 Cal.App.3d 642, 661 [Demurrer sustained dismissing Section 1983 action
26

27 ⁴ The Eleventh Amendment provides, “The Judicial power of the United States shall
28 not be construed to extend to any suit in law or equity, commenced or prosecuted against one of
the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.”

1 against the California Coastal Commission because, as it is “clearly a state agency, it is immune
2 from prosecution under 42 United States Code section 1983”]; *Brunius v. Parrish* (2005) 132
3 Cal.App.4th 838, 851 [Demurrer sustained dismissing Section 1983 action against State Mining
4 and Geology Board as it is functionally the State].)

5 Similarly, just as the statute does not reach the State, it does not reach state officials acting
6 in their official capacities. (*Will v. Michigan Department of State Police*, 491 U.S. at 71 [“A suit
7 against a state official in his or her official capacity is not a suit against the official but rather a
8 suit against the official’s office”].) The Supreme Court has not allowed Section 1983 suits to
9 proceed against state officials, as “such a rule would allow petitioner to circumvent congressional
10 intent by a mere pleading device.” (*Id.*; see also *Brunius v. Parrish* (2005) 132 Cal.App.4th 838,
11 859 [individual employees of California state board are immune from Section 1983 liability].)
12 All of the allegations in the First Amended Complaint concerning Jeffrey Rudolph refer to actions
13 he allegedly took in his official capacity as the President and CEO of the California Science
14 Center or the California Science Center Foundation.⁵ (See, e.g., First Amended Complaint ¶ 4
15 [“Defendant Jeffrey Rudolph [RUDOLPH] is an individual and at all times relevant is and was
16 President and CEO of the CENTER and the President of Defendant FOUNDATION”].)

17 As the Center Defendants are state entities immune from liability under Section 1983, the
18 Demurrer to the Third Cause of Action should be sustained without leave to amend.

19 **D. Plaintiff Cannot Allege Induced Conduct Giving Rise**
20 **To Damages Needed To Support Its Fourth Cause of**
21 **Action For Fraud**

22 The First Amended Complaint's fraud claim is based upon the Defendants' supposed false
23 assertion of the basis for their unilateral cancellation of the Event. Plaintiff contends that its
24 alleged breach of Contract due to the dissemination of unauthorized and misleading press releases
25 was merely a pretext advanced by Defendants to conceal a wide-ranging conspiracy aimed at

26 ⁵ Mr. Rudolph is also sued in his official capacity as President of the Foundation,
27 which we understand will be addressed in a Demurrer brought by counsel for the Foundation. To
28 the extent Plaintiff is seeking relief against Rudolph in his capacity as President and CEO of the
Center, this Demurrer seeks dismissal of that claim.

1 forcing the Event's cancellation and its discussion of intelligent design. (FAC, 22:10-18.)

2 Plaintiff alleges that Defendant's fraud was manifest in representations made to Plaintiff that:

3 "(A) A press release was issued on October 5, 2009, by Plaintiff;

4 (B) The press release inferred that the CENTER, as a Smithsonian Institute affiliate, was
5 co-sponsoring 'the Darwin Debates';

6 (C) The press release had damaged the CENTER's relationship with the Smithsonian
7 Institution;

8 (D) The press release had damaged the reputation of the CENTER;

9 (E) Plaintiff was required to and did not obtain approval prior to issuing the press release;

10 (F) The press release had significant negative ramifications;

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

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

14 (FAC, 21:16;27; 22:1:5.)

15 Plaintiff contends that Defendants knew that these representations were false and that they
16 resulted in Plaintiff submitting to a false basis for the Event's cancellation. (FAC, 22:6-9.)

17 Plaintiff further contends that it relied on those representations and expended resources to locate a
18 new venue for the Event. (FAC, 24:15-16.) In this regard, Plaintiff claims that its "reliance on
19 Defendants' representation was justified because it was given no recourse from which to respond
20 to the false accusations made against it or to influence the decisions made by Defendants resulting
21 in the forced cancellation of the EVENT." (FAC, 24:18-21.) But even if each of these
22 allegations were true, which they are not, Plaintiff has still failed to plead facts sufficient to
23 support a fraud claim.

24 It is well-settled that a "complaint for fraud must allege the following elements: (1) a
25 knowingly false representation by the defendant; (2) an intent to deceive or induce reliance; (3)
26 justifiable reliance by the Plaintiff; and (4) resulting damages." (*Service By Medallion, Inc. v.*
27 *Clorox Company* (1996) 44 Cal.App.4th 1807, 1816, 52 Cal.Rptr.2d 650.) Every element must
28 be specifically pleaded. (*Ibid; Tarmann v. State Farm Mut. Auto. Ins. Co.* (1991) 2 Cal.App.4th

1 153, 157, 2 Cal.Rptr.2d 861.) This required pleading with specificity applies not only to the
2 alleged misrepresentation, but also to the elements of causation and damage. "In order to recover
3 for fraud, as in any other tort, the Plaintiff must plead and prove the detriment proximately caused
4 by the Defendant's tortuous conduct. (Civ.Code, § 3333.) Deception without resulting loss is not
5 actionable fraud. [Citation.] 'Whatever form it takes, the injury or damage must not only be
6 distinctly alleged but its causal connection with the reliance on the representations must be
7 shown.' " (*Service By Medallion, Inc. v. Clorox Company, supra*, 44 Cal.App.4th at p. 1818, 52
8 Cal.Rptr.2d 650; *see also Cooper v. Equity Gen. Insurance* (1990) 219 Cal.App.3d 1252, 1262,
9 268 Cal.Rptr. 692, ["in California, every element of a cause of action for fraud must be alleged
10 both factually and specifically, and the policy of liberal construction of pleadings will not be
11 invoked to sustain a defective complaint."].)

12 In the instant case, even if the representations attributed to Defendants were knowingly
13 false, and even if Plaintiff believed them (an assumption which seems hardly true given the
14 Complaint's filing only 8 days later)⁶ Plaintiff still cannot demonstrate any causal relationship
15 between damages and reliance upon alleged misrepresentations. Plaintiff contends that
16 Defendants forcibly cancelled the Event on the pretext of Plaintiff's unauthorized and misleading
17 press releases. (FAC, 24:18-21.) But, Plaintiff was not given a choice and what Plaintiff may or
18 may not have believed would not have changed that fact. Indeed, the cancellation had already
19 occurred. Still, Plaintiff claims that it expended resources to locate a new venue. But that was not
20 due to reliance upon any misrepresentation. It was a response to the fact that the Event had been
21 cancelled over Plaintiff's objection and Plaintiff needed to find an alternative venue. Even were
22 the cancellation unjustified, Plaintiff's efforts would necessarily have been mitigation for what
23 would have then been a breach of the Contract.

24 Reliance in the absence of induced conduct giving rise to damages precludes a claim for
25 fraud. As Plaintiff's alleged damages have no causal connection with reliance on any

26 _____
27 ⁶ It is clear that Plaintiff did not even believe Defendants alleged representations, true or
28 not, as evidenced by the fact that it filed this lawsuit claiming fraud only 8 days later (i.e.,
October 14, 2009).

1 misrepresentations, its Fourth Cause of Action for Fraud should be dismissed without leave to
2 amend.

3 **E. Injunctive Relief is Not a Cause of Action**

4 Injunctive relief is a remedy, not a cause of action. [See 6 Witkin, Cal. Procedure (3d.
5 1985.) Provisional Remedies, sections 250, 251.] It is a determination on the merits that a
6 plaintiff has prevailed on a cause of action for tort or other wrongful act against a defendant and
7 that equitable relief is appropriate. (*Art Movers v. Ni West, Inc.* (1992) 3 Cal.App.4th 640, 646.)

8 Plaintiff's supposed claims for fraud and violation of civil rights fail to state claims by
9 reason of the above-articulated grounds. Because an injunction is not a cause of action, when
10 those underlying causes of action fail, so does the request for an injunction. And as to Plaintiff's
11 remaining breach of contract claim, it is axiomatic that since the Event has already taken place at
12 a nearby alternate venue, injunctive relief is no longer an appropriate remedy.

13 Plaintiff's erroneously pled Fifth Cause of Action for "Injunction," necessarily fails to
14 state a claim and this Demurrer should be sustained without leave to amend.

15 **III. CONCLUSION**

16 For all the foregoing reasons, Defendants California Science Center and Jeffrey Rudolph,
17 in his official capacity as President and CEO of the California Science Center, request that the
18 Court sustain their Demurrer to the Second, Third, Fourth, and Fifth Causes of Action, without
19 leave to amend.

20 Dated: January 19, 2010

Respectfully Submitted,

21 EDMUND G. BROWN JR.
Attorney General of the State of California

22 By 

23 ALLAN S. ONO

24 Deputy Attorney General
Attorneys for Defendants
California Science Center, and Jeffrey
25 Rudolph in his official capacity as
26 President and CEO of the California
27 Science Center

DECLARATION OF SERVICE BY U.S. MAIL
(AG Mailroom)

Case Name: **American Freedom Alliance v. California Science Center, et al.**

Case No.: **BC 423687**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013.

On January 19, 2010, I served the attached DEFENDANTS CALIFORNIA SCIENCE CENTER AND JEFFREY RUDOLPH'S NOTICE OF DEMURRER AND DEMURRER TO PORTIONS OF FIRST AMENDED COMPLAINT ; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Los Angeles, California, addressed as follows:

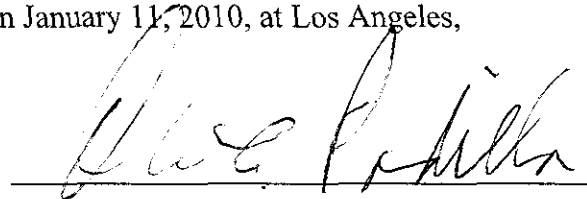
William J. Becker, Jr., Esq.
THE BECKER LAW FIRM
11500 Olympic Boulevard
Suite 400
Los Angeles, CA 90064
Phone: (310) 636-1018
Fax: (310) 765-6328
*Attorneys for Plaintiff, American
Freedom Alliance*

Patrick W. Dennis, Esq.
James L. Zelenay, Jr., Esq.
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197
Phone: (213) 229-7000
Fax: (213) 229-7520
*Attorneys for Defendants, California
Science Center Foundation and Jeffrey
Rudolph, in his capacity as President and
CEO of the California Science Center
Foundation*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 11, 2010, at Los Angeles, California.

Olivia C. Padilla

Declarant



Signature