

FILED

LOS ANGELES SUPERIOR COURT

FEB 01 2010

JOHN A. CLARKE, CLERK

BY RAUL SANCHEZ, DEPUTY

GIBSON, DUNN & CRUTCHER LLP
PATRICK W. DENNIS, SBN 106796
JAMES L. ZELENAY, JR., SBN 237339
JEREMY OCHSENBEIN, SBN 266884
333 South Grand Avenue
Los Angeles, California 90071-3197
Telephone: (213) 229-7000
Facsimile: (213) 229-7520

Attorneys for Defendants,
CALIFORNIA SCIENCE CENTER FOUNDATION
& JEFREY RUDOLPH, IN HIS OFFICIAL CAPACITY
AS PRESIDENT OF THE CALIFORNIA SCIENCE
CENTER FOUNDATION

SUPERIOR COURT, STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CENTRAL DIVISION

AMERICAN FREEDOM ALLIANCE,

Plaintiff,

v.

CALIFORNIA SCIENCE CENTER
FOUNDATION,

Defendant.

CASE NO. BC423687

[Hon. Terry A. Green, Dept. 14]

**CERTIFICATE OF SERVICE OF
COMMISSION FOR A WASHINGTON
STATE SUBPOENA FOR PRODUCTION
OF DOCUMENTS AND THINGS**

DATE OF FILING
OF COMPLAINT:

October 14, 2009

DATE OF FILING
OF FIRST AMENDED
COMPLAINT:

November 19, 2009

TRIAL DATE:

December 6, 2010

3/29/10

1 **CERTIFICATE OF SERVICE**

2 I, Ramona Gonzalez, declare as follows:

3 I am employed in Los Angeles, California; I am over the age of eighteen years and am not a
4 party to this action; my business address is 333 South Grand Avenue, Los Angeles, CA 90071. On
February 1, 2010, I served the following documents:

5 **COMMISSION FOR A WASHINGTON STATE SUBPOENA FOR PRODUCTION OF**
6 **DOCUMENTS AND THINGS (attached as Exhibit A hereto)**

7 **CERTIFICATE OF SERVICE (the instant document)**

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

10 William J. Becker, Jr.
11 The Becker Law Firm
12 11500 Olympic Blvd, Suite 400
13 Los Angeles, CA 90064
14 Tel: (310) 636-1018
15 Fax: (310) 765-6328

Allan S. Ono, Esq.
Deputy Attorney General
Natural Resources Law Section
Office of the Attorney General
300 S. Spring Street, 11th Floor
North Tower
Los Angeles, CA 90013
Fax: (213) 897-2802

16 Counsel for Plaintiff American Freedom Alliance

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

18
19 **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on
20 the above-mentioned date. I am familiar with the firm's practice of collection and
21 processing correspondence for mailing. It is deposited with the U.S. Postal Service on
22 that same day in the ordinary course of business. I am aware that on motion of party
served, service is presumed invalid if postal cancellation date or postage meter date is
more than one day after date of deposit for mailing in affidavit.

23 **BY PERSONAL SERVICE:** I placed a true copy in a sealed envelope addressed to
24 each person[s] named at the address[es] shown and giving same to a messenger for
25 personal delivery before 5:00 p.m. on the above-mentioned date.

26 **BY FACSIMILE:** From facsimile machine telephone number (213) 229-7520, on the
27 above-mentioned date, I served a full and complete copy of the above-referenced
28 document[s] by facsimile transmission to the person[s] at the number[s] indicated.

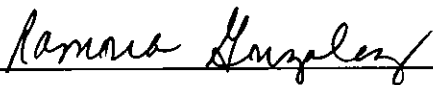
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BY OVERNIGHT MAIL: I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for delivery by overnight mail. Pursuant to that practice, envelopes placed for collection at designated locations during designated hours are delivered to the overnight mail service with a fully completed airbill, under which all delivery charges are paid by Gibson, Dunn & Crutcher LLP, that same day in the ordinary course of business.

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the foregoing document was printed on recycled paper. This Declaration of Service was executed by me on February 1, 2010, at Los Angeles, California.



Ramona Gonzalez

2/2/10

ORIGINAL

1 PATRICK W. DENNIS, CA SBN 106796
PDennis@gibsondunn.com
2 JAMES L. ZELENAY, JR., CA SBN 237339
JZelenay@gibsondunn.com
3 JEREMY S. OCHSENBEIN, CA SBN 266884
JOchsenbein@gibsondunn.com
4 GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
5 Los Angeles, California 90071-3197
Telephone: (213) 229-7000
6 Facsimile: (213) 229-7520

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

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR COUNTY OF LOS ANGELES

14 AMERICAN FREEDOM ALLIANCE, a
15 nonprofit corporation;

16 Plaintiff,

17 v.

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

21 Defendants.

CASE NO. BC 423687

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

**COMMISSION FOR A WASHINGTON
STATE SUBPOENA FOR PRODUCTION
OF DOCUMENTS AND THINGS**

DATE OF FILING
COMPLAINT: October 14, 2009

DATE OF FILING
FIRST AMENDED
COMPLAINT: November 19, 2009

TRIAL DATE: December 6, 2010

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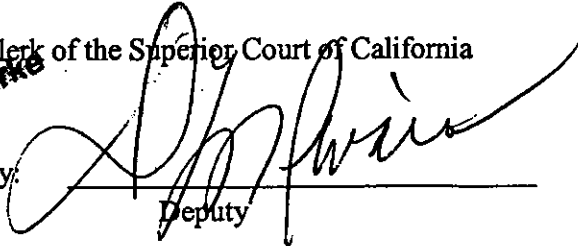
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FROM: THE PEOPLE OF THE STATE OF CALIFORNIA

TO: THE STATE OF WASHINGTON

By request to the above-captioned Court, made by Defendant California Science Center Foundation in the above action, you are hereby appointed, commissioned, and authorized to issue a subpoena for production of documents and things, which are described in the attached Exhibit A, to Discovery Institute, Custodian of Records, 208 Columbia Street, Seattle, WA 98104.

DATED: **JAN 26 2010**
January __, 2010

John A. Stankis
Clerk of the Superior Court of California
By: 
Deputy

[SEAL OF COURT] **D.M. Swain**



100801629_1.DOC

1 **CERTIFICATE OF SERVICE**

2 I, May Chin, declare as follows:

3 I am employed in Los Angeles, California; I am over the age of eighteen years and am not a
4 party to this action; my business address is 333 South Grand Avenue, Los Angeles, CA 90071. On
5 January 26, 2010, I served the following document:

6 **DEFENDANT CALIFORNIA SCIENCE CENTER FOUNDATION'S COMMISSION FOR A
7 WASHINGTON STATE SUBPOENA FOR PRODUCTION OF DOCUMENTS AND THINGS**

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

10 William J. Becker, Jr.
11 The Becker Law Firm
12 11500 Olympic Blvd, Suite 400
13 Los Angeles, CA 90064
14 Tel: (310) 636-1018
15 Fax: (310) 765-6328

Allan S. Ono, Esq.
Deputy Attorney General
Natural Resources Law Section
Office of the Attorney General
300 S. Spring Street, 11th Floor
North Tower
Los Angeles, CA 90013
Fax: (213) 897-2802

16 Counsel for Plaintiff American Freedom Alliance Counsel for defendants California Science Center
17 and Jeffrey Rudolph, in his official capacity as
18 President and CEO of the California Science
19 Center

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

26 BY PERSONAL SERVICE: I placed a true copy in a sealed envelope addressed to
27 each person[s] named at the address[es] shown and giving same to a messenger for
28 personal delivery before 5:00 p.m. on the above-mentioned date.

BY FACSIMILE: From facsimile machine telephone number (213) 229-7520, on the
above-mentioned date, I served a full and complete copy of the above-referenced
document[s] by facsimile transmission to the person[s] at the number[s] indicated.

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BY OVERNIGHT MAIL: I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for delivery by overnight mail. Pursuant to that practice, envelopes placed for collection at designated locations during designated hours are delivered to the overnight mail service with a fully completed airbill, under which all delivery charges are paid by Gibson, Dunn & Crutcher LLP, that same day in the ordinary course of business.

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

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the foregoing document was printed on recycled paper. This Declaration of Service was executed by me on January 26, 2010, at Los Angeles, California.



May Chin

EXHIBIT A

877676

GIBSON, DUNN & CRUTCHER LLP
PATRICK W. DENNIS, CA SBN 106796
PDennis@gibsondunn.com
JAMES L. ZELENAY, JR., CA SBN 237339
JZelenay@gibsondunn.com
JEREMY S. OCHSENBEIN, CA SBN 266884
JOchsenbein@gibsondunn.com
333 South Grand Avenue
Los Angeles, California 90071-3197
Telephone: (213) 229-7000
Facsimile: (213) 229-7520

**SUPERIOR COURT OF WASHINGTON
COUNTY OF KING**

AMERICAN FREEDOM ALLIANCE,

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 1 through 50
inclusive,

Defendants.

NO:

**SUBPOENA DUCES TECUM
(SBDT)**

THE STATE OF WASHINGTON TO:

Name: Discovery Institute, Attn: Custodian of Records
Address: 208 Columbia Street
Seattle, WA 98104

**YOU ARE COMMANDED TO PRODUCE THE BUSINESS RECORDS, described
below:**

On: February 17., 2010 at 10:00 a.m.
To: Roland Brown

Address: Roland Brown Legal Services
221 State Avenue # C-235, Marysville, WA 98270

SUBPOENA DUCES TECUM

EXHIBIT A

2/17/10

by delivering a true, legible and durable copy of the business records described below, enclosed in a sealed inner wrapper with the title and number of the action, name of the witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the officer listed above.

YOU ARE HEREBY COMMANDED to bring with you the following documents:

See Attachment A

Pursuant to WA CR 45(a)(1)(D), the requirements of WA CR 45(c) and (d) are attached as Attachment B to this subpoena.

FAILURE TO COMPLY WITH THIS SUBPOENA MAY BE CONSIDERED CONTEMPT OF COURT AND MAY RESULT IN YOUR ARREST.

Dated: _____

Signature of Person Issuing Subpoena

Title

SUBPOENA DUCES TECUM

2/10/18

ATTACHMENT A

Discovery Institute shall, utilizing the definitions and instructions set forth in Section A below, produce the Documents set forth in Section B below.

A. Definitions and Instructions.

1. "Discovery Institute," "You," or "Your" means the Discovery Institute or any person or entity acting or purporting to act on behalf of the Discovery Institute, either directly or indirectly.

2. "American Freedom Alliance" means the American Freedom Alliance or any person or entity acting or purporting to act on behalf of the American Freedom Alliance, either directly or indirectly.

3. "California Science Center Foundation" means the California Science Center Foundation or any person or entity acting or purporting to act on behalf of the California Science Center Foundation, either directly or indirectly.

4. "California Science Center" means the California Science Center or any person or entity acting or purporting to act on behalf of the California Science Center, either directly or indirectly.

5. "AFA-CSC Event" means the event that was to be held at the California Science Center by the American Freedom Alliance on the evening of Sunday, October 25, 2009.

6. "AFA-USC Event" means the event that was hosted by the American Freedom Alliance at the University of Southern California on October 25, 2009.

7. "Regarding" means, without limitation, embodying, evidencing, constituting, referencing, referring to, involving, relating to, pertaining to, connected with, about, concerning, mentioning, discussing, and/or describing.

8. "Documents" includes papers, books, accounts, drawings, graphs, charts, photographs, electronic or videotape recordings, data and data compilations and also includes electronic or magnetic data. Electronic or magnetic data should be produced to the California

Science Center Foundation on a CD ROM or another mutually agreed upon electronic data storage medium.

9. ALL RESPONSIVE AND POTENTIALLY RESPONSIVE DOCUMENTS AND TANGIBLE THINGS SHOULD BE PRESERVED AND MAINTAINED PENDING THE OUTCOME OF THIS ACTION.

B. Documents and Tangible Things To Be Produced

1. All Documents, including all communications, regarding the AFA-CSC Event.
2. All Documents, including all communications, regarding the AFA-USC Event.
3. All Documents, including all communications, regarding the California Science Center Foundation.
4. All Documents, including all communications, regarding the California Science Center.
5. All Documents, including all communications, regarding the American Freedom Alliance.
6. All Documents, including all communications, regarding publicity, advertisements, press releases, or promotional materials regarding the AFA-CSC Event. This shall include, but not be limited to, any drafts of such publicity, advertisements, press releases, or promotional materials; documents referring to or reflecting such; communications with anyone (including the American Freedom Alliance or its counsel) regarding such; and/or internal memoranda and documentation regarding such.
7. All Documents, including all communications, regarding website, blog postings, "tweets" via Twitter, or communications via Facebook, My Space or other social media regarding the AFA-CSC Event. This shall include, but not be limited to, any drafts of such; documents referring to or reflecting such; communications with anyone (including the American Freedom Alliance or its counsel) regarding such; and/or internal memoranda and documentation regarding such.

ATTACHMENT A – SUBPOENA DUCES TECUM

2/2/13

8. All Documents, including all communications, regarding website, blog postings, "tweets" via Twitter, or communications via Facebook, My Space or other social media regarding the AFA-USC Event. This shall include, but not be limited to, any drafts of such; documents referring to or reflecting such; communications with anyone (including the American Freedom Alliance or its counsel) regarding such; and/or internal memoranda and documentation regarding such.
9. All Documents, including all communications, regarding the relationship, if any, between the Discovery Institute and the American Freedom Alliance. This shall include, but not be limited to, documents regarding or reflecting any formal or informal relationship, relationship among members of the two entities' respective boards or among their employees, or anything else indicating a relationship between the Discovery Institute (or its members) and the American Freedom Alliance (or its members).
10. All Documents, including all communications, regarding any monetary funding provided to the American Freedom Alliance by the Discovery Institute.
11. All Documents, including all communications, regarding any monetary funding provided to the Discovery Institute by the American Freedom Alliance.
12. All Documents, including all communications, regarding any funding or compensation that was to be paid to the Discovery Institute or its contributors or members in connection with the AFA-CSC Event.
13. All Documents, including all communications, regarding any funding or compensation that was paid to the Discovery Institute or its contributors or members in connection with the AFA-USC Event.
14. All Documents, including all communications, regarding expected attendance at the AFA-CSC Event.
15. All Documents, including all communications, regarding attendance at the AFA-USC Event.

16. All Documents, including all communications, regarding the revenue that American Freedom Alliance received from the AFA-USC Event.
17. All Documents regarding communications, including the communications themselves, between You and any member of the media or press regarding the AFA-CSC Event.
18. All Documents regarding communications, including the communications themselves, between You and any member of the media or press regarding the California Science Center.
19. All Documents regarding communications, including the communications themselves, between You and any member of the media or press regarding the California Science Center Foundation.

ATTACHMENT A – SUBPOENA DUCES TECUM

2/2/18

ATTACHMENT B: NOTICE OF WA CR 45(c) AND (d)

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to subsection (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance;
- (ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden, provided that the court may condition denial of the motion upon a requirement that the subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose

ATTACHMENT B – SUBPOENA DUCES TECUM

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behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information in camera to the court for a determination of the claim. The person responding to the subpoena must preserve the information until the claim is resolved.

PROOF OF SERVICE

1. I served this *Subpoena Duces Tecum* by personally delivering a copy to the person served as follows:
 - a. Person served: Discovery Institute, Custodian of Records
 - b. Address where served:
208 Columbia Street
Seattle, WA 98104
 - c. Date of delivery: January __, 2010
 - d. Time of delivery:
 - e. Copying fees were paid.
Amount: \$ _____
 - f. Fee for service: \$ _____
2. I received this subpoena for service on (date):
3. Person serving:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Date:

Signature

PROOF OF SERVICE

1. I served this *Subpoena Duces Tecum* by personally delivering a copy to the person served as follows:
 - a. Person served: Discovery Institute, Custodian of Records
 - b. Address where served:
208 Columbia Street
Seattle, WA 98104
 - c. Date of delivery: January __, 2010
 - d. Time of delivery:
 - e. Copying fees were paid.
Amount: \$ _____
 - f. Fee for service: \$ _____
2. I received this subpoena for service on (date):
3. Person serving:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Date:

Signature

2/2/10