

1 William J. Becker, Jr., Esq. (SBN 134545)  
2 **THE BECKER LAW FIRM**  
3 11500 Olympic, Blvd., Suite 400  
4 Los Angeles, California 90064  
5 Phone: (310) 636-1018  
6 Fax: (310) 765-6328

7 Affiliated counsel with:  
8 The Rutherford Institute  
9 Post Office Box 7482  
10 Charlottesville, VA 22906-7482

11 Attorneys for Plaintiff, AMERICAN FREEDOM ALLIANCE

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

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

16 Plaintiff,

17 vs.

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

24 Defendants.

Case No. BC423687

*Assigned to: The Hon. Terry A. Green  
Dept. 14*

**REQUEST FOR JUDICIAL NOTICE RE:  
PLAINTIFF'S OPPOSITION TO  
DEMURRER OF DEFENDANTS  
CALIFORNIA SCIENCE CENTER  
FOUNDATION AND JEFFREY  
RUDOLPH ON ITS BEHALF**

[Cal. Evid. Code § 452]

[Served and filed concurrently with Plaintiff's  
Oppositions to Demurrers]

Complaint Filed: 10/14/09  
Amended Complaint 11/19/09  
Filed:

Trial Date: 2/14/2011

Date: 5/12/2010  
Time: 8:45 a.m.  
Dept.: 14

**BY FAX**

**FILED**  
LOS ANGELES SUPERIOR COURT

APR 28 2010

JOHN A. GLANKE, CLERK  
BY RAUL SANCHEZ, DEPUTY

1 TO THIS HONORABLE COURT AND TO THE DEFENDANTS AND THEIR ATTORNEYS  
2 OF RECORD HEREIN:


3 PLEASE TAKE NOTICE that pursuant to California *Evidence Code* §§ 452(d) and 453,  
4 Plaintiff AMERICAN FREEDOM ALLIANCE hereby requests that the Court take judicial no-  
5 tice of the following documents, which are attached hereto:

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
Exhibit "A"	Exhibit "A" attached to Motion for Leave to Amend Complaint, e-mail ex- changes date October 5, 2009, Bates Nos. CSCF0000229-231.
Exhibit "B"	Decl. Jeffrey N. Rudolph, submitted in support of the Defendant California Science Center Foundation's Opposition to the Emergency Relief Request by American Freedom Alliance.

13 DATED: April 27, 2010

THE BECKER LAW FIRM

15 By:

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

**Chris Sion**

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**From:** Chris Sion  
**Sent:** Monday, October 05, 2009 2:54 PM  
**To:** Shell Amega; William Harris  
**Cc:** Paula Wagner; Kristina Kurasz; Joe DeAmicis; Jeff Rudolph  
**Subject:** RE: Creationist organization implies that the Calif. Science Center is sponsoring Darwin film

Thanks so much, Shell. I am heading off to start setting up for the AAM reception tonight, but I would love to call them today so we can nip this in the bud. I will check in to see what everyone proposes. I am so bugged!!!

Thanks so much,  
Chris

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**From:** Shell Amega  
**Sent:** Monday, October 05, 2009 2:41 PM  
**To:** Chris Sion; William Harris  
**Cc:** Paula Wagner; Kristina Kurasz; Joe DeAmicis; Jeff Rudolph  
**Subject:** RE: Creationist organization implies that the Calif. Science Center is sponsoring Darwin film

Thank you for this background Chris -- I agree and think cancelling them would send the clearest message that we don't appreciate the way they misrepresented but the Science Center and the Smithsonian -- but I agree, we need to hear back from Jeff and William first. I will keep everyone posted.

~Shell

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**From:** Chris Sion  
**Sent:** Monday, October 05, 2009 2:20 PM  
**To:** Shell Amega; William Harris  
**Cc:** Paula Wagner; Kristina Kurasz; Joe DeAmicis; Jeff Rudolph  
**Subject:** RE: Creationist organization implies that the Calif. Science Center is sponsoring Darwin film

Hi Shell,

Thanks so much for bringing this to our attention - it's disturbing. This relates to a private IMAX screening (3<sup>rd</sup> party) that is being hosted by the American Freedom Alliance on October 25<sup>th</sup>. Joel Stromm called and asked if we would be a "partner" in this screening and I said no. A science center should not even be asked to partner w/ any group associated w/ debating Darwinism - it's not our place - and I reiterated how this is a private screening only and should be advertised as such. Where they came up w/ the verbiage especially about being a west coast affiliate of the Smithsonian etc is beyond me and was never discussed.

They have been a difficult group from the beginning but because Joel's wife, Holly, is on their board, I felt compelled to be helpful.

I can do one of two things - 1) I could call Joel and tell him that is outrageous and to ask this organization to remove all reference to our facility from their materials or 2) I could call the client directly and say the same. I'd love to cancel them actually all together - they have been an

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enormous pain.

Perhaps William would like to weigh in before I take action. Sorry - this is so frustrating!

Thanks so much,  
Chris

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**From:** Shell Arnega  
**Sent:** Monday, October 05, 2009 2:05 PM  
**To:** Jeff Rudolph; William Harris  
**Cc:** Paula Wagner; Kristina Kurasz; Joe DeAmicis; Chris Sion  
**Subject:** Creationist organization implies that the Calif. Science Center is sponsoring Darwin film  
**Importance:** High

Hi William and Jeff,

The Smithsonian institute called and was alarmed at the news release from a creationist organization, the Discovery Institute, below because it implied that the Science Center officially supports the creationist film that is set to screen on Oct. 25. It is also alarmed with the implication that the Smithsonian is involved and would like us to issue a correction statement on PR newswire as to what our role is and that we are just one of many Smithsonian affiliates on the west coast. They said that this group had booked at the Smithsonian to screen the film and the Smithsonian pulled the plug on the screening when they found out. Please advise on how you'd like us to proceed.

**Intelligent Design Film to Premiere at Smithsonian Institution Affiliated Science Center**

***Darwin's Dilemma: The Mystery of the Cambrian Fossil Record* will be screened Oct. 25th**

WASHINGTON, Oct. 5 /PRNewswire-USNewswire/ -- The debate over Darwin will come to the Smithsonian Institution's west coast affiliate on October 25th, with the premiere of *Darwin's Dilemma: The Mystery of the Cambrian Fossil Record*, a new intelligent design film which challenges Darwinian evolution. To view a trailer and clips from the film, please visit [www.darwinsdilemma.org](http://www.darwinsdilemma.org).

*Darwin's Dilemma* will be screened at 7 p.m. on Sunday, October 25th in the IMAX Theater at the California Science Center, a specially designated Smithsonian affiliation. Following the film will be a post-film discussion featuring Darwin skeptic Dr. David Berlinski, author of *The Devil's Delusion: Atheism and its Scientific Pretensions*, and leading intelligent design scientist Dr. Jonathan Wells, biologist and author of *Icons of Evolution*. The screening is sponsored and hosted by the American Freedom Alliance.

The hour-long documentary explores one of the great mysteries in the history of life: the sudden appearance of dozens of major complex animal types in the fossil record without any trace of the gradual transitional steps predicted by Darwin. Frequently described as "the Cambrian Explosion," the development of these new animal types required a massive increase in genetic information.

The film, shot on location at fossil digs in China and Canada, traces Darwin's own study of the fossil record and recreates the prehistoric world of the Cambrian era with state-of-the-art computer animation. *Darwin's Dilemma* also features interviews with leading evolutionary paleontologists such as Simon Conway Morris of Cambridge University and James Valentine of the University of California at Berkeley, as well as Dr. Stephen Meyer, Dr. Wells, and other intelligent design proponents.

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Hi Shell,

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In 2005, the Discovery Institute premiered the film *The Privileged Planet* at the Smithsonian's Museum of Natural History.

Best regards,  
Shell

Shell Amega  
Vice President | Communications  
California Science Center  
(213) 744-7496  
[samega@cscmail.org](mailto:samega@cscmail.org)  
[www.californiasciencecenter.org](http://www.californiasciencecenter.org)

1/6/2010

CSCF0000231

1 GIBSON, DUNN & CRUTCHER LLP  
2 PATRICK W. DENNIS, SBN 106796  
3 JAMES L. ZELENAY, SBN 237339  
4 MATTHEW C. WICKERSHAM, SBN 241733  
5 333 South Grand Avenue  
6 Los Angeles, California 90071-3197  
7 Telephone: (213) 229-7000  
8 Facsimile: (213) 229-7520  
9 PDennis@gibsondunn.com

10 Attorneys for Defendant,  
11 California Science Center Foundation

12 SUPERIOR COURT, STATE OF CALIFORNIA  
13 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

14 AMERICAN FREEDOM ALLIANCE,

15 Plaintiff,

16 v.

17 CALIFORNIA SCIENCE CENTER  
18 FOUNDATION,

19 Defendant.

20 CASE NO. \_\_\_\_\_

21 DECLARATION OF JEFFREY N. RUDOLPH  
22 IN SUPPORT OF THE CALIFORNIA  
23 SCIENCE CENTER FOUNDATION'S  
24 OPPOSITION TO THE EMERGENCY RELIEF  
25 REQUEST BY THE AMERICAN FREEDOM  
26 ALLIANCE

27 HEARING DATE: October 14, 2009  
28 HEARING TIME: 8:30 a.m.  
HEARING PLACE: TBD

DATE OF FILING  
OF COMPLAINT: October 14, 2009

TRIAL DATE: TBD



1 the Los Angeles Unified School District, enrolling 620 students from Kindergarten through fifth  
2 grade. The Amgen Center for Science Learning is the Science Center's education department,  
3 offering science education to students, workshops for teachers and community educators, and  
4 programs for the public.

5 5. Development of the California Science Center continues with the planned 2010  
6 opening of the second phase of the California Science Center, featuring a major new exhibit on  
7 ecology in a 165,000 square foot addition to the Science Center. The Foundation is spearheading the  
8 completion of a \$165 million campaign and the construction of the Phase II expansion.

9 6. The California Science Center and the Foundation is one of the oldest and most  
10 successful public-private partnerships in the State of California. The Foundation funds design and  
11 development of exhibitions and education programs at the California Science Center. The  
12 Foundation also manages and arranges for the use of areas within the Science Center for private  
13 events. The State of California owns the buildings and the land upon which they are built, and is  
14 responsible for the operation and maintenance of the physical facilities. This partnership is also  
15 reflected in the structure of the governing authority over the California Science Center and  
16 Exposition Park. A nine member Board of Directors for the CSC is appointed by the Governor of the  
17 State of California for four-year terms. The California Science Center Foundation is an independent  
18 non-profit charitable organization (501(c)(3)) governed by an 85 member Board of Trustees. The  
19 California Science Center and California Science Center Foundation have a number of agreements  
20 that govern the relationship, including a lease relating to the IMAX Theater and a Joint Operation  
21 Agreement.

22 7. As one of its responsibilities, the Foundation operates the Event Services Department.  
23 This department allows private groups to hold events within the Science Center, such as corporate  
24 meetings, school events, or weddings. In addition to scheduling and arranging for the holding of  
25 these private events, the Event Services Department of the Foundation requires all contracting parties  
26 to comply with the Event Services' Policies and Procedures.

27 8. One of the provisions within the Event Services' Policies and Procedures requires the  
28 contracting party to obtain the prior approval of the Event Services Office before any promotional

1 materials relating to the private event are released or broadcast. This provision is intended to ensure,  
2 among other things, that the California Science Center name is not used inappropriately by private  
3 groups that are contracting for use of the property. Because the Foundation and the California  
4 Science Center have spent considerable resources to build a reputation as a highly regarded and  
5 respected scientific institution, we are very attentive to ensure that private groups do not appropriate  
6 the reputation of the California Science Center for their own benefit. This provision is intended to  
7 ensure that the promotional materials do not imply that the California Science Center is sponsoring or  
8 endorsing any particular position, group or product, which may be related to the private event.

9 9. On October 5, 2009, I received an email from Shell Amega, the Vice President of  
10 Communications at the Foundation, forwarding a Press Release that was dated October 5, from an  
11 organization known as the Discovery Institute concerning a private event scheduled for the IMAX  
12 Theater on October 25, 2009. By referring to the event with the following language: "when the  
13 Smithsonian institution's west coast affiliate premieres *Darwin's Dilemma*", the promotional material  
14 implied that the California Science Center was sponsoring the event, which was factually inaccurate.  
15 Typically, such material would refer to the California Science Center as the location only. Attached  
16 as Exhibit 1 is a true and correct copy of this press release. The email from Ms. Amega also stated  
17 that she was contacted by Harold Closter, Director of the Smithsonian Institution Affiliates Program,  
18 who was concerned about the implication that the Smithsonian Institution was involved in sponsoring  
19 the event. Mr. Closter then sent a follow-up email regarding his concerns to Ms. Amega. Attached  
20 as Exhibit 2 is a true and correct copy of the email from Mr. Closter to Ms. Amega.

21 10. I do not remember any other promotional materials from private entities that have used  
22 the California Science Center's name in any way other than simply indicating the location of the  
23 event and I do not recall any other private event sponsor using the name of the Smithsonian  
24 Institution as part of their promotional materials for an event at the California Science Center. The  
25 Event Services Department generally ensures that promotional materials do not imply that the  
26 California Science Center is sponsoring or hosting a private event.

27 11. The representation that the California Science Center was "the Smithsonian  
28 Institution's west coast affiliate" is inaccurate. The California Science Center is not "the Smithsonian

1 institution's west coast affiliate." It is one of 20 Smithsonian affiliates in California and one of 165  
2 affiliates nationwide. The Smithsonian is not directly involved in the operation of the California  
3 Science Center or its internal decisions regarding private events. Mr. Closter had expressed the same  
4 concerns to the Foundation in the email that he had sent to Ms. Amega and which is part of Exhibit 2.

5 12. The California Science Center's relationship as an affiliate of the Smithsonian requires  
6 that it takes steps to protect the uses of the Smithsonian name in all materials related to the Science  
7 Center. If we had been given the promotional materials in advance for the AFA program we would  
8 have to run them by the Smithsonian for their approval, as well as our own, and we would have  
9 rejected the wording in the promotional materials. We were not given that opportunity and the  
10 promotional materials were made public without our knowledge on October 5.

11 13. Because of AFA's failure to comply with the provision in the Policies and Procedures  
12 requiring pre-approval of all promotional material, the inaccuracy of the promotional materials, and  
13 the same concerns regarding the inaccuracy of the materials expressed by the Smithsonian Institution,  
14 on October 6, 2009, I decided to cancel the event scheduled for October 25, 2009 and Chris Sion sent  
15 an email to the AFA with that direction.

16 14. Although the California Science Center cannot be considered "the Smithsonian  
17 Institution's west coast affiliate", the California Science Center is part of the Smithsonian's affiliate  
18 program, which allows the Science Center to obtain increased access to loans of rare items and  
19 artifacts maintained by the Smithsonian Institution. For example, through our affiliate relationship,  
20 the California Science Center was able to obtain loans of the space capsules from the Apollo,  
21 Mercury and Gemini missions. In addition, an affiliate relationship with the Smithsonian Institution  
22 allows access to their researchers and traveling exhibitions. Therefore, the inaccuracy of the  
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1 promotional material caused me concern in part because it was also considered inaccurate by the  
2 Smithsonian Institution. The relationship with the Smithsonian Institution is an extremely important  
3 relationship for the California Science Center and California Science Center Foundation.

4 I declare under penalty of perjury under the laws of the State of California that the foregoing  
5 is true and correct. This declaration is executed on October 13, 2009 in Los Angeles, California.

6  
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8 \_\_\_\_\_  
9 Jeffrey N. Rudolph

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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA )

3 COUNTY OF LOS ANGELES ) SS:

4 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
5 and not a party to the within action; my business address is: 11500 Olympic Blvd., Suite 400,  
6 Los Angeles, California 90064. On May 27, 2010, I served the foregoing documents:

7 **OPPOSITION TO DEMURRER OF CALIFORNIA SCIENCE CENTER FOUNDATION  
8 AND JEFFREY RUDOLPH; MEMORANDUM OF POINTS AND AUTHORITIES IN  
9 SUPPORT THEREOF; REQUEST FOR JUDICIAL NOTICE; EXHIBITS; [PROPOSED]  
10 ORDER**

11 The above-referenced document was served on:

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

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

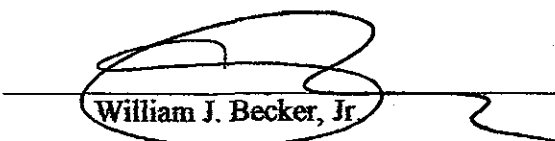
20 Patrick W. Dennis, Esq.  
21 James Zelaney, Esq.  
22 GIBSON, DUNN & CRUTCHER  
23 Los Angeles Office  
24 333 South Grand Avenue  
25 Los Angeles, CA 90071-3197  
26 E-mails: PDennis@gibsondunn.com;  
27 JZelenay@gibsondunn.com

Attorneys for Defendants, California  
Science Center Foundation and Jeffrey  
Rudolph in his official capacity as Presi-  
dent of the California Science Center  
Foundation

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

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

Executed on May 27, 2009, at Los Angeles, California.

  
William J. Becker, Jr.