

ORIGINAL

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

FILED
LOS ANGELES SUPERIOR COURT

APR 29 2010

JOHN A. CLARKE, CLERK
BY PAUL SANCHEZ, DEPUTY

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 11 COUNTY OF LOS ANGELES
 12 CENTRAL DIVISION
 13

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

16 Plaintiff,

17 v.

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

22 Defendants.

Case No. BC 423687

**DECLARATION OF ALLAN S. ONO IN
 SUPPORT OF CALIFORNIA SCIENCE
 CENTER'S AND JEFFREY RUDOLPH
 IN HIS OFFICIAL CAPACITY AS
 PRESIDENT AND CEO OF THE
 CALIFORNIA SCIENCE CENTER'S
 OPPOSITION TO MOTION FOR LEAVE
 TO FILE SECOND AMENDED
 COMPLAINT**

Date: May 12, 2010
 Time: 8:45 a.m.
 Dept: 14
 Judge: The Honorable Terry A. Green
 Trial Date: February 14, 2011
 Action Filed: October 14, 2009

1 8. If the Court were to grant Plaintiff's motion for leave to amend, the Center
2 Defendants expect that the private mediation currently scheduled for June 25, 2010 will need to
3 be continued as the pleadings will likely not be settled by that date, and the Center Defendants
4 expect that the trial date will need to be continued once again.

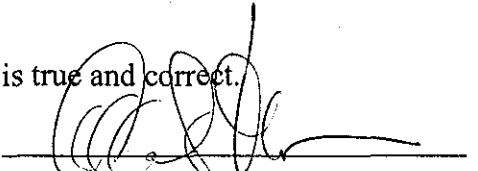
5 9. Attached hereto as Exhibit B is a true and correct copy of relevant portions of
6 Plaintiff's original complaint filed in this matter on or about October 14, 2009.

7 10. Attached hereto as Exhibit C is a true and correct copy of relevant portions of
8 Plaintiff's First Amended Complaint filed in this matter on or about November 19, 2009.

9 11. Attached hereto as Exhibit D is a true and correct copy of relevant portions of
10 Plaintiff's Application and Order to Show Cause filed in this matter on or about October 14,
11 2009.

12 I declare under penalty of perjury that the foregoing is true and correct.

13 April 29, 2010, Los Angeles, California



14 Allan S. Ono

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16 60533540.doc

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EXHIBIT A

Eric Katz - Fwd: FW: AFA vs. CSC re First Amended Complaint

From: Allan Ono
To: Eric Katz
Date: 4/20/2010 12:02 PM
Subject: Fwd: FW: AFA vs. CSC re First Amended Complaint
Attachments: FW: AFA vs. CSC re First Amended Complaint

From: Bill Becker [mailto:bbeckerlaw@gmail.com]
Sent: Friday, November 20, 2009 11:01 AM
To: Allan Ono
Cc: Zelenay Jr., James L.; Dennis, Patrick W.
Subject: Re: AFA vs. CSC re First Amended Complaint

Yes.

Bill Becker
THE BECKER LAW FIRM

Sent from my iPhone

On Nov 20, 2009, at 10:53 AM, "Allan Ono" <Allan.Ono@doj.ca.gov> wrote:

Bill:
This is my understanding as well--i.e. that Jeff Rudolph is being sued solely in his official capacity and not personally. Please confirm. I plan to send out the acknowledgment today and would appreciate a prompt confirmation.
Thanks.
Allan.

>>> "Zelenay Jr., James L." <JZelenay@gibsondunn.com> 11/20/2009 10:49 AM >>>
Bill -- This email is to confirm our conversation of yesterday where you represented that in American Freedom Alliance's action against California Science Center, California Science Center Foundation, and Jeff Rudolph, the American Freedom Alliance is suing Mr. Rudolph in only his official capacity. As you represented, American Freedom Alliance is not suing Mr. Rudolph in his individual or personal capacity. As we discussed, this is critical to our ability to accept service of the complaint on Mr. Rudolph's behalf.

If this is incorrect in any fashion, please inform me immediately.

Sincerely,
Jim Zelenay

From: William Becker [mailto:bbeckerlaw@gmail.com]
Sent: Wednesday, November 18, 2009 12:18 PM
To: Allan Ono; Zelenay Jr., James L.; Dennis, Patrick W.
Subject: AFA vs. CSC re First Amended Complaint

Gentlemen,

ERK

Please see attached FAC. Service copies to be mailed today.

Sincerely,
Bill

WILLIAM J. BECKER, JR., ESQ
The Becker Law Firm
11500 Olympic Blvd., Suite 400
Los Angeles, CA 90064
Tel: (310) 636-1018
Toll Free: (866) 649-6057
Fax: (310) 765-6328

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=====

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=====
This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.
=====



EXHIBIT B



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 Attorneys for Plaintiff, AMERICAN FREEDOM ALLIANCE

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; and **DOES 1** through
19 **50**, inclusive;

20 Defendants.

Case No.

COMPLAINT

1. **BREACH OF CONTRACT**
2. **PERMANENT INJUNCTION (SPECIFIC PERFORMANCE)**
3. **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**
4. **VIOLATION OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION (42 U.S.C. section 1983)**
5. **DECLARATORY RELIEF**

21
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:

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EXB

1 **PARTIES**

2 1. Plaintiff, AMERICAN FREEDOM ALLIANCE, ("AFA") is and at all relevant
3 times was a nonprofit corporation duly organized and existing under the laws of California with
4 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. The true names and capacities of Defendants sued herein as DOES 1 through 50,
13 inclusive, are unknown to Plaintiff, who therefore sues such Defendants by such fictitious names
14 pursuant to Code of Civil Procedure §474. Plaintiff alleges that each fictitiously named Defen-
15 dant acted or failed to act in such a manner that each has contributed in proximately causing the
16 damages to Plaintiff as herein alleged. Plaintiff will seek leave of Court to amend this Complaint
17 to set forth their true names and capacities when ascertained.

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

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EXHIBIT C



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William J. Becker, Jr., Esq. (SBN 134545)
THE BECKER LAW FIRM
11500 Olympic Blvd., Suite 400
Los Angeles, California 90064
Phone: (310) 636-1018
Fax: (310) 765-6328
Attorneys for Plaintiff, AMERICAN FREEDOM ALLIANCE

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

AMERICAN FREEDOM ALLIANCE, a
nonprofit corporation;

Plaintiff,

vs.

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

Defendants.

Case No. BC423687

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**

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

///
///

WJC

PARTIES

1
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
6 2. Defendant, CALIFORNIA SCIENCE CENTER, (hereinafter "CENTER") is a
7 department of the State of California, located and doing business at 700 Exposition Park Drive,
8 Los Angeles, CA 90037.

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

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

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

25
26 6. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
27 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.
19

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.)
24

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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EXHIBIT D

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 Attorneys for Plaintiff, AMERICAN FREEDOM ALLIANCE

8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

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; and **DOES 1** through
19 **10**, inclusive;

20 Defendants.

Case No.

**APPLICATION AND ORDER TO SHOW
CAUSE AND TEMPORARY RESTRAIN-
ING ORDER; MEMORANDUM OF
POINTS AND AUTHORITIES; DECLA-
RATION OF WILLIAM J. BECKER, JR.,
RE: EX PARTE NOTICE IN SUPPORT
THEREOF; DECLARATION OF
ADRIEN (AVI) DAVIS RE: IRREPARA-
BLE HARM IN SUPPORT THEREOF;
EXHIBITS; [PROPOSED] ORDER**

DATE:
TIME:
DEPT:

21 TO DEFENDANTS CALIFORNIA SCIENCE CENTER AND CALIFORNIA SCIENCE CEN-
22 TER FOUNDATION AND THEIR ATTORNEY OF RECORD:

23 Plaintiff AMERICAN FREEDOM ALLIANCE (hereinafter "AFA" or "Plaintiff"), ap-
24 plies for a Temporary Restraining Order and for an Order requiring Defendants CALIFORNIA
25 SCIENCE CENTER (hereinafter "CENTER") and California Science Center Foundation (herei-
26 after "FOUNDATION") (hereinafter collectively "Defendants") to show cause why a Prelimi-
27 nary Injunction should not issue pending trial in this action, enjoining Defendants and their em-

1 ployees, agents, and persons acting with them or on their behalf, from cancelling an event sche-
2 duled for October 25, 2009, at the CENTER IMAX Theater.

3 This application is made on the grounds that:

4 1. It appears from the Complaint that Plaintiff is entitled to the relief demanded, and
5 the relief consists of compelling specific performance of the contract by requiring an October 25,
6 2009, event to take place at the Defendants' venue;

7 2. Monetary compensation will not afford adequate relief to Plaintiff;

8 3. It would be extremely difficult to ascertain the amount of compensation which
9 would afford Plaintiff adequate relief; and

10 4. Great and irreparable injury will result to Plaintiff before the matter can be heard
11 on notice.

12 This Application is made on the further ground that Plaintiff will suffer irreparable harm
13 by losing its First Amendment freedom to present a public discussion concerning life's origin.

14 Notice of this ex parte Application has been given to Defendants pursuant to California
15 Code of Civil Procedure section 527(c), California Rule of Court 379 and Local Rule 1.3.5 as
16 detailed in the accompanying Declaration of William J. Becker, Jr., Esq., filed in Support of this
17 Application.

18 This Application is based on this Notice, the Points and Authorities attached hereto, the
19 Declaration of Adrian (Avi) Davis in Support Thereof, the attached Exhibits, the Complaint and
20 Exhibits attached thereto, the pleadings, records, and files herein, and on such argument as may
21 be presented at the hearing on the Application.

22 DATED: October 13, 2009

23 **THE BECKER LAW FIRM**

24 By: _____

25 WILLIAM J. BECKER, JR., ESQ.

26 Attorneys for Plaintiff,

27 AMERICAN FREEDOM ALLIANCE

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On or about October 1, 2009, AFA, a nonprofit corporation, entered into a contract (he-
4 reinafter the "Contract") with the CENTER and its partner, the FOUNDATION,¹ to stage a pub-
5 lic screening of two movies and a panel discussion following the screenings at the CENTER, lo-
6 cated in Exposition Park in Los Angeles (hereinafter the "event").

7 On or about October 6, 2009, AFA was notified by Christina Sion (hereinafter "Sion"),
8 an officer and employee of the CENTER, in an email that the event would be cancelled due to
9 the publication of a press release by an organization known as the Discovery Institute. Sion
10 claimed without any foundational explanation that the publication of the press release had dam-
11 aged the CENTER's relationship with the Smithsonian Institution in Washington D.C., which
12 she described as an "affiliate" of the CENTER, and that it had also damaged the CENTER's
13 reputation. She stated that these factors constituted a breach of the Contract.

14 On or about October 8, 2009, a board member and counsel for the FOUNDATION, Pa-
15 trick W. Dennis, notified AFA by letter that Plaintiff had breached the Contract's "Event Policies
16 and Procedures" by failing to obtain prior approval of the information published on the Internet.
17 Dennis did not refer to damage to reputation as a basis for the FOUNDATION's position that
18 AFA had breached the contract. Dennis stated that he represented only the FOUNDATION's
19 interests, and not the CENTER's interests, because the CENTER is a department of the State of
20 California. Thus, AFA was notified by representatives of both the CENTER and the FOUNDA-
21 TION that the event had been cancelled and expressed inconsistent reasons for claiming AFA
22 had breached the Contract.

23 Unless the Court issues an Order compelling Defendants to allow the event to take place
24 on October 25, 2009, AFA will suffer significant hardship amounting to irreparable harm, in-
25 cluding probable financial insolvency, due to its expected profit from the event, which it will not
26 realize if the event does not proceed as planned.

27 Plaintiff further contends that the explanations given for the cancellation of the event are
28 pretextual in nature and made for the purpose of disguising a hidden motive to suppress the mes-
29 sage of the speakers invited to attend the post-screening panel discussion. Thus, AFA's First

30 ¹ The CENTER and the FOUNDATION apparently are a public-private partnership. The CENTER is a department
31 of the State of California pursuant to California Food and Agricultural Code §§ 4101, et seq.

DECLARATION OF SERVICE BY ELECTRONIC MAIL & U.S. MAIL

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.

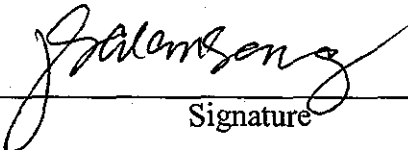
On April 29, 2010, I served the attached **DECLARATION OF ALLAN S. ONO IN SUPPORT OF CALIFORNIA SCIENCE CENTER'S AND JEFFREY RUDOLPH IN HIS OFFICIAL CAPACITY AS PRESIDENT AND CEO OF THE CALIFORNIA SCIENCE CENTER'S OPPOSITION TO MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT** by transmitting a true copy via **ELECTRONIC MAIL**. In addition, I placed 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 April 29, 2010, at Los Angeles, California.

Joanna C. Salansang
Declarant


Signature