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Andrew E. Hall, Esq., SBN 257547  
2 **BLAKE LAW FIRM**  
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3 Encinitas, CA 92024  
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5 Attorneys for Defendant  
6 STEPHEN LAKE

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**11/01/2022** at 10:22:00 AM  
Clerk of the Superior Court  
By Regina Chanez, Deputy Clerk

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8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO, HALL OF JUSTICE**

10 AMY SHERLOCK, an individual and on  
11 behalf of her minor children, T.S. and S.S.,  
12 ANDREW FLORES, an individual;

13 Plaintiffs,

14 vs.

15 GINA M. AUSTIN, an individual; AUSTIN  
LEGALGROUP, a professional corporation,  
16 LARRY GERACI, an individual, REBECCA  
BERRY, an individual; JESSICA  
MCELFRESH, an individual; SALAM  
17 RAZUKI, an individual; NINUS MALAN, an  
individual; FINCH, THORTON, AND  
18 BARID, a limited liability partnership;  
ABHAY SCHWEITZER, an individual and  
19 dba TECHNE; JAMES (AKA JIM)  
BARTELL, an individual; NATALIE  
20 TRANG-MY NGUYEN, an individual,  
AARON MAGAGNA, an individual;  
21 BRADFORD HARCOURT, an individual;  
SHAWN MILLER, an individual; LOGAN  
22 STELLMACHER, an individual;  
EULENTIAS DUANE ALEXANDER, an  
23 individual; STEPHEN LAKE, an individual,  
ALLIED SPECTRUM, INC., a California  
24 corporation, PRODIGIOUS COLLECTIVES,  
LLC, a limited liability company, and DOES 1  
25 through 50, inclusive,

26 Defendants.  
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Case No. **37-2021-0050889-CU-AT-CTL**

**DECLARATION OF ANDREW HALL IN  
SUPPORT OF DEFENDANT STEPHEN  
LAKE'S NOTICE OF *EX PARTE*  
APPLICATION AND APPLICATION FOR  
ORDER DISMISSING STEPHEN LAKE  
FROM THE FIRST CAUSE OF ACTION  
FOR VIOLATION OF THE  
CARTWRIGHT ACT**

**Hearing Date: November 2, 2022**

**Hearing Time: 8:30 am**

Case Filed: December 3, 2021

Department: C-75

Judge: Hon. James A. Mangione

Trial Date: None

1 **DECLARATION OF ANDREW HALL**

2 I, Andrew Hall, hereby declare as follows:

3 1. I am an attorney duly licensed in California and am an attorney and managing owner at  
4 the Blake Law Firm (“BLF”), attorneys of record for Defendant STEPHEN LAKE (“Defendant” or  
5 “LAKE”). I am over the age of 18 and the following facts are of my own knowledge, except as to  
6 those matters herein stated to be upon information and belief, and as to those facts I am informed  
7 and believe them to be true. If called as a witness, I could and would testify competently to the  
8 statements in this declaration. I offer this declaration in support of Plaintiff’s *ex parte* application for  
9 Order Dismissing Stephen Lake from the First Cause of Action.

10 2. I have personally worked on books, records and files, and as to the following facts, I  
11 know them to be true of my own knowledge, or I have gained knowledge of them from the business  
12 records of BLF, all of which were made at or about the time of the events recorded, and which are  
13 maintained in the ordinary course of business at or near the time of the acts, conditions or events to  
14 which they relate. Any such document was prepared in the ordinary course of business of BLF by a  
15 person who had personal knowledge of the event being recorded and had or has a business duty to  
16 record accurately those events. The business records are available for inspection and copies can be  
17 submitted to the Court if required. If called as a witness, I could and would testify competently  
18 thereto.

19 3. On August 19, 2022, the Court entertained LAKE’s Demurrer to the First Amended  
20 Complaint (“FAC”) of Plaintiffs AMY SHERLOCK and minors T.S. and S.S. (“PLAINTIFFS”). At  
21 the hearing, the Court confirmed its tentative ruling with one amendment: it granted PLAINTIFFS  
22 20 days leave to amend their First Cause of Action for Violation of the Cartwright Act.

23 4. On August 25, 2022, PLAINTIFFS served a Notice of Ruling on the August 19, 2022  
24 Demurrer. Attached hereto and incorporated by reference as Exhibit “1” is a true and correct copy  
25 of PLAINTIFFS’ Notice of Ruling.

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5. As of the date of filing of this *Ex Parte* Application, PLAINTIFFS have not filed their Second Amended Complaint.

6. On November 1, 2022, I provided notice of this *ex parte* application to counsel for PLAINTIFFS as well as other co-defendants. As of the date of submission of this application, counsel for Larry Geraci and Rebecca Berry have confirmed that they do not oppose our request and will not be appearing. LAKE is unsure as to whether PLAINTIFFS or the other co-defendants intend on opposing the requested relief. Attached hereto and incorporated by reference as Exhibit “2” is a true and correct copy of the notice provided to opposing counsel, which also includes an email from counsel for PLAINTIFFS providing notice of the August 19, 2022 ruling wherein PLAINTIFFS received 20 days leave to amend their complaint.

I declare, under penalty of perjury under the laws of the State of California, that the foregoing is a true and correct. Executed on November 1, 2022, in Carlsbad, California.



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ANDREW E. HALL

# *EXHIBIT 1*

1 ANDREW FLORES, ESQ (SBN:272958)  
LAW OFFICE OF ANDREW FLORES  
2 427 C Street, Suite 220  
San Diego CA, 92101  
3 P:619.356.1556  
4 F:619.274.8053  
Andrew@FloresLegal.Pro

5 Plaintiff *in Propria Persona*  
6 and Attorney for Plaintiffs  
7 Amy Sherlock, Minors T.S.  
and S.S.

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO**

10 ANDREW FLORES, an individual, AMY )  
SHERLOCK, on her own behalf and on behalf of )  
11 her minor children, T.S. and S.S. )

12 Plaintiffs,

13 vs.

14 GINA M. AUSTIN, an individual; )  
AUSTIN LEGAL GROUP APC, a California )  
Corporation; GERACI, an individual;; )  
15 REBECCA BERRY, an individual; JESSICA )  
MCELFRESH, an individual; SALAM )  
16 RAZUKI, an individual; )  
NINUS MALAN, an individual; )  
17 FINCH, THORTON, and BAIRD, a Limited )  
Liability Partnership, JAMES D. CROSBY, an )  
18 individual; ABHAY SCHWEITZER, an )  
individual and dba TECHNE; JAMES (AKA )  
19 JIM) BARTELL, a California Corporation; )  
NATALIE TRANG-MY NGUYEN, an )  
20 individual, AARON MAGAGNA, an individual; )  
BRADFORD HARCOURT, an individual; )  
21 EULENTIAS DUANE ALEXANDER, an )  
individual; ALLIED SPECTRUM, INC, a )  
22 California corporation, PRDIGIOUS )  
COLLECTIVES, LLC a California Limited )  
23 Liability Company; and DOES 1 through 50, )  
inclusive, )

24 Defendants. )  
25 )  
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28 )

Case No.: 37-2021-00050889-CU-AT-CTL

**NOTICE OF RULING RE:  
DEFENDANT STEVEN LAKE'S  
DEMURRER AND MOTION TO  
STRIKE PLAINTIFF'S FRIST  
AMENDED COMPLAINT**

Dept: C-75

Judge: Hon. James A Mangione

Filed December 3, 2021

Trial: Not Set.

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**TO ALL PARTIES AND THEIR ATTORREYS OF RECORD:**

PLEASE TAKE NOTICE THAT on August 19, 2022, after hearing the arguments of counsel, the Honorable James A Mangione confirmed the August 18, 2022 tentative ruling overruling in part and granting in part Defendant STEVEN LAKE’S Demurrer to Plaintiff’s First Amended Complaint. The court however did deviate from the tentative ruling in the following respect: Plaintiffs are given 20 days to amend the First Amended complaint with respect to Plaintiff’s First Cause of Action (Cartwright Act).

A true and correct copy of the confirmed tentative ruling is attached hereto as Exhibit “A” and is incorporated by reference hereto.

DATED: August 25, 2022

Respectfully submitted,  
**LAW OFFICE OF ANDREW FLORES**

  
\_\_\_\_\_  
ANDREW FLORES,ESQ  
Plaintiff *in Propria Persona*  
and Attorney for Plaintiffs  
Amy Sherlock, Minors T.S.  
and S.S.

# **Exhibit A**

**SUPERIOR COURT OF CALIFORNIA,**

COUNTY OF SAN DIEGO

HALL OF JUSTICE

TENTATIVE RULINGS - August 18, 2022

EVENT DATE: 08/19/2022

EVENT TIME: 09:00:00 AM

DEPT.: C-75

JUDICIAL OFFICER: James A Mangione

CASE NO.: 37-2021-00050889-CU-AT-CTL

CASE TITLE: SHERLOCK VS AUSTIN [EFILE]

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Antitrust/Trade Regulation

EVENT TYPE: Demurrer / Motion to Strike

CAUSAL DOCUMENT/DATE FILED:

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Defendant Steven Lake's Demurrer to Plaintiffs' First Amended Complaint is overruled in part and sustained without leave to amend in part.

*Cartwright Act (First Cause of Action)*

The Cartwright Act prohibits combinations in restraint of trade. (Bus. & Prof. Code, § 16720.) Under the act, "[a]ny person who is injured in his or her business or property by reason of anything forbidden or declared unlawful by this chapter, may sue therefor . . . ." (Bus. & Prof. Code, § 16750, subd. (a).) Antitrust standing is required under the Cartwright Act. (*See Kolling v. Dow Jones & Co.* (1982) 137 Cal.App.3d 709, 723.) To establish such standing, a plaintiff must show: (1) the existence of an antitrust violation with resulting harm to the plaintiff; (2) an injury of a type which the antitrust laws were designed to redress; (3) a direct causal connection between the asserted injury and the alleged restraint of trade; (4) the absence of more direct victims so that the denial of standing would leave a significant antitrust violation unremedied; and (5) the lack of a potential for double recovery." (*Vinci v. Waste Management, Inc.* (1995) 36 Cal.App.4th 1811, 1814 (footnotes removed).)

Here, Plaintiffs have not shown that the injuries caused by Defendant-the alleged theft of Mr. Sherlock's interests in the Partnership Agreement, LERE, and the Balboa and Ramona CUPs ("the Sherlock Property")-constitute the type of antitrust injury required to establish standing. Furthermore, to the extent Plaintiffs are relying on the alleged "Proxy Practice" to establish the Cartwright Act violations, they have failed to demonstrate any connection between their injuries and the Proxy Practice, as the FAC alleges that Mr. Sherlock obtained the Ramona and Balboa CUPs legally, outside of any such practice. Finally, Plaintiffs have not alleged sufficient facts to establish Defendant's participation in the Proxy Practice. Therefore, the demurrer on this cause of action is sustained without leave to amend.

*Conversion (Second Cause of Action)*

"Conversion is the wrongful exercise of dominion over the property of another. The elements of a conversion claim are: (1) the plaintiff's ownership or right to possession of the property; (2) the defendant's conversion by a wrongful act or disposition of property rights; and (3) damages." (*Lee v. Hanley* (2015) 61 Cal.4th 1225, 1240 (alterations and quotation marks omitted).) Plaintiffs allege that Defendant and Harcourt worked together to illegally obtain ownership of the Sherlock Property, which Plaintiffs were entitled to under probate law after Mr. Sherlock's death. Specifically, Plaintiffs allege that Defendant and Harcourt falsified documents dissolving LERE and transferring Mr. Sherlock's interest in the CUPs. These are personal property rights, subject to a claim of conversion. (*See Malibu Mountains Recreation, Inc. v. County of Los Angeles* (1998) 67 Cal.App.4th 359, 367-368 ("A CUP creates a property right which may not be revoked without constitutional rights of due process."); *Holistic*



Supplements, L.L.C. v. Stark (2021) 61 Cal.App.5th 530, 542 ("Kersey's membership interest in the LLC was personal property belonging to her as an individual.") (citing Corp. Code, § 17701.02(r).) Plaintiffs have sufficiently pled that Defendant wrongfully dispossessed them of their personal property rights. Therefore, the demurrer on this cause of action is overruled.

Civil Conspiracy (Third and Seventh Causes of Action)

"The elements of an action for civil conspiracy are the formation and operation of the conspiracy and damage resulting to plaintiff from an act or acts done in furtherance of the common design." (*Richard B. LeVine, Inc. v. Higashi* (2005) 131 Cal.App.4th 566, 574 (quotation marks omitted).) "There is *no separate tort* of civil conspiracy, and there is *no civil action* for conspiracy to commit a recognized tort unless the *wrongful act* itself is committed and damage results therefrom." (*Id.* (quotation marks and alterations omitted).)

Here, the third cause of action appears to allege a civil conspiracy between Defendant and Harcourt to steal the Sherlock Property. As discussed above, the FAC alleges that Defendant and Harcourt worked together to illegally obtain ownership of the Sherlock Property through, among other things, submitting falsified documents. This is sufficient to allege a civil conspiracy claim between Defendant and Harcourt. Therefore, the demurrer to this cause of action is overruled.

However, the seventh cause of action appears to be either duplicative of the third cause of action or allege Defendant was a member of the conspiracy engaged in the "Proxy Practice." As discussed above, Plaintiffs' allegations fail to tie Defendant to the alleged Proxy Practice. Therefore, the seventh cause of action is either duplicative or fails to state a claim upon which relief can be granted. Regardless, the demurrer to this cause of action is sustained without leave to amend.

Declaratory Relief (Fourth Cause of Action)

Defendant demurs to this cause of action based on the claim that Mr. Sherlock "did not have an interest in the Balboa CUP" and that Defendant did not have "an interest in LERE" or participate in its dissolution. However, this argument is directly contradicted by facts pled in the FAC, which the Court must accept as true when ruling on a demurrer. Therefore, the demurrer to this cause of action is overruled.

Unfair Competition (5th Cause of Action)

"California's unfair competition law permits civil recovery for any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising. Cal. Bus. & Prof. Code § 17200. A private person may assert a UCL claim only if she (1) has suffered injury in fact and (2) has lost money or property as a result of the unfair competition." (*Golden State Seafood, Inc. v. Schloss* (2020) 53 Cal.App.5th 21, 39, *reh'g denied* (Aug. 6, 2020), *review denied* (Oct. 28, 2020) (citations and quotation marks omitted).) Here, Plaintiffs allege that "[t]he filing of all documents with public offices effectuating the transfer of the Sherlock Property after the death of Mr. Sherlock are based on forged documents and violate Penal Code § 115." (FAC ¶ 313.) This is sufficient to state a claim under Business and Professions Code section 17200. Therefore, the demurrer to this cause of action is overruled.

The minute order is the order of the Court.

Plaintiffs are directed to serve notice on all parties within five (5) court days.

# *EXHIBIT 2*



Andrew Hall &lt;andrew@blakelawca.com&gt;

**Sherlock v. Austin 21-50889, Ex Parte Notice for November 2 at 8:30 a.m. in Dept. C-75**

2 messages

Andrew Hall &lt;andrew@blakelawca.com&gt;

Tue, Nov 1, 2022 at 9:11 AM

To: Andrew flores &lt;andrew@floreslegal.pro&gt;

Cc: James Crosby &lt;crosby@crosbyattorney.com&gt;, "SToothacre@ferrisbritton.com" &lt;stoothacre@ferrisbritton.com&gt;, "dbarker@ferrisbritton.com" &lt;dbarker@ferrisbritton.com&gt;, "MWeinstein@ferrisbritton.com" &lt;mweinstein@ferrisbritton.com&gt;, Steve Blake &lt;steve@blakelawca.com&gt;, "eservice@blakelawca.com" &lt;eservice@blakelawca.com&gt;, "natalie@nguyenlawcorp.com" &lt;natalie@nguyenlawcorp.com&gt;, Doug Pettit &lt;dpettit@pettitkohn.com&gt;, Kayla Sealey &lt;ksealey@pettitkohn.com&gt;, Karianne Nuthals &lt;knuthals@pettitkohn.com&gt;, Luis Zamora &lt;lzamora@pettitkohn.com&gt;, Alyssa Graff &lt;alyssa@blakelawca.com&gt;

"natalie@nguyenlawcorp.com" <natalie@nguyenlawcorp.com>, Doug Pettit <dpettit@pettitkohn.com>, Kayla Sealey <ksealey@pettitkohn.com>, Karianne Nuthals <knuthals@pettitkohn.com>, Luis Zamora <lzamora@pettitkohn.com>, Alyssa Graff <alyssa@blakelawca.com>

Counsel,

Please take notice that on November 2, 2022 at 8:30 a.m. in Department C-75 of the Superior Court of California, County of San Diego located at 330 West Broadway, San Diego, CA 92101, Defendant Stephen Lake will move for an *ex parte* order dismissing Lake from Plaintiff first cause of action for violation of the Cartwright Act.

Good cause for this application exists under CCP 581(f)(2) and CRC 3.1320(h) for the *ex parte* relief sought. Plaintiff was provided 20 days leave to amend by the court on August 19, 2022. To date, Plaintiff has not filed or served an amended pleading. Lake is entitled to a dismissal since Plaintiff has failed to adhere to the court-imposed deadlines.

We will circulate moving papers as soon as they are ready. Please let us know whether you intend on opposing this application.

Andrew

**Andrew E. Hall, Esq.****Senior Counsel**

Blake Law Firm

533 2nd Street, Suite 250

Encinitas, CA 92024

Direct: (619) 675-9599

Office: (858) 232-1290

**REAL ESTATE - BUSINESS - LITIGATION****BLAKE**  
LAW FIRM

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On Thu, Aug 25, 2022 at 1:14 PM Andrew flores &lt;andrew@floreslegal.pro&gt; wrote:

Hello Counsels,

Please find attached Notice of Ruling for hearing conducted on 8/19/2022.

Andrew Flores

Attorney at Law

427 C Street, Suite 220

San Diego, CA 92101

P. (619) 356-1556

F. (619) 274-8053

andrew@floreslegal.com

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Michael Weinstein &lt;MWeinstein@ferrisbritton.com&gt;

To: Andrew Hall &lt;andrew@blakelawca.com&gt;, Andrew flores &lt;andrew@floreslegal.pro&gt;

Tue, Nov 1, 2022 at 9:14 AM

11/1/22, 9:15 AM

Blake Law Mail - Sherlock v. Austin 21-50889, Ex Parte Notice for November 2 at 8:30 a.m. in Dept. C-75

Cc: James Crosby <crosby@crosbyattorney.com>, Scott Toothacre <SToothacre@ferrisbritton.com>, "Debra L. Barker" <DBarker@ferrisbritton.com>, Steve Blake <steve@blakelawca.com>, "eservice@blakelawca.com" <eservice@blakelawca.com>, "natalie@nguyenlawcorp.com" <natalie@nguyenlawcorp.com>, Doug Pettit <dpettit@pettitkohn.com>, Kayla Sealey <ksealey@pettitkohn.com>, Karianne Nuthals <knuthals@pettitkohn.com>, Luis Zamora <lzamora@pettitkohn.com>, Alyssa Graff <alyssa@blakelawca.com>

Dear Mr. Hall,

Our firm represents defendant Larry Geraci and Rebecca Berry.

We do not oppose your requested relief and will not be appearing at the ex parte hearing.

Respectfully,

Michael R. Weinstein  
mweinstein@ferrisbritton.com  
Ferris & Britton, A Professional Corporation  
501 West Broadway, Suite 1450  
San Diego, CA 92101-7901  
www.ferrisbritton.com  
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Vcard



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