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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
03/23/2018 at 01:57:00 PM
Clerk of the Superior Court
By Katelin O'Keefe, Deputy Clerk

10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO**

12 **KARL BECK**, individually and on behalf of
13 all other similarly situated California residents,

14 Plaintiff,

15 v.

16 **POINT LOMA PATIENTS CONSUMER**
17 **COOPERATIVE CORPORATION**, A
18 California Corporation, **ADAM KNOPF**, an
19 Individual, **JUSTUS H. HENKES IV**, an
20 Individual, **419 CONSULTING INC.**, a
21 California Corporation, **GOLDEN STATE**
22 **GREENS LLC**, a California LLC, **FAR**
23 **WEST MANAGEMENT, LLC**, a California
24 LLC, **FAR WEST OPERATING, LLC**, a
25 California LLC, **FAR WEST STAFFING,**
26 **LLC**, a California LLC, and **DOES 1-50**,

27 Defendants.

Case No: 37-2017-00037524-CU-BT-CTL

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR JUDGMENT ON THE
PLEADINGS TO DEFENDANTS' JOINT
ANSWER**

Date: May 4, 2018

Time: 9:00 a.m.

Judge: Hon. Joel R. Wohlfeil

Ctrm: C-73

1 **TO: THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD**

2 PLEASE TAKE NOTICE that, on May 4, 2018 at 9:00 a.m. in Department C-73 of the
3 San Diego Superior Court located at 330 West Broadway, San Diego, California 92101, the
4 Honorable Joel R. Wohlfeil presiding, plaintiff Karl Beck (“Plaintiff”) will, and hereby does move
5 this Court pursuant to Code of Civil Procedure Sections 430.20 and 438(c)(1)(A) for judgment on
6 the pleadings to the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Tenth, Eleventh,
7 Twelfth, Thirteenth, Fourteenth, Fifteenth, and Sixteenth Affirmative Defenses pled in
8 Defendants’ Joint Answer to Plaintiff’s Complaint (the “Affirmative Defenses” in the “Answer”)
9 as follows:

- 10 (1) The First, Sixth, Seventh, Eighth, Twelfth, Fifteenth, and Sixteenth Affirmative
11 Defenses fail to constitute “new matter,” and should be dismissed without leave to
12 amend.
- 13 (2) The Third, Fourth, Fifth, Tenth, Eleventh, and Fifteenth Affirmative Defenses are
14 equitable in nature and thus not available to Plaintiff’s cause of action for “unlawful”
15 business practices in violation of California Business & Professions Code § 17200, *et*
16 *seq.* Plaintiff moves the Court to dismiss these Defenses without leave to amend.
- 17 (3) Defendants’ Second, Third, Fourth, Fifth, Tenth, Eleventh, Thirteenth, and
18 Fourteenth Affirmative Defenses are boilerplate and fail to plead facts establishing a
19 *prima facie* defense, and Plaintiff moves to dismiss them with leave to amend.

20 This motion is based on the Memorandum of Points and Authorities, the Declaration of
21 William R. Restis and documents attached thereto, the documents and records in the Court’s files,
22 any oral argument that may be presented at the hearing, and any other matter that the Court deems
23 appropriate.

24 Respectfully submitted,

25 DATED: March 23, 2018

THE RESTIS LAW FIRM, P.C.

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