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11 FERRIS & BRITTON APC

12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 ANDREW FLORES, an individual,
15 AMY SHERLOCK, on her own behalf
16 and on behalf of her minor children, T.S.
and S.S., JANE DOE, an individual,
Plaintiffs,

17 vs.

18 GINA M. AUSTIN, an individual;
19 AUSTIN LEGAL GROUP APC, a
California Corporation; JOEL R.
20 WOHLFEIL, an individual;
LAWRENCE (AKA LARRY) GERACI,
21 an individual; TAX & FINANCIAL
CENTER, INC., a California
22 Corporation; REBECCA BERRY, an
23 individual; JESSICA MCELFRISH, an
24 individual; SALAM RAZUKI, an
25 individual; NINUS MALAN, an
26 individual; MICHAEL ROBERT
WEINSTEIN, an individual; SCOTT
27 TOOTHACRE, an individual; ELYSSA
KULAS, an individual; RACHEL M.
PRENDERGAST, an individual; FERRIS
28 & BRITTON APC, a California

Case No.: 3:20-cv-00656-BAS-DEB

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANTS MICHAEL
WEINSTEIN’S, SCOTT H.
TOOTHACRE’S, ELYSSA KULAS’,
AND FERRIS & BRITTON APC’S
REPLY TO PLAINTIFFS’
OPPOSITION TO MOTION TO
DISMISS PLAINTIFFS’ FIRST
AMENDED COMPLAINT**

Date: August 24, 2020

Time: 10:00 a.m.

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

District Judge: Cynthia A. Bashant

Magistrate Judge: Daniel E. Butcher

Courtroom: 4B (4th Floor)

Complaint Filed: April 3, 2020

Trial Date: None



1 Corporation; DAVID S. DEMIAN, an
 2 individual, ADAM C. WITT, an
 3 individual, RISHI S. BHATT, an
 4 individual, FINCH, THORTON, and
 5 BAIRD, a Limited Liability Partnership,
 6 JAMES D. CROSBY, an individual;
 7 ABHAY SCHWEITZER, an individual
 8 and dba TECHNE; JAMES (AKA JIM)
 9 BARTELL, an individual; BARTELL &
 10 ASSOCIATES, a California Corporation;
 11 MATTHEW WILLIAM SHAPIRO, an
 12 individual; MATTHEW W. SHAPIRO,
 13 APC, a California corporation;
 14 NATALIE TRANGMY NGUYEN, an
 15 individual, AARON MAGAGNA, an
 16 individual; A-M INDUSTRIES, INC., a
 17 California Corporation; BRADFORD
 18 HARCOURT, an individual; ALAN
 19 CLAYBON, an individual; SHAWN
 20 MILLER, an individual; LOGAN
 21 STELLMACHER, an individual;
 22 EULENTIAS DUANE ALEXANDER,
 23 an individual; BIANCA MARTINEZ; an
 24 individual; THE CITY OF SAN DIEGO,
 25 a municipality; 2018FMO, LLC, a
 26 California Limited Liability Company;
 27 FIROUZEH TIRANDAZI, an individual;
 28 STEPHEN G. CLINE, an individual;
 JOHN DOE, an individual; and DOES 2
 through 50, inclusive,

Defendants,

JOHN EK, an individual;
 THE EK FAMILY TRUST, 1994 Trust,
 Real Parties In Interest.

I. INTRODUCTION

In this action, Plaintiffs, Andrew Flores, Amy Sherlock, T.S. and S.S, Jane Doe (Collectively “Plaintiffs”) attempt to jump into the fray of this ongoing litigation saga after Darryl Cotton (hereinafter “Cotton”) lost his jury trial in San

1 Diego Superior Court and Cotton abandoned his appeal in the California Court of
2 Appeal. (Am. Compl. ¶¶ 18, 236, 237). Rather than accept the outcome, Plaintiffs
3 have named everyone remotely connected to Cotton’s state court litigation,
4 claiming a grand conspiracy. Plaintiffs’ Opposition does not make a showing of
5 how Plaintiffs’ First Amended Complaint alleges any facts to support a claim
6 against Defendants Michael Weinstein, Scott Toothacre, Elyssa Kulas, Rachel
7 Pendergrast, and Ferris & Britton, APC (hereinafter collectively “F&B
8 Defendants”).

9 Instead of proving they have additional facts to permit amendment,
10 Plaintiffs’ Opposition regurgitates their vague and inadequate conclusory
11 contentions of the First Amended Complaint and fails to do more than simply
12 reference Defendants’ protected litigation speech and activity. Therefore, for the
13 reasons stated herein and the subject Motion to Dismiss, Plaintiffs’ First Amended
14 Complaint should be dismissed with prejudice.

15 **II. ARGUMENT**

16 **A. Plaintiffs Have Failed to Prove That Their First Amended Complaint** 17 **States Any Facts To Meet The Requisite Pleading Standards**

18 Plaintiffs’ First Amended Complaint fails to allege any facts sufficient to
19 state a claim for relief against F&B Defendants. The First Amended Complaint
20 contains no factual allegations to support Plaintiffs’ alleged causes of action
21 against F&B Defendants, neglects to state an actionable and independent cause of
22 action against F&B Defendants, and contains no other facts describing or
23 specifying any conduct of F&B Defendants to support any remote allegations of
24 some alleged wrongdoing.

25 Plaintiffs’ Opposition attempts to re-cast their repetitive and unintelligible
26 pleading as being about “the formation and actions of a criminal enterprise seeking
27 to create an unlawful cannabis monopoly”. (Oppo at 3:12-14). Even if true,
28 Plaintiffs’ First Amended Complaint does not mention any activity regarding the

1 F&B Defendants outside their protected litigation activities i.e. filing and
2 maintaining a lawsuit and making legal arguments.

3 Plaintiffs vaguely reference “evil and illegal actions” due to allegations that
4 Defendant Geraci filed his lawsuit, via the legal services of the F&B Defendants,
5 against Cotton without probable cause. (Oppo at 3:20-22). Plaintiffs also attempt to
6 claim that, as to the F&B Defendants, their First Amended Complaint alleges
7 bribery, obstruction of justice, witness tampering, falsifying evidence, and
8 suborning perjury, but this is simply not the case. (Oppo at 4:21-24; *See Am.*
9 *Compl.*, ¶¶ 130, 136-140, 152, 153, 158, 161, 162, 167, 168, 197, 199, 202, 236).
10 Plaintiffs’ only allegations against the F&B Defendants claim that they represented
11 Geraci in the underlying state court action. (*Am. Compl.*, ¶¶ 130, 136-140, 152,
12 153, 158, 161, 162, 167, 168, 197, 199, 202, 236.) Furthermore, Defendant Elyssa
13 Kulas is only mentioned as being a defendant in this suit and as a part of the law
14 firm Ferris & Britton APC. (*Am. Compl.* ¶¶ 34, 37).

15 Despite no such allegation in the First Amended Complaint, Plaintiffs now
16 attempt to claim that Defendant Toothacre represented Tirandazi at deposition.
17 (Oppo at 4:23-25). Once again, even if true, this is litigation protected activity.
18 Under the various doctrines discussed in the Motion to Dismiss, Defendant
19 Toothacre cannot be sued for representing a person in a deposition.

20 Plaintiffs also attempt to make the conclusory claim that because the
21 underlying action was an allegedly “sham” action, the allegations of violence were
22 therefore ratified by the F&B Defendants. (Oppo at 8:13-14). Plaintiffs then
23 somehow make the leap that they have asserted that the F&B Defendants made
24 misrepresentations to the court because the opposing attorney in the underlying
25 action decided to not call a witness to testify. (Oppo at 8:15-16). Plaintiffs fail to
26 allege any facts that connect the F&B Defendants to these allegations, and it
27 appears that Plaintiffs have resorted to incoherent ramblings and wild non-sensical
28 accusations.

1 Plaintiffs ultimately end their non-sensical conclusory accusations with
2 conclusory statements that the underlying action was a “sham” litigation because
3 the F&B Defendants made legal arguments and represented Tirandazi and
4 therefore the F&B Defendants must have committed a criminal act because
5 Plaintiffs apparently did not like what Tirandazi testified to and disagreed with the
6 F&B Defendants’ arguments. (Oppo at 8:24 – 9:9). Under *Freeman*, in order to
7 show a lawsuit was a “sham” for antitrust purposes, Plaintiffs must show that the
8 lawsuit was (1) objectively baseless, and (2) a concealed attempt to interfere with
9 the plaintiff’s business relationships. *Freeman v. Lasky, Haas & Cohler*, 410 F.3d
10 1180, 1184 (9th Cir.2005). Plaintiffs cannot satisfy this burden because the
11 underlying suit was decided against Cotton and in favor of F&B Defendant’s
12 former client Defendant Geraci. Therefore, said suit was not “objectively baseless”
13 and therefore not a “sham”.

14 Plaintiffs’ Opposition does nothing to clarify the vague and speculative
15 wrongs alleged in the First Amended Complaint. Thus, Plaintiffs have failed to
16 give “fair notice” of the claims asserted against Defendants and the “grounds upon
17 which they rest.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).
18 Defendants cannot possibly begin to prepare a defense based on the speculative
19 and conclusory allegations regarding a matter that was resolved by jury trial.

20 **1. F&B Defendants’ Alleged Conduct is Protected by the Litigation**
21 **Privilege and Warrants Granting F&B Defendants’ Motion to Dismiss**

22 At no point in Plaintiffs’ First Amended Complaint do Plaintiffs allege that
23 the F&B Defendants committed any wrong besides filing a suit on behalf of
24 Defendant Geraci, emailing Cotton a copy of a lis pendens, filing a demurrer,
25 entering into a stipulation with Cotton’s counsel, as well as making arguments at
26 court proceedings and in pleadings. (Am. Compl. at ¶¶ 130, 131, 136-140, 152,
27 153, 158, 162, 196). Plaintiffs attempt to claim that they have alleged in their First
28 Amended Complaint: “bribery, obstruction of justice, witness tampering, falsifying

1 evidence and suborning perjury.” (Oppo. at 4:22-24). However, these allegations
2 do not appear on the face of the complaint. Nowhere in Plaintiffs’ First Amended
3 Complaint are the F&B defendants alleged to have bribed any person, obstructed
4 justice, tampered with any witness, suborned perjury, or falsified evidence. (See
5 Am Compl.). In fact, Plaintiffs’ opposition makes clear that Plaintiffs are
6 attempting to punish the F&B Defendants for filing a lawsuit they deem frivolous
7 and making legal arguments they deem meritless in their role as attorneys. (Oppo.
8 at 8:10-14).

9 Plaintiffs attempt to claim that a vast criminal conspiracy called the
10 “Enterprise” filed “sham” litigations, colluded with city officials, and ratified
11 violence against witnesses. (Oppo. at 4:12-15). Plaintiffs also expect this Court to
12 take wild conclusory allegations as true. (Oppo. at 4:25). However, as evidenced
13 by the judgements in *Cotton I* in F&B Defendants’ client’s favor, the suit filed by
14 F&B Defendants was not “objectively baseless” as required by *Freeman* to
15 constitute a “sham litigation”. *Freeman v. Lasky, Haas & Cohler*, 410 F.3d 1180,
16 1184 (9th Cir.2005). As evidence that F&B Defendants made misrepresentations to
17 the court, Plaintiffs attempt to claim that *Cotton I* was a “sham” litigation because
18 F&B Defendants made legal arguments in court or pleadings that Plaintiffs believe
19 to be incorrect. (Oppo. at 8:24-27). This type of litigation speech is precisely the
20 type of litigation activity protected by the various litigation privileges.

21 As for threats of violence and witnesses tampering, Plaintiffs vaguely state
22 “illegal acts by attorneys” include “perjury, falsification of evidence, and the
23 ratification of acts and threats of violence”. (Am. Compl. ¶ 21). In a suit with
24 numerous attorneys and judges, Plaintiffs’ speculative and vague assertion that
25 some amorphous “attorneys” committed “illegal acts” is not enough to meet the
26 stringent illegality exception. *Bergstein v. Stroock & Stroock & Lavan LLP* (2015)
27 236 Cal. App. 4th 793, 805-810. There is no exception to the litigation privilege or
28 anti-SLAPP statute for mere violations of statutes, civil noncompliance, or bare

1 assertions of wrongdoing—only actual criminal conduct or intentionally tortious
2 acts create an exception to this privilege. *Id.* at 805-810. Furthermore, labels and
3 conclusions are insufficient to meet the Plaintiffs’ obligation to provide the basis of
4 their entitlement to relief. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555
5 (2007). “Factual allegations must be enough to raise a right to relief above the
6 speculative level.” *Id.*

7 In regard to Plaintiffs’ citation in support of their claim that F&B
8 Defendants made misrepresentations to the court regarding the testimony of Mr.
9 Young, the cited paragraphs do not even mention F&B Defendants. (Oppo. at 8:15-
10 16; Am. Compl. ¶¶ 241-243). Plaintiffs cannot merely state that F&B Defendants
11 committed some illegal act and then provide no other supporting facts and then
12 survive a motion to dismiss as it provides no notice to the defendants as to what
13 they are being accused of.

14 **2. Plaintiffs Cannot Use the Federal Courts as a Pseudo Appellate** 15 **Court**

16 In opposition, Plaintiffs attempt to claim that the federal courts can be used
17 as an appellate court for state court actions as long as Plaintiffs have alleged a
18 fraud upon the court. (Oppo. at 9:12-25). Plaintiffs then cite to case law
19 demonstrating that an attorney pretending to represent a client is committing a
20 fraud upon the court. (*Id.*). However, F&B Defendants have never represented any
21 of the Plaintiffs or Cotton and Plaintiffs complain of F&B Defendants making
22 legal arguments. (*Id.*) Plaintiffs attempt to speculate that F&B Defendants
23 conspired with Cotton’s attorneys without any basis. (*Id.*) Regardless, no such
24 allegations of fraud exist in the First Amended Complaint. (See Am. Compl.).

25 Under the doctrine of res judicata, a judgment on the merits in a prior suit
26 bars a second suit involving the same parties or their privies based on the same
27 cause of action. Under the doctrine of collateral estoppel, on the other hand, the
28 second action is upon a different cause of action and the judgment in the prior suit

1 precludes re-litigation of issues actually litigated and necessary to the outcome of
2 the first action. (1B J. Moore, Federal Practice ¶ 0.405[1], pp. 622–624 (2d ed.
3 1974); e. g., *Lawlor v. National Screen Serv. Corp.*, 349 U.S. 322, 326, 75 S.Ct.
4 865, 867, 99 L.Ed. 1122; *Commissioner of Internal Revenue v. Sunnen*, 333 U.S.
5 591, 597, 68 S.Ct. 715, 719, 92 L.Ed. 898; *Cromwell v. County of Sac*, 94 U.S.
6 351, 352–353, 24 L.Ed. 681). Defensive use of collateral estoppel precludes a
7 plaintiff from relitigating identical issues by merely “switching adversaries.”
8 *Bernhard v. Bank of America Nat. Trust & Savings Assn.*, 19 Cal.2d, at 813, 122
9 P.2d, at 895.

10 As such, Plaintiffs’ claims are barred by collateral estoppel and res judicata.
11 As Plaintiffs were privy to the underlying state action and Cotton, Plaintiffs cannot
12 relitigate the same issues determined in the state court action. Specifically,
13 Plaintiffs are attempting to re-litigate the issue of whether the contract between
14 Cotton and Defendant Geraci was illegal. (Am. Compl. ¶¶ 19, 236, 237, 270).
15 Ultimately, Plaintiffs are attempting to reframe their argument that they believe
16 F&B Defendants’ legal arguments were “frivolous”. (Oppo. at 9:26-28). Claiming
17 an attorney’s arguments held no merit, after a trier of fact decided the matter in
18 said attorney’s favor, is not a fraud upon the court nor is it grounds to use the
19 federal courts as an appellate court.

20 **3. No State Action Has Been Alleged**

21 In opposition, Plaintiffs also makes the conclusory assertion that state action
22 was alleged. (Oppo. at 11:5-7). It was not. (See Am. Compl.). Beyond general
23 conclusory allegations that “a small group of wealthy individuals, attorneys and
24 professionals in the City of San Diego that have conspired to create an illegal
25 monopoly in the cannabis market” and all defendants conspired to defraud Cotton
26 and acquire a cannabis CUP, no other allegations are even asserted against the
27 F&B Defendants. (Am. Compl. ¶¶ 2, 267, 268).

28 In support of Plaintiffs’ claims that they alleged state action they cite to

1 paragraphs 274 through 281 of the First Amended Complaint. (Oppo. 11:23-24).
2 However, the only remote reference to the F&B Defendants is paragraph 280,
3 which holds every attorney named is a conspirator because Plaintiffs believe that
4 testimony given in the state court action was not accurate. (Am. Compl. ¶¶ 274-
5 281). In no way do these allegations allege some conspiracy making F&B
6 Defendants a state actor.

7 As previously noted, Courts must “start with the presumption that conduct
8 by private actors is not state action.” *Florer v. Congregation Pidyon Shevuyim*, 639
9 F.3d 916, 922 (9th Cir. 2011); *Sutton v. Providence Saint Joseph Medical Center*,
10 192 F.3d 826, 836 (9th Cir. 1999). No facts are alleged to support Plaintiffs’
11 contention that the F&B defendants are state actors beyond vague and general
12 allegations of some conspiracy. There are no statements of what specifically the
13 F&B Defendants did to further such conspiracy beyond stating that each and every
14 defendant “conspired” against Cotton. (See generally Am. Compl.). In opposition,
15 Plaintiffs make conclusory unsupported statements that the F&B Defendants
16 conspired with Tirandazi. (Oppo. at 9:5-7). Plaintiffs also attempt to claim, in
17 opposition, that Tirandazi was represented by F&B Defendants. (Oppo. at 12:10-
18 14). Once again Plaintiffs are making baseless conclusory allegations that should
19 not survive a motion to dismiss. Labels and conclusions are insufficient to meet the
20 Plaintiffs’ obligation to provide the basis of their entitlement to relief. *Bell Atlantic*
21 *Corp. v. Twombly*, 550 U.S. 544, 555 (2007). “Factual allegations must be enough
22 to raise a right to relief above the speculative level.” (*Id.*) As such, none of the
23 F&B Defendant’s alleged conduct in the First Amended Complaint could be
24 construed as state action.

25 **B. Plaintiffs Have Failed to Prove They Can Amend Their Pleading to**
26 **State Sufficient Facts**

27 Attempting to support their pleading, Plaintiffs’ Opposition includes
28 additional “facts” they believe substantiate their allegations against F&B

1 Defendants. However, Plaintiffs’ Opposition simply rehashes Plaintiffs’ First
2 Amended Complaint’s version of history regarding the underlying state court
3 action’s events. (Oppo. at 11:5-7; 11:23- 12:1; 12:10-14; 12:26-28.) Plaintiffs then
4 state that all the defendants’ actions are “evil and illegal” because the underlying
5 lawsuit against Cotton was filed. (Oppo. at 3:20-22.) Ultimately, Plaintiffs
6 continue to make conclusory allegations that all defendants’ acts in the underlying
7 state action were “illegal”. (Oppo. at 3:20; 4:3-6; 12:23-28.) In fact, Plaintiffs’
8 entire opposition is much like their First Amended Complaint: vague and devoid of
9 facts. Furthermore, Plaintiffs only specifically refer to the F&B Defendants twice
10 in their entire opposition and everything else references all defendants, which is
11 approximately twenty-seven entities or individuals. (Oppo. at 8:25; 9:5).

12 Plaintiffs have shown they cannot amend their pleading to meet any standard
13 because F&B Defendants’ actions as attorneys representing their client and their
14 litigation related speech and activity would be subject to the California anti-SLAPP
15 statute, adopted and as applied by this Court. Furthermore, Plaintiffs cannot allege
16 that the F&B Defendants were state actors as they are private attorneys. In
17 opposition, Plaintiffs attempt to claim that representing Tirandazi for deposition
18 purposes make Defendants a state actor, but this is also not supported by case law.
19 *Polk County v. Dodson*, 454 U.S. 312, 325 (1981 (private attorney, even if
20 appointed and paid for by the state, is not acting under color of state law when
21 representing a defendant).

22 Attempting to attack the validity of the underlying state court judgment in
23 *Cotton I*, Plaintiffs now claim F&B Defendants committed “illegal acts”. (Oppo. at
24 3:20-22; 4:3-6; 12:23-28). Even assuming, arguendo, that Plaintiffs’ allegations
25 were plausible, such accusations do not warrant the judgement be set aside. Once
26 the time for appealing an order or judgment has passed, a court may only set aside
27 or modify an order or judgment if the judgment is void on its face of the record on
28 the basis of fraud and mistake. *Estate of Beard* (1999) 71 Cal.App.4th 753, 774.

1 Additionally, it is the trial court that retains jurisdiction to set aside a void
2 judgment. An appellate court can then review that decision. *Talley v. Valuation*
3 *Counselors Group, Inc.* (2010) 191 Cal. App. 4th 132, 146. Plaintiffs cannot seek
4 to circumvent this process by instead filing an action in Federal Court to act as
5 both the state trial court and state appellate court.

6 Plaintiffs' Opposition provides no additional facts or claims to establish they
7 are able to amend their First Amended Complaint to meet pleading standards.
8 Plaintiffs' Opposition now argues that Defendants' Motion fails to address the
9 merits of Plaintiffs' First Amended Complaint. (Oppo. at 3:21-24; 14:23-26.)
10 Plaintiffs are mistaken that F&B Defendants are required to somehow guess and
11 hypothesize the claims against them and then defend the merits of those claims in
12 the pleading stage. A motion to dismiss dismisses conclusions, unwarranted
13 inferences, and inadequately pled complaints when amendment would be futile.
14 The Court does not weigh credibility and does not make any legal or factual ruling
15 on the merits of any facts or claims; instead, the Court addresses whether there are
16 "enough facts to state a claim to relief that is plausible on its face." *Ashcroft v.*
17 *Iqbal*, 556 U.S. 662, 678 (2009). F&B Defendants have shown there is no plausible
18 claim for relief and Plaintiffs' Opposition neglects to argue otherwise and instead
19 re-hashes the same conclusory allegations in the First Amended Complaint.

20 Plaintiffs' opposition provides no additional substantive allegations or facts
21 that would warrant leave to amend, and instead clarifies that Plaintiffs are simply
22 seeking to punish F&B Defendants solely for their representation of Cotton's
23 adversary in the underlying state court proceeding. Plaintiffs even acknowledge
24 that the Court has already deemed their original complaint as "almost impossible to
25 summarize due to its length and confusing nature". (Oppo. at 14:12-13.) Plaintiffs'
26 First Amended Complaint is no different. Tellingly Plaintiffs further admit that if
27 given leave to amend they would just add in the same facts from their original
28 complaint that was "impossible to summarize" and had a "confusing nature".

1 (Oppo. at 14:13-16).

2 **III. CONCLUSION**

3 Plaintiffs’ First Amended Complaint fails to state a claim for relief against
4 Defendants. Plaintiffs’ Opposition fails to prove that the First Amended Complaint
5 is adequately pled and fails to prove that Plaintiffs have sufficient facts to amend
6 their claims. In fact, Plaintiffs have consistently shown that they are incapable of
7 assembling a coherent complaint. Accordingly, F&B Defendants respectfully
8 request that this Court dismiss Plaintiffs’ First Amended Complaint against F&B
9 Defendants with prejudice without leave to amend.

10
11 Dated: August 17, 2020

KJAR, McKENNA & STOCKALPER LLP

12 By: /s/ Gregory B. Emdee

13 JAMES J. KJAR

14 JON R. SCHWALBACH

15 GREGORY B. EMDEE

16 Attorneys for Defendant

17 Michael Weinstein,
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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2020, I electronically filed the foregoing **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS MICHAEL WEINSTEIN’s, SCOTT H. TOOTHACRE’S, ELYSSA KULAS’, AND FERRIS & BRITTON APC’S REPLY TO PLAINTIFFS’ OPPOSITION TO MOTION TO DISMISS PLAINTIFFS’ FIRST AMENDED COMPLAINT** with the Clerk of the Court for the United States District Court, Southern District of California by using the Southern District CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the USDC-Southern District of California CM/ECF system.

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 841 Apollo Street, Suite 100, El Segundo, California 90245. The envelope or package was placed in the mail at El Segundo, California. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully paid.

I further certify that participants in the case not registered as CM/ECF users have been mailed the above described documents by First Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days, to the following non-CM/ECF participants:

NONE
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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 August 17, 2020, 2020 at El Segundo, California.

s/Berta R. Howard

BERTA R. HOWARD, Declarant