

1 JAMES D. CROSBY (SBN 110383)  
Attorney at Law  
2 550 West C Street, Suite 620  
San Diego, CA 92101  
3 Telephone: (619) 450-4149  
crosby@crosbyattorney.com

4 FERRIS & BRITTON  
A Professional Corporation  
5 Scott H. Toothacre (SBN 146530)  
Michael R. Weinstein (SBN 106464)  
6 501 West Broadway, Suite 1450  
San Diego, California 92101  
7 Telephone: (619) 233-3131  
stoothacre@ferrisbritton.com  
8 mweinstein@ferrisbritton.com

9 Attorneys for Defendants  
10 LARRY GERACI and REBECCA BERRY

11 **SUPERIOR COURT OF CALIFORNIA**  
12 **COUNTY OF SAN DIEGO, HALL OF JUSTICE**

13 AMY SHERLOCK, an individual and on behalf of  
her minor children, T.S. and S.S., ANDREW  
14 FLORES, an individual,

15 Plaintiffs,

16 vs.

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

27 Defendants.  
28

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**07/22/2022** at 01:35:00 PM

Clerk of the Superior Court  
By Regina Chanez, Deputy Clerk

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

Judge: Hon. James A. Mangione

**DEFENDANTS LARRY GERACI'S AND  
REBECCA BERRY'S NOTICE OF  
MOTION AND SPECIAL MOTION TO  
STRIKE PLAINTIFFS' FIRST AMENDED  
COMPLAINT PURSUANT TO CODE OF  
CIVIL PROCEDURE SECTION 425.16  
(ANTI-SLAPP STATUTE)**

(Related to ROA #11)

**DATE: October 21, 2022**  
**TIME: 9:00 am**  
**DEPT: C-75**

**[IMAGED FILE]**

Action Filed: December 3, 2021  
Trial Date: Not Yet Set

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

2           **PLEASE TAKE NOTICE THAT** on October 21, 2022, at 9:00 am., or as soon thereafter as  
3 the matter may be heard, before the Honorable James A. Mangione in Department C-75 of the San  
4 Diego County Superior Court, Hall of Justice Branch, located at 330 W. Broadway, San Diego,  
5 California 92101, defendants, Larry Geraci (“Geraci”) and Rebecca Berry (“Berry”), will and hereby  
6 do move this Court for an order striking the plaintiffs’ First Amended Complaint filed 12/22/21 (the  
7 “FAC”).

8           This special motion to strike is made pursuant to Code of Civil Procedure section 425.16 and on  
9 the grounds that: a) the plaintiffs’ claims asserted against defendants Geraci and Berry in the FAC arise  
10 from constitutionally protected activity; and b) plaintiffs cannot establish a probability of prevailing on  
11 their claims. As to the former, plaintiff’s claims are based upon protected activity, namely, factual  
12 allegations of wrongful conduct in connection with seeking a conditional use permit and in connection  
13 with litigation activity in prior lawsuits. As to the latter, plaintiffs’ cannot claim the requisite minimal  
14 merit as they are barred by the litigation privilege set forth Civil Code section 47(b) and the *Noerr-*  
15 *Pennington* doctrine. Even if not so barred, plaintiffs cannot establish the essential elements of their  
16 claims.

17           Pursuant to section 425.16(c)(1), defendants Geraci and Berry also seek the attorneys’ fees and  
18 costs incurred in connection with the bringing of this motion.

19           This special motion to strike is based on this Notice of Motion, the accompanying  
20 Memorandum of Points and Authorities, Declaration of Michael R. Weinstein, Request for Judicial  
21 Notice, and Notice of Lodgment with supporting exhibits, the entire court file in this matter, and on  
22 such further evidence as will be presented at the hearing of this motion.

23  
24 Dated: July 22, 2022

FERRIS & BRITTON  
A Professional Corporation

25 By: Michael R. Weinstein  
26 Michael R. Weinstein  
27 Scott H. Toothacre  
28 Attorney for Defendants  
LARRY GERACI and REBECCA BERRY