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10 Attorneys for Defendant JESSICA MCELFRISH, an individual

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
09/07/2022 at 05:37:00 PM
Clerk of the Superior Court
By Regina Chanez, Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO - CENTRAL DIVISION, HALL OF JUSTICE

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

Plaintiffs,

vs.

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

Defendants.

CASE NO. 37-2021-00050889-CU-AT-CTL
DEFENDANT JESSICA McELFRISH'S
NOTICE OF DEMURRER AND
DEMURRER TO FIRST AMENDED
COMPLAINT

[IMAGED FILE]

JUDGE: Hon. James A. Mangione
DEPT.: C-75

DATE: October 21, 2022
TIME: 9:00 a.m.
DEPT.: C-75

COMPLAINT FILED: December 3, 2021
TRIAL DATE: Not Set

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TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 21, 2022 at 9:00 a.m., or as soon thereafter as the matter may be heard, in Department C-75 of the above-entitled court, located at 330 West Broadway, in San Diego, California, the Honorable James A. Mangione presiding, defendant JESSICA McELFRESH will and hereby does demur to plaintiffs’ First Amended Complaint on the grounds that the First Amended Complaint and each and every cause of action therein fails to state facts sufficient to constitute a cause of action against her pursuant to California *Code of Civil Procedure* §430.10(e).

This demurrer is based upon this Notice, the Demurrer, the attached Memorandum of Points and Authorities, the Request for Judicial Notice, the Declaration of Laura Stewart, Esq., the concurrently filed Motion to Strike, and the pleadings, papers and records on file with the Court herein, and upon such oral and documentary evidence as may be presented at the hearing of this motion.

DATED: September 7, 2022

WALSH MCKEAN FURCOLO LLP

By: 

Laura Stewart, Esq.
Attorneys for Defendant JESSICA
MCELFRSH, an individual

1 **DEMURRER TO PLAINTIFFS' FIRST AMENDED COMPLAINT**

2 Defendant JESSICA McELFRESH hereby demurs to the First Amended Complaint of
3 Plaintiffs AMY SHERLOCK, an individual and on behalf of her minor children, T.S. and S.S.,
4 and ANDREW FLORES (hereinafter "Plaintiffs") on the following grounds:

- 5 1. Plaintiffs' First Amended Complaint does not state facts sufficient to constitute a
6 cause of action for conspiracy to monopolize in violation of the Cartwright Act
7 (*Business & Professions Code* § 16700, et seq.) against defendant JESSICA
8 McELFRESH pursuant to California *Code of Civil Procedure* §430.10(e);
- 9 2. Plaintiffs' First Amended Complaint does not state facts sufficient to constitute a
10 cause of action for Unfair Competition Law (*Business & Professions Code* §
11 17200, et seq.) against defendant JESSICA McELFRESH pursuant to California
12 *Code of Civil Procedure* §430.10(e);
- 13 3. Plaintiffs' First Amended Complaint does not state facts sufficient to constitute a
14 cause of action for civil conspiracy against defendant JESSICA McELFRESH
15 pursuant to California *Code of Civil Procedure* §430.10(e);

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17 DATED: September 7, 2022

WALSH MCKEAN FURCOLO LLP

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20 By: 

Laura Stewart, Esq.
Attorneys for Defendant JESSICA
MCELFRESH, an individual