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Superior Court of California,  
County of San Diego  
**11/21/2022 at 09:29:00 AM**  
Clerk of the Superior Court  
By E- Filing, Deputy Clerk

10  
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, LARRY  
18 GERACI, an individual, REBECCA BERRY, an  
individual; JESSICA MCELFFRESH, an individual;  
19 SALAM RAZUKI, an individual; NINUS MALAN,  
an individual; FINCH, THORTON, AND BARID, a  
20 limited liability partnership; ABHAY  
SCHWEITZER, an individual and dba TECHNE;  
21 JAMES (AKA JIM) BARTELL, an individual;  
NATALIE TRANG-MY NGUYEN, an individual,  
22 AARON MAGAGNA, an individual; BRADFORD  
HARCOURT, an individual; SHAWN MILLER, an  
23 individual; LOGAN STELLMACHER, an  
individual; EULENTHIAS DUANE ALEXANDER,  
24 an individual; STEPHEN LAKE, an individual,  
ALLIED SPECTRUM, INC., a California  
25 corporation, PRODIGIOUS COLLECTIVES, LLC,  
a limited liability company, and DOES 1 through 50,  
26 inclusive,

27 Defendants.  
28

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

Judge: Hon. James A. Mangione

**DEFENDANTS, LARRY GERACI AND  
REBECCA BERRY'S REPLY  
MEMORANDUM IN SUPPORT OF  
THEIR DEMURRER TO FIRST  
AMENDED COMPLAINT**

**(Related to ROA #11, 195)**

**DATE: December 2, 2022**  
**TIME: 9:00 a.m.**  
**DEPT: C-75**

**[IMAGED FILE]**

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

1 **REPLY MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER**

2 **I. INTRODUCTION**

3 Defendants, Larry Geraci and Rebecca Berry, filed three separate motions directed at Plaintiffs'  
4 First Amended Complaint, filed December 23, 2021:

5 (1) A demurrer to the First, Fifth, Sixth and Seventh causes of action (the "Geraci/Berry  
6 Demurrer");

7 (2) A motion to strike to strike certain portions of the complaint (the "Geraci/Berry Motion  
8 to Strike"), namely, the Fifth Cause of Action, paragraph 323, at page 37, lines 14-15,  
9 which states:

10 " ... full restitution and/or disgorgement of all revenues, earnings, profits,  
11 compensation and benefits, such other monetary relief as the co mi deems just  
12 in light of the ill-gotten gains obtained by Defendants as a result of such  
business acts or practices, and ... "

13 (3) A special motion to strike the complaint pursuant to Code of Civil Procedure  
14 section 425.16 (the "Geraci/Berry Anti-SLAPP Motion").

15 Plaintiffs have filed an "omnibus" opposition (ROA #195) that purports to oppose five separate  
16 motions in a single pleading, namely, the three Geraci/Berry motions but also the two separate motions  
17 to strike by co-defendants Abhay Schweitzer and Jessica McElfresh.

18 Defendants Geraci/Berry will attempt to parse out from this "omnibus" opposition the matters  
19 related to each of their three separate motions and reply to those opposition arguments in three separate  
20 Reply memorandums.

21 This Reply memorandum addresses motion (1), the Geraci/Berry Demurrer.

22 **II. REPLY ARGUMENT**

23 Plaintiffs' Omnibus Opposition does not expressly mention the Geraci/Berry Demurrer, does  
24 not expressly address any of the arguments made by Geraci/Berry in support of their Demurrer, and  
25 does not even attempt to address the elements of any their purported four causes of action against  
26 Geraci and/or Berry that are the subject of the Demurrer.

27 Instead, they cite to Paragraphs 1-6 of their complaint containing their broad allegations of an  
28 Antitrust Conspiracy and argue that the strawman practice that they allege is explicitly declared illegal

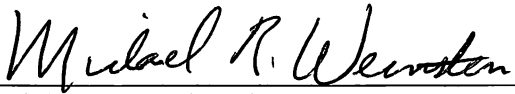
1 by statute and regulation. (See Omnibus Opposition, page 3, line 15- page 4, line 18.) And then they  
2 allege Geraci was “sanctioned” in 2014 and 2015 by the City of San Diego for unlicensed commercial  
3 cannabis activities. Putting aside the fact that the argument that this argument was raised and rejected  
4 in the *Cotton I* action, the Omnibus Opposition fails to tie these allegations to any of the issues raised  
5 by the Demurrer or to any of the required elements that must be alleged for each of its four causes of  
6 action. In this respect, the Omnibus Opposition is incoherent and should be rejected.

7 **III. CONCLUSION**

8 For the reasons stated in the moving papers and above, the Court should sustain without leave to  
9 amend the demurrer by defendants Geraci and Berry to the (1) the First Cause of Action for Conspiracy  
10 to Monopolize in Violation of the Cartwright Act; (2) the Fifth Cause of Action for Unfair Competition  
11 and Unlawful Business Practices; (3) the Sixth Cause of Action for Declaratory Relief; and (4) the  
12 Seventh Cause of Action for Civil Conspiracy. A proposed Order was submitted with the moving  
13 papers.

14  
15 Dated: November 21, 2022

FERRIS & BRITTON  
A Professional Corporation

17 By:   
18 Michael R. Weinstein  
19 Scott H. Toothacre  
20 Attorney for Defendants  
LARRY GERACI and REBECCA BERRY