 PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and 4840-2687-6904.1 Case No. 3:18-cv-00325-7 DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO DEFENDANT'S MOTION TO 	Case	8:18-cv-00325-TWR-DEB	Document 78	Filed 05/05/21	PageID.3368	Page 1 of 5
 9 UNITED STATES DISTRICT COURT 10 SOUTHERN DISTRICT OF CALIFORNIA 11 12 DARRYL COTTON, an individual, 13 Plaintiff, 14 vs. 15 CYNTHIA BASHANT, an individual; JOEL WOHLFEIL, an individual; IOEL WOHLFEIL, an individual; IGHAA EURY SERACI, an individual; REBECCA BERRY, an individual; IGHAA EURISTEIN an individual; JESSICA MCELFRESH, an individual; and DAVID DEMIAN, an individual; 19 Defendants. 20 Defendants. 21 DEMIAN"S RECEVENT TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECE PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and PAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO DEFENDANT'S MOTION TO DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO DEFENDANT'S MOTION TO DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO DEFENDANT'S MOTION TO 	3 4 5 6	CORINNE C. BERTSCHE, SB# 174939 E-Mail: Corinne.Bertsche@lewisbrisbois.com DAVID M. FLORENCE, SB# 242857 E-Mail: David.Florence@lewisbrisbois.com 550 West C Street, Suite 1700 San Diego, California 92101 Telephone: 619.233.1006 Facsimile: 619.233.8627 Attorneys for Defendant DAVID				
10 SOUTHERN DISTRICT OF CALIFORNIA 11 11 12 DARRYL COTTON, an individual, 13 Plaintiff, 14 vs. 15 CYNTHIA BASHANT, an individual; 16 LARRY GERACI, an individual; 17 GINA AUSTIN, an individual; 18 individual; JESSICA MCELFRESH, an 19 Defendants. 20 Defendants. 21 TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECC 23 PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf 24 "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's 25 Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant 26 Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of 27 April 21, 2021. However, plaintiff has not served or filed any opposition and 28	8					
 DARRYL COTTON, an individual, Plaintiff, Vs. CYNTHIA BASHANT, an individual; JOEL WOHLFEIL, an individual; REBECCA BERRY, an individual; REBECCA BERRY, an individual; GINA AUSTIN, an individual; MICHAEL WEINSTEIN, an individual; and DAVID DEMIAN, an individual, Defendants. Dofendants. TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECO PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and 24840-2687-6904.1 	9	UNITED STATES DISTRICT COURT				
 DARRYL COTTON, an individual, Plaintiff, VS. CYNTHIA BASHANT, an individual; JOEL WOHLFEIL, an individual; ICASE NO. 3:18-cv-00325-TWR- PLAINTIFF'S NON-OPPOSITION TO DISMISS PLAINTIFF'S NON-OPPOSITION TO DESCRIPTION TO DISMISS CYNTHIA BASHANT, an individual; CASE NO. 3:18-cv-00325-TWR- DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO DESCRIPTION TO DESC	10	SOUTHERN DISTRICT OF CALIFORNIA				
 Plaintiff, VS. CYNTHIA BASHANT, an individual; JOEL WOHLFEIL, an individual; ICEL WOHLFEIL, an individual; BEBECCA BERRY, an individual; GINA AUSTIN, an individual; GINA AUSTIN, an individual; MICHAEL WEINSTEIN, an individual; JESSICA MCELFRESH, an individual, Defendants. Defendants. TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECO PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and the served or filed any opposition to the served or filed any opposition and the served or filed any opposition to the served or filed any opposition and the served or filed any opposition to the served or filed any opposition and the served opposition to be the served opposition and the served opposition to be the served opposition to the served oppo	11					
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 14 vs. 15 CYNTHIA BASHANT, an individual; JOEL WOHLFEIL, an individual; IOEL WOHLFEIL, an individual; IOEL WOHLFEIL, an individual; IOEL WOHLFEIL, an individual; REBECCA BERRY, an individual; GINA AUSTIN, an individual; INCHAEL WEINSTEIN, an individual; JESSICA MCELFRESH, an individual; and DAVID DEMIAN, an individual, 20 Defendants. 21	13	Plaintiff,				
 15 CYNTHIA BASHANT, an individual; JOEL WOHLFEIL, an individual; LARRY GERACI, an individual; REBECCA BERRY, an individual; GINA AUSTIN, an individual; MICHAEL WEINSTEIN, an individual; and DAVID DEMIAN, an individual, 19 Defendants. 20 Defendants. 21 TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECO PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and 4840-2687-6904.1 Case No. 3:18-ev-00325- DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO DEFENDANT'S MOTION TO 	14	VS.		TO MOT	TON TO DISI	MISS
 16 LARRY GERACI, an individual; REBECCA BERRY, an individual; GINA AUSTIN, an individual; MICHAEL WEINSTEIN, an individual; JESSICA MCELFRESH, an individual; and DAVID DEMIAN, an individual, 20 Defendants. 21 Defendants. 22 TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECO PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 20, 2021. However, plaintiff has not served	15	CYNTHIA BASHANT,	an individual;		AINT PURSU	ANT TO
 I7 GINA AUSTIN, an individual; MICHAEL WEINSTEIN, an individual; JESSICA MCELFRESH, an individual; and DAVID DEMIAN, an individual; and DAVID DEMIAN, an individual, Defendants. I0 Defendants. I0 THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECO PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and 4840-2687-6904.1 Case No. 3:18-cv-00325- DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO DEFENDANT'S MOTION TO 	16	LARRY GERACI, an in REBECCA BERRY an	dividual;	TRCI 12		<i>)</i> , rkcr +
 individual; JESSICA MCELFRESH, an individual; and DAVID DEMIAN, an individual; and DAVID DEMIAN, an individual, Defendants. TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORT PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, Plaintiff has not served or filed any opposition and April 21, 2021. However, Plaintiff has not served or filed any opposition and April 21, 2021. However, Plaintiff has not served or filed any opposition and April 21, 2021. However, Plaintiff has how be plaintiff has however, Plaintiff has how b	17	GINA AUSTIN, an indi	vidual;			V. Robinson
 individual, Defendants. TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinaf "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and 4840-2687-6904.1 Case No. 3:18-cv-00325- DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO DEFENDANT'S MOTION TO 	18	individual; JESSICA MO	CÉLFRESH, a	n Time: 1:	30 p.m.	
 20 Defendants. 21 22 TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORNATION TO PLEASE TAKE NOTICE that Defendant DAVID DEMIAN (hereinafer "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's 24 "DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's Amended Complaint Pursuant to FRCP 12(b)(6) 12(b)(5), FRCP 4. Pursuant Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, plaintiff has not served or filed any opposition and April 21, 2021. However, Plaintiff has not served or filed any opposition and April 21, 2021. However, Plaintiff has how be appeared by the plaintiff has how be appeared by the plaintiff has how by the pl	19		,		× ,	NT
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 26 Judge Robinson's Chamber Order for Civil Cases, plaintiff's opposition was of 27 April 21, 2021. However, plaintiff has not served or filed any opposition and 28 4840-2687-6904.1 Case No. 3:18-cv-00325-7 28 Avid Demian's Reply to Plaintiff's NON-OPPOSITION TO DEFENDANT'S MOTION TO 	24	"DEMIAN") has received no opposition to his Motion to Dismiss Plaintiff's First				
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PLAINTIFF'S FIRST AMENDED COMPLAINT PURSUANT TO FRCP 12 (b)(6) 12(b)(5), FRC		DAVID DEMIAN'S REPLY TO			DEFENDANT'S M	IOTION TO DISMISS

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

1	has failed to timely oppose DEMAIN's Motion to Dismiss. Pursuant to San Diego				
2	Local Rule 7.1(f)(3)(c), plaintiff's non-opposition may be treated as consent to				
3	granting this motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995)				
4	Accordingly, Defendant DEMIAN respectfully requests that the Court grant				
5	his Motion and dismiss Plaintiff's First Amended Complaint ("FAC") and each				
6	claim for relief pursuant to Federal Rules of Civil Procedure ("FRCP") Rule				
7	12(b)(6), Rule 12(b)(5) and Rule, as to claims against him from this litigation.				
8	DATED: May 5, 2021 LEWIS BRISBOIS BISGAARD & SMITH LLP				
9					
10					
11	By: s/ Corinne C. Bertsche				
12	CORINNE C. BERTSCHE Attorneys for Defendant DAVID DEMIAN				
13	Attorneys for Defendant DAVID DEMIAN				
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28	4840-2687-6904.1 2 Case No. 3:18-cv-00325-TWR-DEB				
	DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT PURSUANT TO FRCP 12 (b)(6) 12(b)(5), FRCP 4				

1	UNITED STATES DISTRICT COURT			
2	SOUTHERN DISTRICT OF CALIFORNIA PROOF OF SERVICE			
3	Darryl Cotton v. Cynthia Bashant, et al. Case No. 3:18-cv-00325-TWR-DEB			
4	STATE OF CALIFORNIA, COUNTY OF SAN DIEGO			
5 6	At the time of service, I was over 18 years of age and not a party to this action. My business address is 550 West C Street, Suite 1700, San Diego, CA			
7	92101. On May 5, 2021, I served true copies of the following document(s):			
8	DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO			
9	MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT PURSUANT TO FRCP 12 (b)(6) 12(b)(5), FRCP 4			
10	I served the documents on the following persons at the following addresses			
11	(including fax numbers and e-mail addresses, if applicable):			
12	Darryl Cotton (Plaintiff in Pro Per) 6176 Federal Blvd.			
13	San Diego, CA 92114			
14	(619) 954-4447			
15	The documents were served by the following means:			
16	(BY U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed above and:			
17	Placed the envelope or package for collection and mailing, following			
18 19	our ordinary business practices. I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it is deposited in			
1) 20	the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.			
20 21	package with the postage fully prepara.			
21 22	Additionally, I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):			
23	SEE ATTACHED SERVICE LIST			
24	The documents were served by the following means:			
25	(BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically			
26	filed the documents with the Clerk of the Court using the CM/ECF system, which sent notification of that filing to the persons listed above.			
27	///			
28				
	4840-2687-6904.13Case No. 3:18-cv-00325-TWR-DEBDAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO MOTION TO DISMISS PLAINTIFF'S			
	FIRST AMENDED COMPLAINT PURSUANT TO FRCP 12 (b)(6) 12(b)(5), FRCP 4			

1	I declare under penalty of perjury under the laws of the United States of			
2	America and the State of California that the foregoing is true and correct.			
3	Executed on May 5, 2021, at San Diego, California.			
4	(Se 9. 13)			
5				
6	Sondra J. Bradley			
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28	4840-2687-6904.1 4 Case No. 3:18-cv-00325-TWR-DEB			
	DAVID DEMIAN'S REPLY TO PLAINTIFF'S NON-OPPOSITION TO MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT PURSUANT TO FRCP 12 (b)(6) 12(b)(5), FRCP 4			

1	SERVICE LIST					
2	Darryl Cotton v. Cynthia Bashant, et al.					
3	Case No. 3:18-cv-00325-TWR-DEB					
4	Douglas A. Pettit Julia Dalzell Pettit Kohn Ingrassia Lutz & Dolin	James J. Kjar Jon R. Schwalbach Gregory B. Emdee				
5	Pettit Kohn Ingrassia Lutz & Dolin 11622 El Camino Real, Suite 300 San Diego, CA 92130	Kjar McKenna & Stockalper				
6	Tel: (858) 755-8500	841 Apollo Street, Suite 100 El Segundo, CA 90245				
7	dpettit@pettitkohn.com jdalzell@pettitkohn.com	Tel: (424) 217-3026 kjar@kmslegal.com				
8	Attorney for Defendants, Gina Austin and Austin Legal Group	jschwalbach@kmslegal.com gemdee@kmslegal.com				
9 10	una mustin Legai Group	Attorney for Defendant, Michael Weinstein				
11	Susanne C. Koski	James D. Crosby				
11	Carmela E. Duke Superior Court of California, City of San	550 West C Street, Suite 620 San Diego, CA 92101				
	Diego 1100 Union Street	Tel: (619) 450-4149 crosby@crosbyattorney.com				
13	San Diego, CA 92101 Tel: (619) 844-2382	Attorney for Defendants Larry Geraci				
14 15	susanne.koski@sdcourt.ca.gov carmela.duke@sdcourt.ca.gov	and Rebecca Berry				
16	Attorney for Defendant, Joel Wohfeil					
17	Regan Furcolo					
18	Laura Stewart Walsh Mckean Furcolo LLP					
19	550 West C Street, Suite 950 San Diego, CA 92101					
20	San Diego, CA 92101 Tel: (619) 232-8486 rfurcolo@wmfllp.com					
21	lstewart@wmfllp.com					
22	Attorney for Defendant Jessica Mcelfresh					
23						
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	4840-2687-6904.1	5 Case No. 3:18-cv-00325-TWR-DEB				
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