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Marcela Escobar-Eck

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8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO**
10

11 JOSHUA BILLAUER,

12 Plaintiff,

13 vs.

14 OLGA MARCELA ESCOBAR-ECK; and
15 DOES 1-1,000,

16 Defendants.

17 OLGA MARCELA ESCOBAR-ECK,

18 Cross-complainant,

19 vs.

20 JOSHUA BILLAUER; and ROES 1-10,
21 inclusive,

22 Cross-defendants
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CASE NO. 37-2021-00006367-CU-DF-CTL

CROSS-COMPLAINT

Complaint Filed: February 16, 2021
Trial: Not Set

1 Cross-complainant Marcela Escobar-Eck (“Escobar-Eck” or “Cross-complainant”) alleges
2 as follows:

3 **PARTIES, JURISDICTION, AND VENUE**

4 1. Marcela Escobar-Eck is a natural person who resides in the City of Carlsbad.

5 2. Cross-defendant Joshua Billauer (“Billauer” or “Cross-defendant”) is a natural
6 person who resides in the City of San Diego.

7 3. The true names and capacities of Cross-defendants Roes 1 through 10 inclusive are
8 unknown at this time to Cross-complainant, who therefore sues them under such fictitious names
9 pursuant to Code of Civil Procedure section 474. When the true names and capacities of the Roe
10 Cross-defendants are ascertained by Cross-complainant, it will seek leave to amend this Cross-
11 complaint to allege the same.

12 4. Cross-complainant is ignorant and unaware of the true names, capacities, interests,
13 or basis for liability by Cross-defendants identified as Roes 1 through 10, inclusive, and therefore
14 sues these Cross-defendants by such fictitious names. Cross-complainant is informed and
15 believes and thereon alleges that at all times relevant to this action, Roes 1 through 10, and each
16 of them, claim certain interests or were acting as the agent, servant, principal, employee, partner,
17 trustee, or joint venture of each of the other Cross-defendants in doing the things alleged herein
18 and is responsible in some manner for the damages and disputes alleged in this Cross-complaint
19 and/or the relief sought in this Cross-complaint. Cross-complainant will amend this Cross-
20 complaint to allege the true names and capacities of Roes 1 through 10 when they are ascertained.

21 **GENERAL ALLEGATIONS**

22 5. Cross-defendant Billauer controls and operates and contributes content to the
23 account “Save Del Cerro” across multiple social media accounts, specifically operating Twitter¹,
24 and contributing to Instagram², and Facebook³. All three accounts are public, making the content
25 posted under the account shareable across the respective platform, and viewable to any user.

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¹ <https://twitter.com/savedelcerro>

28 ² <https://www.instagram.com/savedelcerro/>

³ <https://www.facebook.com/savedelcerro>

1 6. Cross-complainant Escobar-Eck is the President/CEO of Atlantis Group, a premier
2 land use and strategic planning consulting firm in San Diego (“Atlantis”). Ms. Escobar-Eck
3 controls and operates a personal account on Twitter under the name “@SanDiegoLandUse.” Due
4 to the harassment and abuse received from Cross-defendant Billauer, Ms. Escobar-Eck has set her
5 personal account to private.

6 7. On or around November 11, 2020, Cross-complainant Escobar-Eck was making a
7 presentation to a community planning group on behalf of a client. All Peoples Church. Due to the
8 COVID-19 pandemic, the presentation was online through the Zoom platform. During the
9 meeting, a person who was only identifiable by the name “JJ” was present and when the
10 Chairperson of the meeting requested the party’s full name, “JJ” refused. During that Zoom
11 meeting, “JJ” sent private messages to Cross-complainant Escobar-Eck through the chat function.
12 “JJ” accused Ms. Escobar-Eck of being dishonest about a house purchase that had occurred up the
13 street from the project. The person continued messaging Ms. Escobar-Eck and accused her of
14 being the reason the aforementioned house was purchased, so as to provide a second point of
15 access to the church.

16 8. At the end of the meeting, “JJ” typed in a direct chat to Ms. Escobar-Eck, “I’m
17 going to make sure you get sent back to where you came from”. The message came after “JJ”
18 asked the Chair to confirm the meeting was not being recorded.

19 9. After that meeting it was unclear who “JJ” was. Cross-complainant later learned
20 that “JJ” was cross-defendant Joshua Billauer. This was the start of his systematic pattern of
21 harassment and online trolling of Ms. Escobar-Eck.

22 10. On November 11, 2020, Billauer posted for the first time under his
23 “SaveDelCerro” Instagram account, followed up by three more posts that same day. The second
24 of the four posts was a screenshot from Cross-complainant Escobar-Eck’s presentation with her
25 photo included. Billauer’s comment regarding Cross-complainant Escobar-Eck is that she “works
26 for the Church project and is trying to convince the neighborhood it’s “no big deal”.” This was
27 confirmation that Billauer attended the meeting where “JJ” harassed Cross-complainant.

28 11. On December 30, 2020, Billauer published on Instagram a post titled “Conflicts of

1 Interest and Influence” that included a photo titled “Lobbyists” with the following statement:
2 “Church land use lobbyist Marcela Escobar-Eck, former Director of Development Services for
3 the City of San Diego, has a history exerting of improper influence with City officials.”

4 12. On or about February 5, 2021, Billauer posted the following statement on
5 Facebook and Instagram along with a picture with Billauer’s comments: “This is the lobbyist
6 disclosure form from Q4 2020, the warrant is from the past. No reason to think history won’t
7 repeat itself.” The picture was a “SCHEDULE A-1: CLIENT DISCLOSURE (Lobbying
8 Cont...)” and Billauer highlighted Cross-complainant Escobar-Eck labeling her a “[f]ormer
9 government official” and drawing a line from her name to Billauer’s comment of: “[t]rying to
10 peddle influence over a municipal decision.”

11 13. On that same date, Billauer posted a screenshot of its website with a red circle
12 around “2007 Search Warrant Atlantis Group Owner” referring to Cross-complainant Escobar-
13 Eck, with an arrow drawn to Billauer’s commentary: “One of the methods to influence is to hire
14 former government officials with personal friendships and acquaintances to facilitate municipal
15 decisions favoring particular private entities.” The search warrant referenced by Billauer was not
16 for Cross-complainant; the search warrant did not produce any emails from Cross-complainant.

17 14. On February 7, 2021, Billauer posted on the “SaveDelCerro” Instagram account
18 that All Peoples Church, the business that Billauer claims he is trying to save Del Cerro from,
19 hired Atlantis to help them get a project approved. Billauer stated that Cross-complainant “has
20 been involved in many controversial projects as a lobbyist” and claiming that Cross-complainant
21 was being hypocritical in her representation of All Peoples Church.

22 15. On April 8, 2021, Billauer posted to the “SaveDelCerro” Twitter account an image
23 of a person speaking out of both sides of their head with the caption “Atlantis Group lobbies
24 around town.”

25 16. Since November, 2020, Billauer has followed Cross-complainant Escobar-Eck and
26 members of Atlantis to other community planning group meetings, and opposing other unrelated
27 projects.

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1 feelings all to her general damage.

2 24. The above-described publications were published by Billauer with malice and/or
3 oppression and/or fraud, with the intent to injure and harm, and thus Cross-complainant seeks an
4 award of punitive damages.


5 **PRAYER FOR RELIEF**

6 WHEREFORE, Cross-complainant Marcela Escobar-Eck prays as follows:

- 7 1. For general damages, according to proof but in an amount no less than
8 \$500,000.00;
- 9 2. For special damages, according to proof;
- 10 3. For punitive damages in the amount of \$500,000;
- 11 4. An injunction prohibiting Cross-defendant from repeating such statements;
- 12 5. For costs of suit incurred herein;
- 13 6. For reasonable attorney's fees;
- 14 7. For such other and further relief as the Court may deem just and proper.

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16 DATED: April 28, 2021

AUSTIN LEGAL GROUP, APC

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18 By: 
19 Gina Austin/Tamara Leetham
20 Attorneys for Cross-complainant Marcela
21 Escobar-Eck
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