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Olga 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.

CASE NO. 37-2021-00006367-CU-DF-CTL

**DECLARATION OF CROSS-
COMPLAINANT MARCELA ESCOBAR-
ECK'S IN SUPPORT OF OPPOSITION TO
CROSS-DEFENDANT JOSHUA
BILLAUER'S SPECIAL MOTION TO
STRIKE CROSS-COMPLAINT**

Judge: Hon. Kenneth Medel
Dept: C-66
Date: October 1, 2021
Time: 9:30 a.m.

Complaint Filed: February 16, 2021
Trial: Not Set

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19 OLGA MARCELA ESCOBAR-ECK,

20 Cross-complainant,

21 vs.

22 JOSHUA BILLAUER; and ROES 1-10,
23 inclusive,

24 Cross-defendants
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I, Marcela Escobar-Eck, declare as follows:

1. I am over the age of 18 and have personal knowledge of the facts stated in this declaration, except as to those facts stated upon information and belief, which facts I believe to be true. If called as a witness, I would testify competently thereto. I make this declaration in support of my (Marcela Escobar-Eck) Opposition to Cross-Defendant Joshua Billauer’s Special Motion to Strike Cross-Complaint.

2. I am the President, CEO, and a Shareholder of Atlantis Group Land Use Consultants (“Atlantis”). Atlantis is a land use and strategic planning consulting firm in San Diego. I have been with Atlantis for approximately 14 years. Prior to Atlantis, I was employed with the City of San Diego for 20 years or so. At the City, I worked in the planning, economic development, and development services departments, the departments responsible for land use policy building permits and entitlements. When I left the City of San Diego, I was the director of development services.

3. In or around 2019, Atlantis was hired as a permit consultant by the All Peoples Church (the “APC”). The APC was looking to build a church in the Del Cerro neighborhood, located in San Diego. APC was seeking a plan development approval from the City. Atlantis’s involvement in the APC project was sporadic- meaning, Atlantis was not, and is not involved in every step of the process. Del Cerro is a relatively small neighborhood in the City.

4. On or around November 11, 2020, I, on behalf of Atlantis, was making a presentation to a community planning group on behalf of APC. Due to COVID-19, the planning group meeting was online, rather than in person. During that presentation, I was harassed by a person named “JJ” who accused me of being dishonest and messaged me “I’m going to make sure you get sent back to where you came from.” This was my first interaction with cross-defendant Joshua James Billauer (“Billauer”). Billauer confirms this, but does not repeat his threat, in his declaration in support of his Motion.

5. Soon after my interaction with Mr. Billauer, I learned of the “SaveDelCerro” Instagram account.

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1 6. On December 30, 2020, Billauer published an Instagram post titled “Conflicts of
2 Interest and Influence” that included a photo titled “Lobbyists” with the following statement:
3 “Church land use lobbyist Marcela Escobar-Eck, former Director of Development Services for
4 the City of San Diego, has a history exerting of improper influence with City officials.” (See
5 Notice of Lodging, Exhibit 17.) The post did not provide any information or support for the claim
6 that I had a history of exerting improper influence. The statement is false, unsupported, and if
7 taken as true by the public, damages Atlantis and my own career. I do not have a history of
8 exerting improper influence with or over City of officials. Also, there was no public hearing
9 regarding APC in December 2020.

10 7. On or around February 5, 2021, I believe that Mr. Billauer re-posted something
11 from the “SaveDelCerro” Facebook account to the “SaveDelCerro” Instagram account he
12 controls. The post contained a picture of a “Schedule A-1: Client Disclosure (Lobbying Cont...),”
13 with my name circled and captioned “Former government official” with an arrow pointing to
14 “Trying to peddle influence over a municipal decision.”

15 8. The truth is that I was not trying to peddle influence over a municipal decision,
16 instead, that disclosure was filed with the City of San Diego because on or around December 21,
17 2020, I, on behalf of Atlantis, sent a letter to Mayor Todd Gloria, the City Attorney, and the City
18 Councilmembers to clear up the misconceptions that Mr. Billauer had been spreading online
19 about the APC project.

20 9. On or around February 5, 2021, there was another social media post that appeared
21 to be a screenshot from savedelcerro.org’s documents page. The screenshot highlighted a
22 document titled “2007 Search Warrant Atlantis Group Owner” with the added caption “History
23 repeats itself” and “One of the methods to influence is to hire former government officials with
24 personal friendships and acquaintances to facilitate municipal decisions favoring particular
25 private entities.” The same photo editing techniques used by Mr. Billauer in prior posts on his
26 Instagram account were used in these posts.

27 10. This particular post was highly misleading and again designed to harm my
28 reputation. First, although the title of the document is “2007 Search Warrant Atlantis Group

1 Owner” the search warrant itself is not directed to, or at, me. The statement is completely untrue
2 and the statement that “history repeats itself” with the caption regarding influencing government
3 officials over municipal decisions is clearly putting forth the claim that I have improperly
4 influenced officials and will do so again. This is completely false and designed to harm me.

5 11. On February 7, 2021 and April 8, 2021, I believe that Mr. Billauer posted more
6 false and defamatory statements about me, falsely stating I have been involved in “many
7 controversial projects,” that I am a hypocrite, and that Atlantis speaks out of both sides of its
8 mouth. These are false statements that are irrelevant to any public issue or public interest. They
9 are harmful to my profession, as being a hypocrite and two-faced is not the image any person
10 wants associated with their work. It appears that the same photo editing techniques used by Mr.
11 Billauer in prior posts on his Instagram account were used in these posts.

12 12. The development of the APC is not a public issue or an issue of public interest. It
13 is a local land development that Mr. Billauer and other residents have attempted to make into a
14 public issue. Since Mr. Billauer’s defamatory statements were made, I have learned that another
15 local Del Cerro group, the Del Cerro Action Council had previously denounced the “Save Del
16 Cerro” group that Mr. Billauer represents, stating that “SaveDelCerro” has labeled APC as a
17 “mega” church and a “mega-project,” despite only having a proposed capacity of 100 more
18 people than the already existing Del Cerro church, St. Therese. (A true and correct copy of the
19 Del Cerro Action Council website is attached hereto as Exhibit A and incorporated herein by
20 reference.)

21 13. As of September 8, 2021, the APC project was still in process, with changes being
22 made to the plans, and not yet before Navajo Community Planners, Inc., which means it is still
23 months away from reaching the City of San Diego Planning Commission, and ultimate the City
24 Council.

25 14. Mr. Billauer knows that my objective, as an employee of Atlantis- a representative
26 of APC, is not to influence the outcome of the approval, but to have the project be considered on
27 its merits. I told him this during my deposition on June 29, 2021. (See, 1 OMEE DT 74:9-11.)

28 15. Mr. Billauer, on the other hand, has admitted that his intent in posting the

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defamatory statements is for the purpose of “trying to influence the outcome of the City’s review process and preparing for litigation if it proves necessary.” This is from his declaration, page 5, in support of the Motion.

16. The All Peoples Church is a relatively small project in a small neighborhood in San Diego. Mr. Billauer has made every attempt to turn this project into a public issue and of public interest by exacerbating the optics of the project, notably labeling it a “mega” church and “mega-project” when there is a similar sized church down the street. Mr. Billauer’s defamatory comments are not about the All Peoples Church, they are about me. Presumably he understands that he took it too far because he has taken down the December 30, 2020 post that falsely accused me of having a history of exerting improper influence with City officials.

17. I have had to discount rates charged to clients as a result of Mr. Billauer’s defamatory statements and I am unsure of the total business and revenue lost from potential clients that were poisoned with Mr. Billauer’s malicious and misleading claims. However, as of July 30, 2021, the amount in discounted totaled \$52,531.25.

18. APC is processing a Community Plan Amendment, a Planned Development permit and Map and some ancillary permits. It was based on direction from the City of San Diego Senior staff that a rezone was not requested. City staff wanted to maintain the option for future residential development on the property over time. Based on its current state, the APC project is probably nine months away from its first public hearing in front of the City Planning Commission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: September 20, 2021

DocuSigned by:
Marcela Escobar Eck
3C0360979DAG401...

Olga Marcela Escobar-Eck

EXHIBIT A

Del Cerro Action Council

Posted on [December 23, 2020](#) by [delcerroactioncouncil](#)

Questions about the new “Save Del Cerro” group and the status of All Peoples Church.

Mark Rawlins, DCAC Chair

Del Cerro Action Council has been receiving emails and phone calls regarding the new “Save Del Cerro” group being promoted on Facebook and Nextdoor. The inquiries are from community members wondering if this is the same Save Del Cerro group as the one from 2007. At that time, DCAC supported the effort to oppose SDSU’s 2007 master plan to develop 540 housing units in Adobe Falls without providing any mitigation to traffic. The opposition was a team effort; DCAC partnered with the City of San Diego, the San Diego Association of Governments (SANDAG), and the San Diego Metropolitan Transit System (MTS).

In short, no. None of the leadership in the 2007 Save Del Cerro group is part of this current Save Del Cerro effort.

Those who recall, in the SDSU master plan development traffic, would have utilized Adobe Falls road, Mill Peak Rd, Arno Dr, Helena Pl, Genoa Dr, Capri Dr, Del Cerro Blvd. and College Ave to get to SDSU daily. This traffic would have collided with Hearst Elementary traffic at the same time. DCAC and original Save Del Cerro were adamant that SDSU provide a mitigation plan to reduce traffic in Del Cerro by providing an alternate way in and out of Adobe Falls. It was a classic David and Goliath story. After years of litigation, SDSU was forced to reduce its master plan design down to 240 units in Adobe Falls.

The current Save Del Cerro group fiercely opposes the development of the All Peoples Church, a conservative Christian church. Many of their posts are filled with half-truths and distorted facts. To date, they haven’t been willing to engage with DCAC nor with church leadership to address their concerns. Instead, they use Facebook and NextDoor to spread propaganda against the church. They have labeled it as a “Mega” church and are distorting the church building layout as massive. The proposed church capacity is only 100 more people than St. Therese and St. Therese has a school on site. The majority of the buildings, including the top floor of the parking structure, will be set below the College Ave street site line. Additionally, the church is being built on 5.6 acres of land that is locked in a canyon. There is no other land available for the church to expand.

This group has also failed to mention that the church has proactively worked closely with, and been accommodating to, the community and nearby neighbors for over two years to address concerns about the impact of the development in the neighborhood. They have been providing updates on their progress with the city on their building plans to DCAC and NCPI with complete transparency. In any development there are unknowns and details that are being worked out with the city. If they don’t currently have all of the answers doesn’t mean they are hiding something with the city.

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religion is a First amendment right and no group or individual has the right to tell any religion that they cannot co-exist. It doesn't matter if a mosque, temple, church, or synagogue is being built, the issue of religion should not be a discussion point when it comes to private property land use and development.

The primary issue is traffic and congestion in Del Cerro. That is a concern I share. But this traffic issue is much different than with the SDSU 2007 master plan. The peak of the church's travel is at Del Cerro's lowest traffic pattern throughout the week; Saturday evenings and Sunday mornings. The main concern is the "right turn only" into, and out of, the church parking lot. If church traffic were to be limited to right turn only into and out of the property, the church development plan could have a serious issue. However, the church has proposed, and city staff has tentatively accepted, a new signalized intersection at the church's driveway. If approved by City Council, it would cross the College Ave median just after the "Welcome to Del Cerro" sign. (The church has offered to work with the Friends of Del Cerro to ensure that their landscape and tree planting plans for the median will enhance the community's median enhancement efforts.) The light would be designed to only turn red when a car in the parking lot would be turning left on to College Avenue to head south to I-8, or left from College Avenue going south and turning in to the church parking lot. They will use technology that will not activate the traffic signal if a car is turning right out of the parking lot to head north on College Avenue.

If this signal is approved, the project will have provided traffic mitigation for the community of Del Cerro. Is it enough to reduce traffic? Will it pass at Navajo Community Planners? Don't know, but there is a plan to address the "right turn only" issue.

So where is the church in its development plans? My understanding is that they have worked through many of the details and answered concerns of most city departments. The Church will soon make its fourth submittal to the city. If this addresses the remaining issues, the city will move forward with an environmental review of the project per the California Environmental Quality Act. This document will be available for public review and comment. This is a time where the community will have an opportunity to provide any feedback or concerns about potential impacts the project may have. Once adjudicated, including issuance of the environmental and traffic reports, the church project will then go before NCPI, City of San Diego Planning Commission, and finally to the San Diego City Council for a vote. Public comment will be welcomed after each of the presentations at NCPI, the San Diego Planning Commission and the City Council. Community planning groups such as NCPI are the only advisory groups officially recognized by the City of San Diego.

If you have any questions pertaining to the All Peoples Church development, I recommend visiting the project's website at light.allpeopleschurch.org or email thelightproject@allpeopleschurch.org. If you would like information about when the project is scheduled to be heard by the NCPI visit their website navajoplanners.org. You may also contact DCAC via our website at delcerroactioncouncil.org.

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January 20, 2020

In "Announcements"

[Del Cerro Action Council Agenda – July 26,
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July 23, 2018

In "Announcements"

[Minutes of the July 26, 2018 Del Cerro
Action Council Meeting](#)

October 22, 2018

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Del Cerro Action Council

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