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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/20/2021 at 07:20:00 PM

Clerk of the Superior Court
By E- Filing, Deputy Clerk

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8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO**
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11 JOSHUA BILLAUER,

12 Plaintiff,

13 vs.

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

16 Defendants.

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

**CROSS-COMPLAINT MARCELA
ESCOBAR-ECK'S OBJECTIONS TO
THE EVIDENCE FILED IN SUPPORT OF
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

Pursuant to California Rules of Court, Rules 3.1352 and 3.1354, Cross-complainant Marcela Escobar-Eck (“Escobar-Eck”) hereby objects to portions of the evidence filed in support of cross-defendant Joshua Billauer Special Motion to Strike the Cross-Complaint.

OBJECTIONS TO DECLARATION OF JOSHUA BILLAUER

Billauer Declaration	Escobar-Eck Objections
<p>¶5. I have attended several public meetings (remotely via Zoom) concerning the All Peoples Church project, some of which were also attended by OMEE, and I have spoken in opposition to it.</p>	<ol style="list-style-type: none"> 1. Lacks foundation (Evid. Code § 403.) 2. Vague (Evid. Code §765(a).)
<p>¶6. I have heard my neighbors raise this concern and others about the project, such as increased traffic without adequate traffic-alleviating infrastructure.</p>	<ol style="list-style-type: none"> 1. Hearsay. (Evid Code. §1200, et seq.) Mr. Billauer cannot speak on behalf of neighbors, as they are out of court statements sought to be used for the truth of the matter asserted. 2. Speculation (Evid. Code §702.) 3. Lacks foundation (Evid. Code §403.)
<p>¶7. I have been speaking against the All Peoples Church project at community meetings related to the project’s application for land-use entitlements and other approvals from the City of San Diego. I have been educating City officials through social media with two objectives in mind: to make sure that the project is not approved by the City Council; and if it is so approved and litigation to overturn the approval is pursued by me or any organization with which I am associated, to make sure that the administrative record fully reflects the project’s deficiencies and the lies that the church’s hired guns – land-use consultants like OMEE – spread in service to the church.</p>	<ol style="list-style-type: none"> 1. Vague (Evid. Code §765(a).) 2. Lacks Foundation. 3. Prejudicial because the statement that Ms. Escobar-Eck is a “hired gun” that is spreading lies in service of the church is materially misleading and unsupported. 4. Improper Opinion Testimony. Mr. Billauer’s claim that his posts are designed for purposes of the administrative record is improper; social media posts that have never been introduced during the administrative process are not part of the administrative record.
<p>¶9. My research included but was not limited to reviewing news accounts and public records over the last 20 years and interviewing former public officials and other community members who have worked with OMEE. Eventually a search warrant was issued and executed because of the many improprieties surrounding the Tower’s approval by the City, and OMEE’s</p>	<ol style="list-style-type: none"> 1. Lacks foundation and vague. No detail as to what news accounts and documents were reviewed, or the former public officials and other community members that were allegedly interviewed. 2. Prejudicial because it states the evidence provided. The search warrant was issued

<p>1 name appears many times in the probable-cause 2 statement attached to the warrant (all of which 3 the Superior Court eventually unsealed in 4 response to media requests); a true and correct 5 copy of the warrant and the materials attached 6 thereto is attached to OMEE's deposition 7 transcript as Exhibit 22.</p>	<p>and executed regarding Tom Story; Ms. Escobar-Eck's name appears roughly five times throughout the probable-cause statement, not in the Search Warrant itself. Her name being included is not evidence of anything nefarious.</p> <p>3. Hearsay (Evid Code. §1200, et seq.) Mr. Billauer is speaking to the content of the search warrant and the reason why it was executed, which is inadmissible hearsay.</p>
<p>8 ¶10. The warrant then goes on to discuss 9 OMEE and Tom Story and their involvement 10 on the Sunroad Tower project and how OMEE 11 and Mr. Story (who had left the City and was 12 then hired by a developer) proverbially 13 scratched each other's back.</p>	<p>1. Prejudicial because it misstates the evidence provided. The search warrant does not discuss Ms. Escobar-Eck in any capacity. The search warrant seeks documents related to Tom Story. Further, the probable-cause statement does not state that Ms. Escobar-Eck and Mr. Story "proverbially scratched each other's back."</p> <p>2. Hearsay (Evid Code. §1200, et seq.) Mr. Billauer is speaking to the content of the search warrant, and offering its contents for the truth of the matter asserted.</p>
<p>17 ¶11. I also reviewed the City's database of 18 lobbyist registrations and disclosures, and 19 discovered that a substantial number of 20 controversial and (in my opinion) harmful 21 development projects approved by the City 22 over the years were ushered through by OMEE. 23 After reviewing the City's archives of the 24 public meetings on projects involving OMEE, I 25 noticed a trend: many members of the public believed that the project was being misrepresented and would ultimately be more damaging to the community than OMEE was claiming.</p>	<p>1. Best Evidence rule (Evid. Code § 1520.) None of the alleged lobbyist registrations and disclosures that Mr. Billauer believed to be "controversial" are provided. None of the City's archives of public meetings are provided, either.</p> <p>2. Lacks personal knowledge (Evid. Code §702) and Hearsay (Evid. Code §1200, et seq.) Mr. Billauer is testifying to what other members of the public stated in public meetings and has no personal knowledge of these alleged statements.</p>

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OBJECTIONS TO DECLARATION OF CORY J. BRIGGS

Briggs Declaration	Escobar-Eck Objections
¶5. Consequently, OMEE has no damages of her own.	1. Lacks Personal Knowledge (Evid. Code §702.) 2. Speculation (Evid. Code §702.) 3. Improper Legal Conclusion (Hayman v. Block, 176 Cal.App.3d 629, 638-39 (1986) [“affidavits must cite evidentiary facts, not legal conclusions or ‘ultimate’ facts”].)

DATED: September 20, 2021

AUSTIN LEGAL GROUP, APC

By: 

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Andrews
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Escobar-Eck