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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 BREAKING CODE SILENCE, a
14 California Public Benefit Corporation,
15 Plaintiff,
16 vs.

17 CHELSEA PAPCIAK aka FILER, an
18 individual, JENNIFER WALKER, an
19 individual, JENNA BULIS, an
20 individual, MARTHA THOMPSON, an
21 individual, and
22 BREAKINGCODESILENCE, INC., a
23 Florida corporation
24 Defendants.

Case No.: 21-cv-0918-BAS (DEB)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANT JENNIFER
WALKER'S MOTION TO
DISMISS PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 12(b)(6)**

Date: September 13, 2021
Dept.: 4B
Judge: Hon. Cynthia A. Bashant

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

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I. INTRODUCTION

Plaintiff, who jointly owns the subject trademark “Breaking Code Silence” with Defendants, are suing the joint owners with no legal support. Despite multiple meet and confer efforts to resolve this case, Plaintiff, for some reason, asserts greater rights to use a jointly-owned trademark. Plaintiff has no cause of action against a co-owner of a trademark:

A leading trademark treatise broadly concludes that “[w]hen parties are co-owners of a mark, **one party cannot sue the other for infringement**. A co-owner cannot infringe the mark it owns.” 2 J. McCarthy on Trademarks and Unfair Competition § 16:40 (4th ed. 2015). The Court has been unable to identify any cases in which a plaintiff stated a trademark infringement claim against a defendant co-owner with unlimited and equal rights to the trademark.

Piccari v. GTLO Prods., LLC, 115 F.Supp.3d 509, 516 (E.D.Pa. 2015)(emphasis added). Attached to Defendant Walker’s Request for Judicial Notice at Exhibit 1 is the trademark application filed on September 3, 2020, including as the owners Jen Robison (Walker)(moving defendant), Katherine McNamara (current CFO and agent for service of process for Plaintiff),¹ Jenna Bulis (defendant),and Chelsea Papciak (defendant). Plaintiff provides no authority, because there is none, that co-owners of trademarks can sue each other for infringement. This should end the inquiry as a matter of law. In the face of this clear law, and the multiple meet and confer efforts, continuing this suit can only be interpreted as bad faith, and grounds for malicious prosecution at the close of this lawsuit.

Plaintiff’s own exhibits further undermine any cause of action as against defendant Walker. Exhibit F shows unequivocally that Ms. Walker fully detached and distanced herself, publicly, from Plaintiff. Dkt. 19-1, p. 128. Exhibits must be read with the complaint on a motion to dismiss. *Quinn v. Ocwen Fed. Bank FSB*,

¹ See Request for Judicial Notice Exhibit 2, Articles of Incorporation of the California Breaking Code Silence (Plaintiff).

1 473 F.3d 1240, 1244 (8th Cir. 2006). Plaintiff’s allegations confess that Walker
2 had no involvement after this public disavowal in March, 2021. Plaintiff was not
3 incorporated until after Walker’s disavowment, and well before the complaint was
4 filed two months later. Plaintiff’s own allegations confess this:

5 ¶24: Defendants Papciak, Walker, Bulis and Thompson were involved with
6 BCS from 2019 through early 2021. In or around February and March of
7 2021 these Defendants publicly separated themselves from BCS and **no**
8 **longer actively participate in the organization.**

9 This, too is enough, on its face, to grant Walker’s motion to dismiss. Exhibit F
10 confirms it.

11 Finally, Plaintiff also confesses that the social media platforms were created
12 **before Plaintiff existed.** Second Amended Complaint (“SAC”), ¶¶ 16 and 22.
13 The marks, under Plaintiff’s allegations, were created in 2018, 2019, and 2020.
14 How can Plaintiff claim rights to platforms which existed before Plaintiff was
15 incorporated in March, 2021? *Herbko Int’l v. Kappa Books*, 308 F.3d 1156, 1162
16 (Fed. Ct. 2002)(“These proprietary rights may arise from a *prior* registration, *prior*
17 trademark or service mark use, *prior* use as a trade name, *prior* use analogous to
18 trademark or service mark use, or any other use sufficient to establish proprietary
19 rights. *Otto Roth & Co. v. Universal Foods Corp.*, 640 F.2d 1317, 1320, 209
20 U.S.P.Q. (BNA) 40, 43 (CCPA 1981).”)(Emphasis added.) Because Plaintiff’s
21 allegations confess that defendants used the marks first, this wholly defeats
22 Plaintiff’s claims as a matter of law.

23 These defects cannot be cured. The motion should be granted in its entirety,
24 without leave to amend.

25 II. STATEMENT OF RELEVANT FACTS

26 In September 2020, six mutually interested people decided to start a non-
27 profit organization with the mission to assist survivors of troubled teen programs
28

1 and boarding schools. Defendants, MARTHA THOMPSON (“THOMPSON”),
2 JENNA BULIS (“BULIS”), CHELSEA PAPCIAK (“PAPCIAK”), and JENNIFER
3 (ROBISON) WALKER (“WALKER”) were part of the six-member group. They
4 had all been survivor’s themselves and each had their own gifts they brought to the
5 project. All were volunteers, and working towards making the organization viable
6 to support a payroll as well as its mission. Prior to 2020 several of these
7 individuals had been very active in the survivor community, including
8 merchandizing, writing books and blogs, and hosting and posting chat groups on
9 social media to connect with others in the survivor community.

10 Two people who were leaders in this community were JOSH SCARPUZZI
11 (“Josh”) and PAPCIAK. Josh’s leadership led to speaking engagements between
12 2010 and 2018. However, Josh never used the term or trademark BREAKING
13 CODE SILENCE or BCS during that time. (See Decl. of Scarpuzzi lodged with
14 defendant Thompson’s Motion to Dismiss filed concurrently herewith.) PAPCIAK
15 however was the originator of the name BREAKING CODE SILENCE, and had
16 been using that name in her role within the survivor community both in commerce
17 through merchandizing and in her contributions to chat groups and blogs on social
18 media. THOMPSON was the de facto CFO, and the organization was to be named
19 BREAKING CODE SILENCE.

20 In September 2020, the six partners submitted a trademark application for
21 BRAKINGCODESILENCE and BREAKING CODE SILENCE to the United
22 States Patent and Trademark Office (“USPTO”). The six partners will be referred
23 to as the “Joint Owners.” PACIAK, BULIS, and WALKER were part of the six-
24 member Joint Owners group. RJN Exh. 1. Josh was not. RJN Exh. 1.

25 In March of 2021, one of the Joint-Owners, KATHERINE McNAMARA
26 (“McNAMARA”) individually incorporated a corporation in California named
27 BREAKING CODE SILENCE (“Plaintiff”). RJN Exh. 2. McNAMARA did not
28

1 let all the Joint Owners be part of the corporation. When the excluded Joint-
2 Owners discovered that McNAMARA had filed for a corporation without them,
3 they voiced their objection, and McNAMARA shut them all out of everything, and
4 declared herself the CEO of BREAKING CODE SILENCE demanding all of the
5 material for the organization to be turned over to her. The material demanded
6 included a privately owned Facebook group that is owned and managed by
7 WALKER, one of the Joint Owners. WALKER also owns the rights to the G-
8 Suite account that hosted the fledgling organization's email accounts. As
9 mentioned earlier, PAPCIAK had been selling BREAKING CODE SILENCE
10 merchandise for several years before the group decided to attempt an organization,
11 and had created websites to sell that merchandise, including originally designed
12 logos that PAPCIAK had made. McNAMARA demanded that as well, despite
13 neither she nor Plaintiff had any right or ownership in any of these pages or
14 accounts.

15 Then in May 2021, McNAMARA, through Plaintiff, filed an application
16 with the USPTO for the trademarks of BREAKINGCODESILENCE and
17 BREAKING CODE SILENCE. That same month, McNAMARA, through
18 Plaintiff, filed the instant lawsuit claiming trademark infringement, unfair business
19 practices and competition, conversion, false light, and intentional interference with
20 economic relationships and opportunities. Exhibit 2 to the Request for Judicial
21 Notice shows that McNamara is the Chief Financial Officer and Agent for Service
22 of Process for Plaintiff.

23 In short, this lawsuit was filed due to a rift between joint owners of a
24 trademark, none of whom hold priority over any of the others as joint owners.

25 26 **III. LAW AND ARGUMENT**

**A. Plaintiff's Claims Against WALKER Are Not Plausible Under
Twombly/Iqbal**

To determine whether a pleading adequately states a plausible claim for relief, a court must first take “note of the elements a plaintiff must plead to state a claim.” *Ashcroft v. Iqbal*, 556 U.S. 662, 675 (2009). To establish a “plausible” claim, the complaint must contain “more than labels and conclusions” or “formulaic recitations of the elements of a cause of action.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The *Twombly/Iqbal* standard requires a complaint to contain sufficient factual allegations to show a “plausible” claim for relief. *Bissessur v. Indiana Univ. Bd. of Trustees*, 581 F.3d 599, 603 (7th Cir. 2009).

Plaintiff's only allegations against WALKER are that she “publicly separated herself from Plaintiff” in early 2021 [before Plaintiff existed], ¶24; that WALKER is holding the two-factor authentication code for the Instagram account [which WALKER created and therefore owns], ¶31; that WALKER changed the password for a G-suite account [which WALKER created and therefore owns], ¶32; and that WALKER contacted Squarespace regarding access to the account that she created, ¶35. While none of these allegations are true, even if they were, Plaintiff has not stated a cognizable claim for trademark infringement due to no prior use, under Plaintiff's own allegations.

**1. Plaintiff Has Not Pled a Claim for Trademark Infringement Against
WALKER**

To resolve whether Plaintiff has a claim for trademark infringement for WALKER's alleged use of “BREAKING CODE SILENCE” or “BREAKINGCODESILENCE,” Plaintiff must first show whether Plaintiff has a valid, protectable trademark interest in the marks. *Brookfield Commc'ns, Inc. v. W. Coast Ent. Corp.*, 174 F.3d 1036, 1046-47 (9th Cir. 1999). Registration of the

1 mark on the Principal Register in the Patent and Trademark Office constitutes
2 prima facie evidence of the validity of the registered mark and of the owner's
3 exclusive right to use the mark on the goods and services specified in the
4 registration. 15 U.S.C. §§ 1057(b); 1115(a).

5 According to the USPTO's registry (known as "TESS"), the marks were
6 originally registered under the original Joint-Owners in September 2020, which
7 includes WALKER. RJN Exh. 1. Further, according to the California Secretary of
8 State's registry, Plaintiff was not in existence at that time, having been
9 incorporated in March of 2021. RJN Exh. 2. Plaintiff cannot allege infringement
10 on a mark that has been previously registered by other parties. *Herbko Int'l v.*
11 *Kappa Books*, 308 F.3d 1156, 1162 (Fed. Ct. 2002) ("These proprietary rights may
12 arise from a *prior* registration, *prior* trademark or service mark use, *prior* use as a
13 trade name, *prior* use analogous to trademark or service mark use, or any other use
14 sufficient to establish proprietary rights.") Similarly, Plaintiff cannot allege
15 ownership when it was not in existence when the mark was originally registered by
16 the six partners.

17 Plaintiff has alleged that the mark was abandoned by the Joint Owners (SAC
18 ¶67), however the TESS registry does not indicate that the six partners abandoned
19 their trademark application. Plaintiff also tries to allege that the marks were
20 "assigned" (SAC ¶67), but there is no evidence of this. If this were true, Plaintiff
21 should have included this evidence. It did not because it is not true. Further, this
22 is a conclusory remark, not a factual allegation. This is not sufficient under
23 *Twombly, supra*, 550 U.S. at 555. Plaintiff attempts to bolster its claim by alleging
24 that Josh (who is not a part of Plaintiff) is the source of the first use in commerce
25 claim to the mark in 2010, which Josh has publicly refuted. Plaintiff provides no
26 allegations as to how it was assigned, when it was assigned, and whether all six
27 owners had assigned the mark to Plaintiff. If true, the assignment would have been
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1 included in the many exhibits attached to each complaint. In fact, according to the
2 USPTO, the six Joint Owners still own the mark. RJN Exh. 1. This judicially
3 noticeable evidence controverts Plaintiff's claims on the face of the complaint, and
4 the lack of factual allegations to support the conclusory remarks leaves this claim
5 "unplausible" under the *Iqbal/Twombly* standard.

6 2. Plaintiff Has Not Pled A Claim for Unfair Competition Against
7 Defendants

8 To establish a trademark infringement claim under section 32 of the Lanham
9 Act or an unfair competition claim under section 43(a) of the Lanham Act, Plaintiff
10 must establish that any of the Defendants are using a mark confusingly similar to a
11 valid, protectable trademark. *Brookfield Commc'ns, Inc. v. W. Coast Ent. Corp.*,
12 174 F.3d 1036, 1046 (9th Cir. 1999). Plaintiff's allegations against WALKER are
13 precisely the opposite: WALKER **publicly** broke ranks from Plaintiff before
14 Plaintiff was even formed. SAC ¶24. This is supported by Plaintiff's own Exhibit
15 F to the SAC. Plaintiff has made no allegations that WALKER has used the marks
16 at all. The only allegations are that WALKER publicly separated from Plaintiff
17 before Plaintiff was formed, and that WALKER owns some rights to platforms she
18 created on Instagram, Squarespace, and G-Suite. There are no other factual
19 allegations of any actions taken by WALKER. The only mention of WALKER in
20 the panoply of exhibits provided by Plaintiff is WALKER publicly withdrawing
21 from Plaintiff, before it was even lawfully formed a few days later. Dkt. 19-1, p.
22 128. Plaintiff has not alleged that it actually owns the marks, and the judicially
23 noticeable evidence states that the Joint Owners actually own it. Therefore,
24 Plaintiff cannot allege infringement of what it does not own.

25 3. Plaintiff Has Not Pled A Claim for Injunctive Relief Against
26 Defendants
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1 “A plaintiff is entitled to a preliminary injunction in a trademark case when
2 he demonstrates either (1) a combination of probable success on the merits and the
3 possibility of irreparable injury or (2) the existence of serious questions going to
4 the merits and that the balance of hardships tips sharply in his favor.” *Brookfield*,
5 *supra*, 174 F.3d at 1046.

6 From the face of the complaint and from the judicially noticeable evidence
7 before this Court, Plaintiff cannot show either of the above elements. Plaintiff has
8 not pled any allegations against WALKER indicating trademark infringement.
9 According to the USPTO, Plaintiff is not an owner of the marks. Lastly, Plaintiff
10 has not shown any hardship from any act that WALKER has allegedly taken,
11 especially since Plaintiff has not alleged that WALKER has taken any action
12 towards Plaintiff or its alleged rights.

13 4. Plaintiff Has Not Pled A Claim for Declaratory Relief Against
14 Defendants

15 The Declaratory Judgment Act provides that, “[i]n a case of actual
16 controversy within its jurisdiction ... any court of the United States ... may declare
17 the rights and other legal relations of any interested party seeking such declaration,
18 whether or not further relief is or could be sought.” 28 U.S.C. § 2201(a);
19 *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 126 (2007).

20 Plaintiff’s complaint alleges only that “a controversy exists,” (SAC ¶68), but
21 fails to allege what the controversy is, or how there is a controversy between
22 Plaintiff and Defendants, including WALKER. Plaintiff alleges only that
23 “Defendants deny all of Plaintiff’s contentions,” as its basis for an actual
24 controversy. However, the controversy does not exist. The USPTO clearly states
25 that Plaintiff is not an owner of the marks that Plaintiff is alleging Defendants
26 infringed upon. Therefore, there is no controversy about who owns the marks.
27 Additionally, Plaintiff cannot claim that it used the marks first in commerce since
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1 it did not exist at the time that the six partners registered the trademark with the
2 USPTO. 15 U.S.C. §§ 1057(b); 1115(a); *Brookfield, supra*, 174 F.3d at 1046-47
3 (presumption of ownership created by the USPTO registry can only be overcome
4 by a showing of first use, however Plaintiff did not exist then.).

5 Therefore, Plaintiff has failed to allege an actual controversy, and any
6 implied controversy that Plaintiff has attempted to make through bare conclusory
7 remarks (in violation of the *Iqbal/Twombly* standard) is clearly resolved by the
8 USPTO registry. A declaratory judgment claim has therefore failed to be alleged,
9 and is ripe for dismissal under Rule 12(b)(6).

10 5. Plaintiff Has Not Pled A Claim for Violation of California Business &
11 Professions Code § 17200 Against Defendants

12 California's statutory Unfair Competition Law (UCL, Bus. & Prof. Code §
13 17200 et seq.) prohibits, and provides civil remedies for, “unfair competition,”
14 defined as “any unlawful, unfair or fraudulent business act or practice.” *Bank of*
15 *the West v. Sup.Ct. (Industrial Indem. Co.)*, 2 Cal.4th 1254, 1266-67 (1992).

16 Plaintiff has failed to allege any “unlawful, unfair, or fraudulent business act
17 or practice” by Defendants. The only allegations against WALKER are that: that
18 WALKER is holding the two-factor authentication code for the Instagram account
19 [which WALKER created and therefore owns], ¶31; that WALKER changed the
20 password for a G-suite account [which WALKER created and therefore owns],
21 ¶32; and that WALKER contacted Squarespace regarding access to the account
22 that she created, ¶35. Further, any usage of the marks by Defendants alleged
23 within the complaint would not be “unlawful,” because Plaintiff is not one of the
24 Joint Owners of the marks. RJN Exh. 1. Plaintiff has not alleged any fraudulent
25 business act or practice, and any allegations that imply such are inappropriate
26 because fraud has to be pled with specificity. FRCP 9(b). These defects cannot be
27 cured.

1 6. Plaintiff Has Not Pled A Claim for Conversion Against Defendants

2 Conversion is the wrongful exercise of dominion over the personal property
3 of another. *Mendoza v. Rast Produce Co., Inc.*, 140 Cal.App.4th 1395, 1403-04
4 (2006). The elements for a claim of conversion are: “(1) the plaintiff’s ownership
5 or right to possession of the property; (2) the defendant’s conversion by a wrongful
6 act or disposition of property right; and (3) damages.” *IIG Wireless, Inc. v. Yi*, 22
7 Cal.App.5th 630, 650 (2018).

8 The only actual thing that Plaintiff has alleged is that WALKER is holding
9 an authentication code to a website she created before Plaintiff existed, that
10 WALKER changed a password for an account she created, and that WALKER
11 contacted Squarespace regarding an account she created, all before Plaintiff
12 existed. As each of these accounts were created before Plaintiff existed, Plaintiff
13 has not shown any right to those sites/accounts. Plaintiff has not, and cannot,
14 allege that it is the rightful owner of accounts which existed before it did. Plaintiff
15 cannot cure this by alleging some type of assignment, because there isn’t one. If
16 Plaintiff were the owner of the account, it could just contact Google and other
17 hosters and have the passwords overridden or changed. The same is true of the
18 Facebook group and any other social media platform. The fact that Plaintiff has
19 been unable to do so, and has failed to allege ownership is an admission that
20 Plaintiff is not the owner of the accounts in question and therefore does not have
21 standing to bring an action for conversion.

22 7. Plaintiff Has Not Pled a Claim for Defamation against WALKER

23 Plaintiff admits, in its allegations, that WALKER disassociated herself from
24 Plaintiff, even before Plaintiff was formed. Plaintiff points to Exhibit F to its SAC.
25 However, the only page which includes a post from WALKER pre-dates Plaintiff’s
26 formation. 19-1, p. 128. That is the ONLY reference to WALKER’s social media.
27 Exhibit F must be considered with the SAC in a motion to dismiss under Rule
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1 12(b)(6). *Parks School of Bus. v. Symington*, 51 F.3d 1480, 1484 (9th Cir.
2 1995)(“When a plaintiff has attached various exhibits to the complaint, those
3 exhibits may be considered in determining whether dismissal was proper without
4 converting the motion to one for summary judgment.”); *Amfac Mortg. Corp. v.*
5 *Arizona Mall of Tempe, Inc.*, 583 F.2d 426, 429-30 (9th Cir. 1978)(“[T]he court is
6 aided in its determination by the attachment of several documents to the plaintiff’s
7 complaint. The court is not limited by the mere allegations contained in the
8 complaint as Amfac contends. These documents, as part of the complaint, are
9 properly a part of the court’s review as to whether plaintiff can prove any set of
10 facts in support of its claim that there were securities involved in the present
11 transaction.”).

12 Exhibit F shows that WALKER made no false statements, or negative
13 statements, about Plaintiff. Plaintiff failed to allege which statement made by
14 WALKER was untrue or defamatory, because there isn’t one, clear from
15 examining her post on page 19-1, 128. This must be dismissed.

16 8. Plaintiff Has Not Pled a Claim for Intentional Interference with
17 Prospective Economic Advantage Against Defendants

18 The elements of a claim for intentional interference with prospective
19 economic relations are: (1) an existing economic relationship between plaintiff and
20 a third party, with the probability of future economic benefit to plaintiff; (2)
21 defendant's knowledge of the relationship; (3) intentional acts on the part of
22 defendant designed to disrupt the relationship; (4) actual disruption of the
23 relationship; and (5) economic harm to plaintiff proximately caused by defendant's
24 acts. *Roy Allan Slurry Seal, Inc. v. American Asphalt South, Inc.*, 2 Cal.5th 505,
25 512 (2017).

26 Plaintiff has made only conclusory statements that “Defendants have
27 maliciously and wrongfully obstructed and interfered with BCS’s business
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1 relationships with its customers by passing themselves off as BCS and making
2 false statements about BCS.” SAC ¶102. Plaintiff has not alleged any existing
3 economic relationship with any third party, nor the probability of future economic
4 benefit. Plaintiff has, in fact, not alleged any of the elements. Who is the third
5 party? The public? This is not a “third party.” Further, Plaintiff specifically
6 alleges that WALKER cut ties with Plaintiff before Plaintiff was formed. SAC
7 ¶24. Plaintiff has not alleged any acts by WALKER after it was formed (nor any
8 intentional acts apart from severing herself from Plaintiff before Plaintiff
9 incorporated). Plaintiff has not, and cannot allege disruption of any particular
10 relationship with anyone. These defects cannot be cured. This claim must be
11 dismissed against WALKER.

12 **B. Plaintiff Has No Standing To Bring This Action**

13 Only those who one or have rights to the trademark may assert claims based
14 on infringement of the trademark. 15 U.S.C.A. § 1114. Additionally, where a
15 trademark is nonexclusive, or owned by multiple users, none of the multiple users
16 has standing to bring an action for infringement. *Wilson v. RSM Management,*
17 *Inc.*, 187 F.3d 651, 651 (9th Cir. 1999); *Upper Deck Company v. Panini America,*
18 *Inc.*, 2021 WL 1388630, at p. 4 (SD CA 2021). The USPTO’s registry provides
19 presumptive proof that Plaintiff did not register the trademark first, and cannot
20 therefore use registry as its basis for standing. RJN Exh. 1. That leaves only first-
21 in-time usage in commerce. 15 U.S.C.A. § 1114; *Halicki Films, LLC v. Sanderson*
22 *Sales and Marketing*, 547 F.3d 1213, 1226 (9th Cir. 2008). Plaintiff claims
23 “derivative” rights because its claim is that Josh assigned it over to Plaintiff.
24 However, Plaintiff does not attach any assignment: **because it does not exist.**
25 This is fatal to Plaintiff’s claim of assignment, particularly because Josh has posted
26 publicly, that he never used BREAKING CODE SILENCE nor BCS in 2010 nor at
27 all prior to 2018. Decl. Josh, ¶¶2, 3. These judicially noticeable facts from the
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1 person who is alleged to have assigned rights negates Plaintiff's claim. *Threshold*
2 *Enterprises Ltd. v. Pressed Juicery, Inc.*, 445 F.Supp.3d 139, 145 (N.D. Cal. 2020).
3 Therefore, Plaintiff lacks standing.

4 **C. Leave to Amend Should Not Be Granted**

5 Despite the Court's policies on liberal amendment, where it is clear that
6 amendment cannot be cured by amendment, leave to amend should not be granted.
7 *Lucas v. Department of Corrections*, 66 F.3d 245, 248 (9th Cir. 1995). The
8 discussion above shows that amendment is not possible and no amendment can
9 cure the serious factual and legal deficits with this case.

10
11 **IV. CONCLUSION**

12 THEREFORE, WALKER respectfully asks the Court to grant her motion
13 todismis the complaint without leave to amend as it relates to claims against her.

14 Dated: August 2, 2021

Respectfully Submitted,
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