

September 15, 2021

**VIA E-MAIL**

Linda Hendrix McPharlin  
c/o Marina Cortes  
Case Administrator  
American Arbitration Association  
MarinaCortes@adr.org

Re: **Lihn Nguyen v. Lambda Inc.; Case Number 01-21-0003-8509**

Dear Arbitrator McPharlin

I write on behalf of Respondent, Lambda Inc. (“Lambda” or “Respondent”), in the above-referenced matter. Pursuant to Rule 33 of the American Arbitration Association (AAA) Consumer Arbitration Rules, Lambda hereby requests leave to file a demurrer to (or a motion to dismiss) the demand for arbitration submitted by claimant, Lihn Nguyen (“Claimant”).

Leave should be granted because there are significant efficiencies that could be gained by addressing important defects in Claimant’s allegations, which may result in the disposing, or narrowing, of the issues in the case. For example, Respondent respectfully submits that there are several material problems with Claimant’s unfair competition claim, including, but not limited to, Claimant’s failure to properly plead standing under the Unfair Competition Law (UCL) requirements. Specifically, Respondent contends that Claimant has not properly alleged any loss of money or property as a result of the alleged false advertising.

Respondent contends that Claimant’s claims under the California Consumer Legal Remedies Act (CRLA) will also fail. The CRLA is not an otherwise applicable general law. Rather than applying to all businesses, or to business transactions in general, the CRLA applies only to transactions for the sale or lease of consumer “goods” or “services” as those terms are defined in the act. (See Civ. Code § 1761.) Here, the bargained for exchange between the Claimant and Respondent is neither a good nor service as defined by the CRLA. Accordingly, the CRLA does not apply.

Likewise, Claimant’s fraud-based claims suffer from several important defects. For example, the demand for arbitration fails to allege any of the “who, what, when, where” facts that are required to properly state such causes of action. Furthermore, Claimant

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has not adequately alleged any facts that would establish, if true, that she relied on any of the disclosed or nondisclosed information at issue.

Addressing these defects in Claimant's demand for arbitration by way of a dispositive motion at this stage of the litigation would substantially benefit the proceeding because it would dispose of, or narrow, the issues that need to be addressed at the merits hearing. Further, a dispositive motion would reduce costs for both parties, as well as the time and expense needed to adjudicate the issues in this case during the hearing. Finally, given that Respondent does not have notice of the particulars of Claimant's allegations against it, granting leave would still be prudent as it would encourage Claimant to provide additional information about her allegations, either in an opposition filing or an amended demand, even if the Arbitrator ultimately denies Respondent's demurrer (or motion to dismiss), in whole or in part.

Based on the foregoing, Respondent respectfully requests leave to file a demurrer to Claimant's demand for arbitration.

Very truly yours,

McMANIS FAULKNER



PATRICK HAMMON  
ABIMAEEL BASTIDA

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