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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF SAN FRANCISCO**

17 ELVA LOPEZ, individually and on behalf of all  
18 others similarly situated,

19 Plaintiffs,

20 vs.

21 CALIFORNIA INSTITUTE OF  
TECHNOLOGY and SIMPLILEARN  
22 AMERICAS, INC.,

23 Defendants.

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Case No. CGC-23-607810

**DEFENDANTS' NOTICE OF DEMURRER  
AND DEMURRER TO PLAINTIFFS' FIRST  
AMENDED CLASS ACTION COMPLAINT**

ASSIGNED FOR ALL PURPOSES TO:  
Judge Ethan P. Schulman  
Department 304

Hearing Date: February 1, 2024  
Hearing Time: 10:00 a.m.

*[Request for Judicial Notice; Declaration of  
Collins Kilgore; Declaration of Krishna Kumar;  
[Proposed] Order filed concurrently herewith]*

Complaint Filed: July 20, 2023  
Trial Date: Not set

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**NOTICE OF DEMURRER AND DEMURRER**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE THAT** on February 1, 2024 at 10:00 am, or as soon or as soon thereafter as counsel may be heard in Department 304 of the above-entitled court, located at 400 McAllister St., San Francisco California 94103, pursuant to California Code of Civil Procedure section 430.10, Defendants California Institute of Technology (“Caltech”) and Simplilearn, Inc. (“Simplilearn”) will and hereby do bring a Demurrer to the First Amended Complaint dated October 18, 2023 filed by Plaintiff Eva Lopez, individually and on behalf of all others similarly situated (“Plaintiff”), and each purported cause of action asserted therein.

This Demurrer is made pursuant to Code of Civil Procedure Section 430.10(e), on the ground that the Complaint does not state facts sufficient to constitute a cause of action. Specifically:

Counts I-IV fail because Plaintiff has failed to allege any representation of fact by Defendants that would be “likely to deceive a reasonable consumer.” (*Shaeffer v. Califia Farms, LLC* (2020) 44 Cal.App.5th 1125, 1137.)

Counts I-IV are barred by the educational malpractice doctrine, which precludes claims that “raise issues of the quality of education offered . . . or of the academic results produced.” (*Wells v. One2One Learning Foundation* (2006) 39 Cal.4th 1164, 1213, *as modified* (Oct. 25, 2006).)

Count IV also fails because “[u]njust enrichment is not a cause of action.” (*Jogani v. Superior Court* (2008) 165 Cal.App.4th 901, 911.)

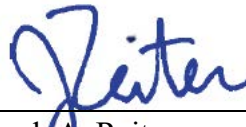
This Demurrer is based on this Notice, the attached Memorandum of Points and Authorities in support thereof, the Request for Judicial Notice, the Declarations of Collins Kilgore and Krishna Kumar, the pleadings and papers filed in this action, and such other matters as may be presented to the Court at the time of the hearing.

Counsel for Defendants met and conferred with counsel for Plaintiff on October 2, 2023 pursuant to Code of Civil Procedure § 430.41 and did not reach an agreement resolving the issues raised by Defendants. (Kilgore Decl. ¶ 6.)

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Dated: November 22, 2023

Respectfully submitted,  
HUESTON HENNIGAN LLP

By:   
\_\_\_\_\_  
Joseph A. Reiter  
Attorneys for Defendant CALTECH  
INSTITUTE OF TECHNOLOGY

Dated: November 22, 2023

O'MELVENY & MYERS LLP

By: /s/ Matthew Powers  
\_\_\_\_\_  
Matthew Powers  
Attorneys for Defendant SIMPLILEARN  
AMERICAS, INC.

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Plaintiff Elva Lopez’s claims are impermissibly vague, contrary to law, and fatally  
4 inconsistent with the marketing statements on which she claims to have relied. The First Amended  
5 Complaint should be dismissed for any and all of these reasons.

6 For more than a decade, the Center for Technology and Management Education (“CTME”)  
7 at the California Institute of Technology (“Caltech”) has offered educational programs to  
8 organizations and individuals seeking training in technology, engineering, management, and other  
9 fields. In addition to more advanced courses, CTME offers beginner programs called “bootcamps”  
10 for newer or less-experienced individuals looking to develop skills in technology industries. CTME  
11 has partnered with Defendant Simplilearn, Inc. (“Simplilearn”)—and previously with Simplilearn’s  
12 predecessor-in-interest Fullstack Academy (“Fullstack”)<sup>1</sup>—to offer these bootcamps.

13 In Fall 2020, Plaintiff enrolled in a cyber bootcamp (“Bootcamp”), which provided online  
14 training in cybersecurity. Plaintiff completed the part-time course and received its benefits,  
15 including six months of technical training, lectures, and instruction, (First Amended Complaint  
16 (“FAC” or “Complaint”) ¶ 5), a certificate of completion from the “California Institute of  
17 Technology Center for Technology and Management Education” that Plaintiff could list on her  
18 resume, (*id.* ¶ 38), Continuing Education Units, (*id.*), and career counseling, (*id.* ¶ 67).

19 Plaintiff never raised a complaint with Defendants before, during, or in more than two and  
20 a half years after completing the Bootcamp. But now, Plaintiff has filed a lawsuit alleging for the  
21 *first* time that she was somehow deceived. Incredibly, Plaintiff claims Defendants marketed the  
22 Bootcamp as a “Caltech program” and led Plaintiff to believe she would “experience everything  
23 Caltech has to offer.” (*id.* ¶ 10.) No reasonable consumer would believe that an online, part-time,  
24 beginner “bootcamp” is the equivalent of a degree-granting program offered by Caltech, and  
25 Defendants never represented that it was. Plaintiff’s claims fail for multiple reasons:

26 *First*, each of Plaintiff’s claims requires her to identify “with reasonable particularity,”  
27

28 <sup>1</sup> Simplilearn acquired Fullstack Academy in November 2022. Plaintiff’s claims arise from the period when Fullstack operated the Bootcamp. (See FAC ¶ 7 and n.1.)

1 (*Khoury v. Maly's of California, Inc.* (1993) 14 Cal.App.4th 612, 619), a false representation of  
2 fact that is “likely to deceive a reasonable consumer.” (*Shaeffer v. Califia Farms, LLC* (2020) 44  
3 Cal.App.5th 1125, 1137 (internal quotation marks omitted).) Far from identifying a false statement,  
4 Plaintiff merely relies on Defendants’ use of the Caltech name, a website using a caltech.edu URL,  
5 and the words “we” and “our.” (FAC ¶¶ 27-41.) As multiple courts have held, the use of an  
6 institutional or brand name promises at most an *affiliation*—it does not represent any particular  
7 involvement or quality that could mislead reasonable consumers. (*See, e.g., Rubenstein v. The Gap,*  
8 *Inc.* (2017) 14 Cal.App.5th 870, 876-77 (use of “Gap” brand on clothing sold in outlet store does  
9 not promise that the garments are the same, or even of the same quality, as clothes sold in Gap retail  
10 stores).) The Caltech name, or the use of its address, is not a promise that Caltech had any specific  
11 level or form of involvement in the Bootcamp—much less that Plaintiff would receive a “Caltech  
12 educational experience” and “everything Caltech has to offer.” (FAC ¶¶ 10, 15.) Plaintiff’s  
13 idiosyncratic expectations to the contrary were unreasonable. (*See La Barbera v. Ole Mexican*  
14 *Foods Inc.* (C.D. Cal., May 18, 2023, No. EDCV202324JGBSPX) 2023 WL 4162348, at \*15 (“A  
15 plaintiff’s own unreasonable assumptions about a product’s label or desire to take the label out of  
16 its proper context will not suffice.”).) Moreover, Plaintiff’s allegations are deliberately vague as to  
17 what a “Caltech experience” means or what “substantive involvement” she expected Caltech to  
18 have had. Such subjective statements are not objectively “measurable claim[s]” that are “capable  
19 of being proved false.” (*Veterans Rideshare, Inc. v. Navistar Int’l Corp.* (S.D. Cal., June 1, 2021,  
20 No. 20-cv-01304-BAS(LL)) 2021 WL 2206479, at \*8.) Plaintiff’s claims should be dismissed for  
21 these reasons alone.

22         *Second*, Plaintiff’s theory of deception is irreconcilable with Defendants’ disclosures to her  
23 and other Bootcamp students. As Plaintiff admits, Defendants disclosed to her—numerous times  
24 and in multiple ways—that “Caltech ha[d] chosen Fullstack Academy to power” the Bootcamp.  
25 (Ex. B to Kilgore Decl. at 17; *see* FAC ¶ 37; Ex. A to Kilgore Decl. at 6.) Indeed, as explained  
26 further below, the same webpage upon which Plaintiff claims to have relied expressly disclosed  
27 that the Bootcamp would use *Fullstack’s* “hands-on learning approach”—not Caltech’s. (Ex. A to  
28 Kilgore Decl. at 8; *see, e.g., Bivens v. Gallery Corp.* (Cal. Ct. App. 2005) 36 Cal.Rptr.3d 541, 554



1 (affirming demurrer without leave to amend based on review of advertisements attached to the  
2 complaint.)

3 *Third*, not only are Plaintiff’s allegations deficient and inconsistent, they are wildly  
4 speculative. Her theory—that Caltech had no involvement in the Bootcamp—is pled entirely “on  
5 information and belief,” meaning she has no knowledge of facts supporting her conjecture. (*See*  
6 FAC ¶¶ 47-50.) This is insufficient to state a claim. (*See Gomes v. Countrywide Home Loans, Inc.*  
7 (2011) 192 Cal.App.4th 1149, 1158-59.)

8 *Fourth*, even if Plaintiff could overcome all these defects, her claims would still fail because  
9 they are barred by the educational malpractice doctrine, which precludes claims that “raise issues  
10 of the *quality* of education offered . . . or of the academic *results* produced.” (*Wells v. One2One*  
11 *Learning Foundation* (2006) 39 Cal.4th 1164, 1213, *as modified* (Oct. 25, 2006).) Plaintiff’s claims  
12 directly and necessarily implicate the quality of the Bootcamp and its instructors. She alleges that  
13 Caltech is a “prestigious school,” (FAC ¶ 11, 14, 62), that provides an “exceptional education,” (*id.*  
14 ¶ 3), however she did not receive that “Caltech educational experience,” (*id.* ¶ 15), because the  
15 Bootcamp was (allegedly) provided solely by Fullstack instructors who “do not necessarily have  
16 expertise in cybersecurity” and “are not otherwise qualified to teach at Caltech or as part of the  
17 Caltech CTME,” (*id.* ¶¶ 46-47, 52, 66). In other words, Plaintiff alleges the Bootcamp did not meet  
18 the same “standard or quality” as Caltech’s other offerings. (*Id.* ¶ 94(e).) These are *exactly* the kinds  
19 of claims that courts regularly reject at the pleading stage because they “require judgments about  
20 pedagogical methods or the quality of [a] school’s classes, instructors, curriculum.” (*Wells, supra*,  
21 39 Cal.4th at p. 1212.)

22 *Fifth*, Plaintiff’s unjust enrichment claim fails for all the reasons discussed, and for the  
23 additional reason that “[u]njust enrichment is not a cause of action.” (*Jogani v. Superior Court*  
24 (2008) 165 Cal.App.4th 901, 911.)

25 For each of these reasons the FAC should be dismissed in its entirety.

26 **II. BACKGROUND**

27 Plaintiff’s claims arise out of an online course designed for people with no technical  
28 background or experience in cybersecurity. (FAC ¶¶ 5, 13, 68.) The Bootcamp was offered through

1 CTME and powered by online technical education provider Fullstack. (*Id.* ¶¶ 5, 37.) CTME  
2 operates separately from Caltech’s degree-granting programs and offers educational programs for  
3 organizations and professionals. (*Id.* ¶¶ 4, 26.)

4 Plaintiff alleges she learned about the Bootcamp from a “pop-up advertisement” in an online  
5 game, which she followed to the “primary webpage for the bootcamp.” (*Id.* ¶ 13, *see also id.* ¶¶ 61-  
6 62.) On that webpage, she allegedly read information about the Bootcamp, including the class  
7 schedule, topics covered in the course, and qualifications to be a student. (*See id.* ¶¶ 13, 31-41; Ex.  
8 A to Kilgore Decl.<sup>2</sup>) In addition, as Plaintiff concedes in the Complaint, the webpage prominently  
9 stated (three separate times) that the Bootcamp was “powered by Fullstack.” (Ex. A to Kilgore  
10 Decl. at 6, 8, 13; FAC ¶ 37.) The webpage explained that Fullstack is “one of the longest-running  
11 and most successful coding bootcamps in the nation,” and that Fullstack had been brought in to  
12 apply *Fullstack’s* “hands-on learning approach”:

13 Fullstack Academy is one of the longest-running and most  
14 successful coding bootcamps in the nation, with impressive  
15 student reviews, years of experience in education, and  
impressive graduate outcomes.

16 Now, it brings its hands-on learning approach to Caltech’s first  
17 cyber bootcamp to develop professionals to fight the global  
threat of cybercrime.

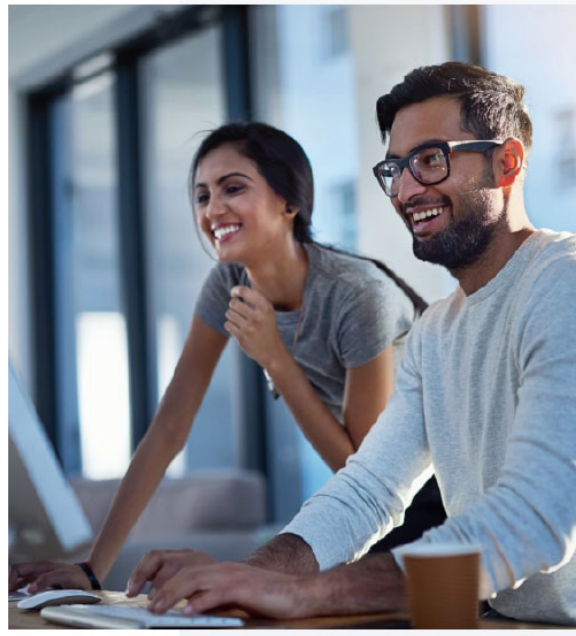


18 (Ex. A to Kilgore Decl. at 8.)

19 Similar disclosures are included on another CTME webpage, which explained that:

20 Caltech has chosen Fullstack Academy to power its tech bootcamps. Fullstack is  
21 one of the longest-running and most successful coding bootcamps in the nation. *Its*  
22 graduates are equipped to succeed in the professional world through *Fullstack’s*  
23 foundational teaching method. . . Bootcamp grads also gain the assistance of  
*Fullstack’s* dedicated career services team and leave as members of the *Caltech-  
Fullstack community*[.]” (emphasis added).

24  
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26  
27 <sup>2</sup> As explained in Defendants’ concurrently-filed Request for Judicial Notice, the Court should take  
28 judicial notice of these webpages, as well as an email relied upon by Plaintiff and referenced in the  
FAC. Defendants seek judicial notice of what these documents say—not the truth of their contents.



## Caltech & Fullstack Academy Partnership



Caltech—a world-renowned science and engineering institute—marshals the world’s brightest minds and most innovative tools to address fundamental scientific questions and pressing societal challenges. It has proven to be a place where students can get an exceptional education with a great return on investment.

Caltech has chosen Fullstack Academy to power its tech bootcamps. Fullstack is one of the longest-running and most successful coding bootcamps in the nation. Its graduates are equipped to succeed in the professional world through Fullstack’s foundational teaching method, which allows students to thrive in their first job and every job after. Bootcamp grads also gain the assistance of Fullstack’s dedicated career services team and leave as members of the Caltech–Fullstack community, a supportive alum network that can help open doors to future career opportunities.

(Ex. B to Kilgore Decl. at 17.)

After viewing the Bootcamp’s primary webpage, Plaintiff chose to submit her contact information for further information about the course. (FAC ¶ 62.) She received an email from a Student Advisor. (*Id.* ¶ 62.) The email included two distinct and additional disclosures that the Bootcamp is “powered by Fullstack Academy” and featured the Fullstack Academy logo on the bottom of the email. (Ex. C to Kilgore Decl.) Indeed, the very first sentence of the email said, “Thanks for your interest in the Caltech Cyber Bootcamp powered by Fullstack Academy.” (*Id.*)

Plaintiff decided to apply to the Bootcamp, took an online assessment, and was admitted. (FAC ¶ 63.) In order to enroll, Plaintiff executed a Student Enrollment Agreement,<sup>3</sup> which further explained that *Fullstack* collects payment, provides course materials, maintains student records, and hosts the web portal through which students attend class. (Ex. D to Kilgore Decl.) Plaintiff completed the course, including six months of instruction. (FAC ¶ 68.) Plaintiff received Continuing Education Units, a certificate from “California Institute of Technology Center for Technology and Management Education,” (*id.* ¶ 38), and career counseling, (*id.* ¶ 68).

Plaintiff has not secured a cybersecurity job and apparently blames Defendants for this. (*Id.* ¶ 68.) In July 2023, Plaintiff filed this lawsuit asserting causes of action for violation of the False

<sup>3</sup> See Defendants’ concurrently-filed Request for Judicial Notice.

1 Advertising Law (“FAL”), Consumer Legal Remedies Act (CLRA”), Unfair Competition Law  
2 (“UCL”), and so-called “unjust enrichment.” (*See generally* FAC.)

3 Plaintiff alleges that Defendants made false representations concerning Caltech’s  
4 involvement in the Bootcamp. As explained further below, Plaintiff’s allegations are fatally vague  
5 and uncertain, insufficient as a matter of law, refuted by the webpage and email she claims to have  
6 relied on, and barred by the educational malpractice doctrine.

### 7 **III. LEGAL STANDARD FOR UCL, FAL, AND CLRA CLAIMS**

8 A plaintiff bringing a UCL, CLRA, or FAL claim “must state with reasonable particularity  
9 the facts supporting the statutory elements of the violation.” (*Khoury, supra*, 14 Cal.App.4th at p.  
10 619; *see also Amiodarone Cases* (2022) 84 Cal.App.5th 1091, 1115 (same, as to claims for false  
11 advertising).) “[O]nly those statements . . . that are likely to deceive a reasonable consumer are  
12 actionable under the Unfair Competition Law, the false advertising law and the CLRA.” (*Shaeffer,*  
13 *supra*, 44 Cal.App.5th at p. 1137 (internal quotation marks omitted).) “‘Likely to deceive’ implies  
14 more than a mere possibility that the advertisement might conceivably be misunderstood by some  
15 few consumers viewing it in an unreasonable manner. Rather, the phrase indicates that . . . it is  
16 probable that a significant portion of the general consuming public or of targeted consumers, acting  
17 reasonably in the circumstances, could be misled.” (*Salazar v. Target Corporation* (2022) 83  
18 Cal.App.5th 571, 578. “[C]ourts can and do sustain demurrers . . . when the facts alleged fail as a  
19 matter of law to show such a likelihood.” (*Rubenstein, supra*, 14 Cal.App.5th at p. 877.)

### 20 **IV. ARGUMENT**

#### 21 **A. The Complaint Fails to State a UCL, FAL, or CLRA Claim**

22 Plaintiff has failed to allege any statement contained in the marketing materials on which  
23 she claims to have relied that could have deceived a reasonable consumer. Nor could Plaintiff make  
24 this showing given Defendants’ repeated disclosures of Fullstack’s role in the Bootcamp.

#### 25 **1. Plaintiff Lacks Standing to Bring Claims Based on the Caltech or** 26 **Caltech CTME Websites**

27 As an initial matter, Plaintiff has standing only with respect to statements she allegedly  
28 relied upon. (*See Salazar, supra*, 83 Cal.App.5th at p. 578 (collecting cases as to the UCL, FAL,

1 and CLRA.) Plaintiff alleges reliance upon (1) “a pop-up advertisement” in an online game, (*id.*  
2 ¶ 61); (2) the “primary webpage for the Caltech Cybersecurity Bootcamp,” (*id.* ¶ 62); and (3) emails  
3 she received from a “Student Advisor,” (*id.* ¶ 63).

4 Although the Complaint includes allegations about other websites—specifically, what  
5 Plaintiff calls the “Caltech” and “Caltech CTME website[s],” (*see, e.g.*, FAC ¶¶ 2, 4, 22, 29, 30,  
6 41)—Plaintiff does not allege she even visited them, (*see id.* ¶¶ 61-63). Moreover, those websites  
7 are distinct from the “primary webpage for the Caltech Cybersecurity Bootcamp,” that Plaintiff  
8 does allege she visited. (*See* FAC ¶ 31.) Accordingly, Plaintiff lacks standing to bring any claim  
9 based on the Caltech or Caltech CTME websites. (*See Salazar, supra*, 83 Cal.App.5th at p. 578  
10 (holding that plaintiff lacked standing to bring claims based on Target’s website).)

## 11 2. The Complaint Fails to Plead Any Actionable False Statement

12 Plaintiff’s claims are not based on *any* express representations about the degree of Caltech’s  
13 involvement in developing or administering the Bootcamp. For instance, Plaintiff does not and  
14 cannot allege that Defendants affirmatively represented the “course content” was “designed by[]  
15 Caltech,” that “expert instructors from . . . Caltech” would teach the Bootcamp, or that Bootcamp  
16 students would “experience all that Caltech has to offer.” (FAC ¶¶ 4, 13.) Instead, Plaintiff alleges  
17 that Defendants “portray[ed]” Caltech as “substantively involved in providing the Bootcamp” by  
18 using the Caltech name for the name of the course, by hosting a website about the Bootcamp at a  
19 caltech.edu URL, and by using the words “‘we’ or ‘our’” in marketing. (*Id.* ¶¶ 27-41.) This theory  
20 is fatally flawed in multiple ways.

21 *First*, these references to “Caltech” are not representations concerning Caltech’s specific  
22 level of involvement—let alone false ones upon which a reasonable consumer would rely. At most,  
23 the use of the Caltech name promised that the Bootcamp was affiliated with Caltech—and it is,  
24 which Plaintiff does not dispute. (*See* FAC ¶ 20.) But the idea that merely referencing “Caltech”  
25 amounted to a promise that “Caltech” or “Caltech faculty” would have a particular form or degree  
26 of involvement in the Bootcamp is “just wishful thinking on the plaintiff’s part.” (*Brady v. Bayer*  
27 *Corp.* (2018) 26 Cal.App.5th 1156, 1166.) Courts have repeatedly rejected “strained and  
28 unjustified” interpretations of individual words or phrases like the one Plaintiff advances.

1 (*California State Bd. of Funeral Directors and Embalmers v. Mortuary in Westminster Memorial*  
2 *Park* (1969) 271 Cal.App.2d 638, 642 (rejecting claim that the use of only one name, “Westminster  
3 Memorial Park,” “gives the false impression of sole ownership”); *see also La Barbera, supra*, 2023  
4 WL at p. \*15 (“Only an insignificant number of unreasonable people viewing such representations  
5 in an unreasonable manner would think that ‘The Taste of Mexico!’ must mean ‘Made in  
6 Mexico.”); *Hodges v. Apple Inc.* (N.D. Cal., Dec. 19, 2013, No. 13-CV-01128-WHO) 2013 WL  
7 6698762, at \*5; *aff’d*, (9th Cir. 2016) 640 F. App’x 687 (Apple’s trademark names on MacBook  
8 Pro laptop did not deceive consumers to expect the same quality across laptops produced by  
9 different upstream manufacturers); *Cheslow v. Ghirardelli Chocolate Co.*, 497 F. Supp. 3d 540,  
10 545 (N.D. Cal. 2020) (affirming finding that the brand name “Ghirardelli” was not misleading  
11 because “it is not a descriptive brand name” and does not “affirmatively communicate[] something  
12 about the product within the brand name itself”); *cf. Two Jinn, Inc. v. Government Payment Service,*  
13 *Inc.* (2015) 233 Cal.App.4th 1321, 1346 (affirming demurrer of Lanham Act claim where plaintiff  
14 “alleged that the use of the words ‘gov’ and ‘government’ was misleading” but “did not allege that  
15 these isolated words were used in a statement of fact that was provably false or misleading”).)

16 In *Rubenstein v. The Gap, Inc.* (2017) 14 Cal.App.5th 870, the court rejected a very similar  
17 theory to the one Plaintiff advances. Like Plaintiff, the *Rubenstein* plaintiffs asserted that use of a  
18 brand name constituted a representation of more than brand affiliation: They argued that “use of  
19 the Gap and Banana Republic brand names on factory stores and the clothing they carry leads  
20 consumers to believe they are purchasing items” that had previously been sold in traditional Gap  
21 and Banana Republic stores, “when in fact they are buying lesser-quality apparel.” (*Id.* at p. 874-  
22 75.) The court disagreed, explaining: “Gap’s use of its own brand names in factory store names and  
23 on factory store clothing labels is not likely to deceive a reasonable consumer for the simple reason  
24 that a purchaser is still getting a Gap or Banana Republic item.” (*Id.* at p. 877.) Thus, the court  
25 reasoned, the only “affirmative representation by Gap regarding factory store clothing” was “a true  
26 one—the brand of the clothing is Gap or Banana Republic.” (*Id.* at p. 881.) So too here. The only  
27 promise communicated by the name “Caltech” is a truthful (and undisputed) one—that the  
28 Bootcamp is affiliated with Caltech. (*Id.*) Plaintiff’s interpretation of the mere use of the Caltech

1 name in Bootcamp marketing as implying a particular level of course quality, that Caltech faculty  
2 (rather than contractors) teach the course, or that Caltech plays some specific, “substantive” role in  
3 the Bootcamp is unreasonable, and does not qualify as deceptive advertising.

4 *Second*, Plaintiff’s allegation that the Caltech name equates to a promise that Caltech was  
5 “substantively involved” in providing the Bootcamp (FAC ¶ 7) is too vague. (*Khoury, supra*, 14  
6 Cal.App.4th at p. 619 (claims must be stated with “reasonable particularity”).) But even if  
7 Defendants had explicitly made that promise, such a representation is not actionable. “[A]ctionable  
8 representations of fact must make a specific and measurable claim, capable of being proved false  
9 or of being reasonably interpreted as a statement of objective fact.” (*Veterans Rideshare, Inc.,*  
10 *supra*, 2021 WL at p. at \*8.). Caltech made no such representation. After all, what qualifies as  
11 “substantive” involvement? There is no objective standard or measure of it, and Plaintiff tellingly  
12 does not define what it requires. The Complaint is entirely unclear as to what level of involvement  
13 Plaintiff expected from Caltech.<sup>4</sup> Thus, even if Caltech had intimated that it would be  
14 “substantively involved” in the Bootcamp (it did not), such “generalized, vague, and unspecified  
15 assertions constitute ‘mere puffery.’” (*Id.*; *see also Consumer Advocates v. Echostar Satellite Corp.*  
16 (2003) 113 Cal.App.4th 1351, 1361 (“‘Crystal clear’ and ‘CD quality’ are not factual  
17 representations that a given standard is met. Instead, they are boasts, all-but-meaningless  
18 superlatives, similar to the claim that defendants ‘love comparison,’ a claim which no reasonable  
19 consumer would take as anything more weighty than an advertising slogan.”); *Murphy v. Twitter,*  
20 *Inc.* (2021) 60 Cal.App.5th 12, 41 (“general declarations of commitment to free speech principles”  
21 are not likely to deceive members of the public); *Fowler v. University of Phoenix, Inc.* (S.D. Cal.,  
22 Apr. 18, 2019, No. 18CV1544-WQH-KSC) 2019 WL 1746576, at \*12 (“Alleged statements  
23 regarding the quality of academic advising, the quality of education, the program’s convenience  
24 and simplicity for working adults, or increased earning potential, are not actionable representations  
25 of fact for purposes of fraud or misrepresentation.”).)

26 <sup>4</sup> For example, Plaintiff complains about Bootcamp instructors but fails to identify any objective  
27 representation about them or explain what involvement Caltech should have had. Instead, Plaintiff  
28 vaguely suggests she thought the instructors would be “Caltech *or* Caltech CTME faculty *or*  
industry experts.” (FAC ¶ 72.) And as to the latter, “claims about expertise are generally considered  
nonactionable ‘puffery.’” (*Hodgson v. Roper* (E.D. Cal. Aug. 26, 2020) 2020 WL 5039405, at \*9.)

1                                   **3. Defendants’ Disclosures Preclude Plaintiff’s Unreasonable**  
2                                   **Interpretation of the Alleged Statements**

3           Even if using the Caltech name or the words “we or “our” could be construed as  
4 “statements” about Caltech’s level of involvement in the Bootcamp, such statements are not  
5 misleading alongside Defendants’ repeated disclosures. (*See Hairston v. South Beach Beverage*  
6 *Co., Inc.* (C.D. Cal., May 18, 2012, No. CV 12-1429-JFW DTBX) 2012 WL 1893818, at \*4  
7 (“Plaintiff’s selective interpretation of individual words or phrases from a product’s labeling cannot  
8 support a CLRA, FAL, or UCL claim”); *Freeman v. Time, Inc.* (9th Cir. 1995) 68 F.3d 285, 290  
9 (“Any ambiguity that Freeman would read into any particular statement is dispelled by the  
10 promotion as a whole.”).) Defendants prominently and repeatedly disclosed Fullstack’s  
11 involvement in the Bootcamp and provided other important context that fatally undermine  
12 Plaintiff’s allegations. The Court can and should consider these disclosures at the pleading stage.  
13 (*See, e.g., Bivens, supra*, 36 Cal.Rptr.3d at p. 554 (affirming demurrer based on review of  
14 advertisements attached to the complaint); *Girard v. Toyota Motor Sales, U.S.A., Inc.* (C.D. Cal.,  
15 Aug. 6, 2007, No. CV 07-2281 DSF (JCX)) 2007 WL 9735325, at \*6 (taking judicial notice and  
16 finding no reasonable consumer would be misled).)

17           *First*, the Complaint itself admits that “the primary webpage” relied upon by Plaintiff “states  
18 (and has stated) that the Caltech Cybersecurity Bootcamp *is ‘powered by’ the for-profit partner,*  
19 *Simplilearn/Fullstack.*” (FAC ¶ 37 (emphasis added).) In fact, that webpage does so at least three  
20 times. (*See Ex. A to Kilgore Decl.* at 6, 8, 13.)<sup>5</sup> Such language is not “hidden or unreadably small.”  
21 (*Freeman, supra*, 68 F.3d at 289.) Rather, “powered by Fullstack” is part of the initial description  
22 of the Bootcamp. (*See Ex. A to Kilgore Decl.* at 6.)

23           *Second*, the email Plaintiff received after submitting her contact information, (*see* FAC  
24 ¶ 62), likewise stated multiple times that the Bootcamp is “powered by Fullstack Academy”—  
25 including in the very first sentence of the email. (*See Ex. C to Kilgore Decl.*) Although Plaintiff  
26 now complains that she did not understand “what ‘powered by’ [Fullstack] means,” the plain

27 \_\_\_\_\_  
28 <sup>5</sup> As explained in Defendants’ Request for Judicial Notice, the Complaint expressly mentions and  
incorporates the webpage and email discussed here. Accordingly, the Court can and should take  
judicial notice of these materials. (*See Ingram v. Flipppo* (1999) 74 Cal.App.4th 1280, 1285 n.3.)



1 meaning of the phrase indicates that Fullstack plays an integral part in operating the Bootcamp. In  
2 any event, the primary webpage explains that “Fullstack Academy is one of the longest-running  
3 and most successful coding bootcamps in the nation” and that “it now brings its hands-on learning  
4 approach to Caltech’s first cyber bootcamp.” (See Ex. A to Kilgore Decl. at 8.) Defendants therefore  
5 specifically disclosed that the Bootcamp, including its learning approach and teaching, would be  
6 provided by Fullstack.

7 *Third*, Plaintiff’s participation in the Bootcamp was governed by a contract she signed at  
8 the time of enrollment. (See Ex. D to Kilgore Decl.) Her Student Enrollment Agreement disclosed  
9 that “Fullstack uses online teaching materials,” (*id.* at 24; *see also id.* at 33 (“The Fullstack  
10 Academy curriculum was developed primarily on Mac operating systems . . . .”)), that she would  
11 attend class through learn.fullstackacademy.com (*id.* at 26), that Fullstack would monitor her  
12 academic performance, (*see id.* at 28 (“Fullstack Academy reserves the right to modify my course  
13 completion timeline . . . based on poor academic performance.”)), and that she would make  
14 payment to Fullstack, (*id.* at 25, 26). Not only did Plaintiff learn these terms prior to paying tuition,  
15 the Agreement gave her the right to attend the first week of class and *still obtain a full refund of*  
16 *her tuition and fees* less her registration fee if she was unhappy with the course. (*Id.* at 26.)

17 *Fourth*, Plaintiff does not dispute that she understood the Bootcamp to be part of Caltech’s  
18 CTME, which “offers online professional education programs,” as opposed to Caltech’s  
19 “undergraduate and graduate degree programs.” (FAC ¶ 4.) Nor does Plaintiff disclaim knowledge  
20 that CTME’s courses are “for companies and individuals not enrolled in Caltech’s degree-granting  
21 programs.” (*Id.* ¶ 26.) And unlike an undergraduate or graduate course, the Bootcamp is a “six-  
22 month part-time” online program. (*Id.* ¶ 42.) Plaintiff further acknowledges that websites  
23 advertising the Bootcamp make clear that “participants receive Continuing Education Units” (rather  
24 than college or graduate credits) and that students can expect to receive a certificate of completion  
25 from “Caltech CTME”—not a baccalaureate degree from “the California Institute of Technology”  
26 or any of its academic divisions. (*Id.* ¶ 38.)

27 In short, the Caltech name was not used “in a vacuum.” (*Hairston, supra*, 2012 WL at p. \*4  
28 (concluding that the phrase “all natural” was not deceptive as a matter of law because it was

1 followed “by the additional statement ‘with vitamins’ or ‘with B vitamins’”). Combined with the  
2 lack of any affirmative representation by Defendants, Caltech’s disclosures about the nature of the  
3 Bootcamp and Fullstack’s involvement render Plaintiff’s “selective interpretation of individual  
4 words or phrases,” (*id.*)—i.e., references to “Caltech”—unreasonable as a matter of law.

#### 5                   **4. Plaintiff Fails to Plausibly Allege Falsity**

6           Even if Plaintiff had alleged an actionable representation about Caltech’s involvement (she  
7 did not, despite amending her Complaint), her claims would fail for yet another, independent  
8 reason: Plaintiff has not plausibly alleged that Caltech’s supposed representations were false—*i.e.*,  
9 that Caltech is *not* “substantively involved” in providing the Bootcamp. All of Plaintiff’s allegations  
10 relevant to falsity—including that “Caltech and the Caltech CTME have no role in designing the  
11 courses or materials for the . . . Bootcamp,” (FAC ¶ 48), “[n]either Caltech faculty nor faculty  
12 associated with the Caltech CTME teach the courses at the Caltech Cybersecurity Bootcamp,” (*id.*  
13 ¶ 45), and that Caltech “does not have any role in the courses offered as part of the Caltech  
14 Cybersecurity Bootcamp,” (*id.* ¶ 43)—are expressly alleged “on information and belief.” Where,  
15 as here, a plaintiff does not have personal knowledge of a matter, an allegation “made on  
16 information and belief is insufficient if it merely asserts the facts so alleged without alleging such  
17 information that leads the plaintiff to believe that the allegations are true.” (*Gomes, supra*, 192  
18 Cal.App.4th at p. 1158-59 (cleaned up); *accord Woodring v. Basso* (1961) 195 Cal.App.2d 459,  
19 465 (“These allegations are upon information and belief, without a statement of the facts upon  
20 which the belief is founded. Such a statement is required.”).) The only purported basis for the  
21 Complaint’s numerous “on information and belief” allegations is Plaintiff’s subjective experience  
22 taking the Bootcamp course. Yet Plaintiff fails to allege any facts showing that she had knowledge  
23 of how the Bootcamp was developed, who or what entities were involved in designing the  
24 curriculum, or the affiliations of the various teaching staff or how they were selected. Plaintiff’s  
25 conclusory “information and belief” allegations are insufficient to state a claim. (*See Gomes, supra*,  
26 192 Cal.App.4th at p. 1158-59.)

1           **B. The Educational Malpractice Doctrine Bars Plaintiff's Claims**

2           Even if Plaintiff could overcome all of the foregoing defects, the educational malpractice  
3 doctrine precludes her claims because they directly challenge the quality of her education and  
4 instructors. “Courts in California and across the country have repeatedly rejected claims that seek  
5 damages for an allegedly ‘subpar’ education, or ‘educational malpractice’ claims.” (*Lindner v.*  
6 *Occidental College* (C.D. Cal., Dec. 11, 2020, No. CV 20-8481-JFW(RAOX)) 2020 WL 7350212,  
7 at \*6; *see also Saroya v. University of the Pacific* (N.D. Cal. 2020) 503 F.Supp.3d 986, 995 (“Courts  
8 across the country have uniformly refused, based on public policy considerations, to enter the  
9 classroom to determine claims based upon educational malpractice.”). Given “the lack of a  
10 workable rule of care against which a school district’s conduct may be measured and the  
11 incalculable burden which would be imposed,” (*Smith v. Alameda County Social Services Agency*  
12 (1979) 90 Cal.App.3d 929, 941), “there is a widely accepted rule of judicial non-intervention into  
13 the academic affairs of schools,” (*Paulsen v. Golden Gate University* (1979) 25 Cal.3d 803, 808  
14 (refusing to intervene in the academic decisions of a private university)).

15           As relevant here, claims that “raise issues of the *quality* of education offered . . . or of the  
16 academic *results* produced . . . fall[] within the rule that courts will not entertain claims of  
17 ‘educational malfeasance.’” (*Wells, supra*, 39 Cal.4th at p. 1213, *as modified* (Oct. 25, 2006).)  
18 Claims alleging “objectively identifiable breaches of . . . promises made to induce enrollment”—  
19 for instance, allegations that “a school operator failed to provide promised equipment and  
20 supplies”—are not necessarily barred, but only “so long as such claims do not challenge the  
21 educational quality or results of the school’s programs.” (*Id.* at p. 1212.) If they do, such claims  
22 are also subject to demurrer. (*See, e.g., Peter W. v. San Francisco Unified Sch. Dist.* (1976) 60  
23 Cal.App.3d 814, 817 (affirming demurrers where plaintiff claimed to have been “inadequately  
24 educated”).)

25           Plaintiff’s claims run headlong into this “educational malpractice” doctrine. The gravamen  
26 of Plaintiff’s complaint is that she did not receive the “Caltech educational experience” she claims  
27 to have expected. (FAC ¶¶ 15, 52 (“Students in the Caltech Cybersecurity Bootcamp are not  
28 provided a Caltech experience or anything like it.”).) Plaintiff’s allegations necessarily “challenge

1 the educational quality” of the Bootcamp (*Wells, supra*, 39 Cal.4th at p. 1212) and therefore fall  
2 squarely within the educational malpractice doctrine. (*See, e.g.*, FAC ¶ 95(e) (alleging Defendants  
3 “misrepresent[ed] that the Caltech Cybersecurity Bootcamp is operated by Caltech and is of the  
4 same **standard and quality** as other continuing professional education programs operated by  
5 Caltech and the Caltech CTME, when in fact it is not, and is instead operated exclusively by  
6 Simplilearn and staffed by inexperienced and unqualified Simplilearn instructors”).) Indeed, the  
7 FAC is loaded with allegations about Caltech’s quality and alleged deficiencies of the Bootcamp.  
8 (*See Id.* ¶ 3 (Caltech “is known as a school where students get an exceptional education,”); *id.* ¶¶  
9 11, 14, 62 (Plaintiff and other students chose the Bootcamp because of Caltech’s “faculty, expertise,  
10 and reputation” as a “prestigious school”); *id.* ¶ 15 (Defendants “falsely promise students a Caltech  
11 educational experience”); *id.* ¶¶ 46-47 (alleging the Bootcamp instructors “do not necessarily have  
12 expertise in cybersecurity” and “are not otherwise qualified to teach at Caltech or as part of the  
13 Caltech CTME”); *id.* ¶ 52 (“Students in the Caltech Cybersecurity Bootcamp are not provided a  
14 Caltech experience or anything like it.”); *id.* ¶ 66 (the “primary instructor had only recently  
15 completed the program himself and was not able to answer students’ questions. Some students  
16 knew more than the instructor”).) In sum, Plaintiff alleges that Defendants misrepresented that the  
17 Bootcamp “is of the same standard or quality as other continuing professional education programs  
18 operated by Caltech and the Caltech CTME, when in fact it is not . . . .” (*Id.* ¶ 94(e) (emphasis  
19 added).) These allegations plainly attack the “quality of [the Bootcamp’s] classes, instructors, [or]  
20 curriculum,” in violation of the educational malpractice doctrine. (*See Wells, supra*, 39 Cal.4th at  
21 p. 1212.)

22 Notably, Plaintiff does not dispute that she received every promised tangible element of the  
23 Bootcamp, including six months of instruction, (FAC ¶ 5), Continuing Education Units, (*id.* ¶ 38),  
24 a certificate of completion from the “California Institute of Technology Center for Technology and  
25 Management Education,” (*id.*), and career counseling, (*id.* ¶ 67). Nor does she dispute that she  
26 received the benefit of Caltech’s “reputation” and name in her dealings with employers. (*See Id.*  
27 ¶ 11.) Instead, what Plaintiff alleges is that the Bootcamp was not “Caltech” quality. (*See, e.g., Id.*  
28 ¶ 52.) Because determining whether Plaintiff did, in fact, receive a Caltech-quality experience

1 “would require the Court to make judgments about the quality and value of the education” she  
2 expected to receive and of what she received, (*Lindner, supra*, 2020 WL at p. at \*7), the educational  
3 malpractice doctrine precludes her claims.

4 **C. The Unjust Enrichment Claim Fails**

5 Plaintiff’s unjust enrichment claim is predicated on the same allegedly false advertising as  
6 her other claims, (*see* FAC ¶ 102), and fails for all the reasons discussed. Separately, and  
7 additionally, this claim should be dismissed because, in California, “[u]njust enrichment is not a  
8 cause of action.” (*Jogani, supra*, 165 Cal.App.4th at p. 911; *see also De Havilland v. FX Networks,*  
9 *LLC* (2018) 21 Cal.App.5th 845, 870 (“Unjust enrichment is not a cause of action”) (quoting *Hill*  
10 *v. Roll Internat. Corp.* (2011) 195 Cal.App.4th 1295, 1307); *Bank of New York Mellon v. Citibank,*  
11 *N.A.* (2017) 8 Cal.App.5th 935, 955 (“Unjust enrichment is not a cause of action, or even a remedy,  
12 but rather a general principle, underlying various legal doctrines and remedies.”) (cleaned up).)  
13 Rather, unjust enrichment is a theory of restitution. (*De Havilland, supra*, 21 Cal.App.5th at p. 870;  
14 *Rutherford Holdings, LLC v. Plaza Del Rey* (2014) 223 Cal.App.4th 221, 231 (construing the unjust  
15 enrichment claim “as a quasi-contract claim seeking restitution” because “unjust enrichment is not  
16 a cause of action”).) As explained in Defendants’ Motion to Strike, each of Plaintiff’s requests for  
17 restitution are duplicative of her requests for money damages and should be dismissed because she  
18 has an adequate remedy at law. Plaintiffs’ unjust enrichment claim therefore should be dismissed.

19 **V. CONCLUSION**

20 Plaintiff has failed to plead an actionable representation. Even if she could, her claims  
21 expressly concern the quality of the education she received and necessarily trigger the educational  
22 malpractice doctrine. For the foregoing reasons, the Court should sustain Defendants’ demurrer to  
23 Plaintiff’s First Amended Complaint.

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Dated: November 22, 2023

Respectfully submitted,  
HUESTON HENNIGAN LLP

By:   
\_\_\_\_\_  
Joseph A. Reiter  
Attorneys for Defendant CALTECH  
INSTITUTE OF TECHNOLOGY

Dated: November 22, 2023

O'MELVENY & MYERS LLP

By: /s/ Matthew Powers  
\_\_\_\_\_  
Matthew Powers  
Attorneys for Defendant SIMPLILEARN  
AMERICAS, INC.

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
3 and not a party to the within action. My business address is 523 West 6<sup>th</sup> Street, Suite 400, Los  
4 Angeles, CA 90014.

4 On November 22, 2023, I served the foregoing document(s) described as:

5 **DEFENDANTS' NOTICE OF DEMURRER AND DEMURRER TO PLAINTIFFS' FIRST**  
6 **AMENDED CLASS ACTION COMPLAINT**

7 on the interested parties in this action as stated below:

8 Eve H. Cervantez  
9 Danielle E. Leonard  
10 Corinne F. Johnson  
11 Derin Mcleod  
12 ALTSHULER BERZON LLP  
13 177 Post Street, Suite 300  
14 San Francisco, CA 94108  
15 Phone: (415) 421-7151 - Fax: (415) 362-8064  
16 Email: ecervantez@altber.com  
17 dleonard@altber.com  
18 cjohnson@altber.com  
19 dmcleod@altber.com

20 Eric Rothschild (pro hue vice application forthcoming)  
21 Olivia DeBlasio Webster (pro hue vice application forthcoming)  
22 NATIONAL STUDENT LEGAL DEFENSE NETWORK  
23 1701 Rhode Island Ave. NW  
24 Washington, D.C. 20036  
25 Phone: (202) 734-7495  
26 Email: eric@defendstudents.org  
27 libby@defendstudents.org


28 *Attorneys for Plaintiff ELVA LOPEZ,*  
*on behalf of herself and all others similarly situated*

29  BY E-MAIL OR ELECTRONIC TRANSMISSION: I served the persons at the e-mail  
30 addresses listed above via File&ServeXpress.

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

33 Executed on November 22, 2023, at Los Angeles, California.

34 Marina Green  
35 \_\_\_\_\_  
36 (Type or print name)

37   
38 \_\_\_\_\_  
39 (Signature)

## Marina Green

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**From:** Karen Ding  
**Sent:** Wednesday, November 22, 2023 9:25 AM  
**To:** Caltech/Lopez [INT]  
**Subject:** FW: Lopez v. California Institute of Technology, Case No. CGC-23-607810, Request to Reserve Hearing Dates

Please calendar. Please also use this as the reservation confirmation for the filings today.

**Karen Ding**  
D: 213.788.4597

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**From:** Complex Litigation <ComplexLit@sftc.org>  
**Sent:** Wednesday, November 22, 2023 9:24 AM  
**To:** Hayes, Emily <ehayes@omm.com>; Complex Litigation <ComplexLit@sftc.org>  
**Cc:** Joseph A. Reiter <jreiter@hueston.com>; Corinne Johnson <cjohnson@altshulerberzon.com>; Karen Ding <kding@hueston.com>; Blair Ganson <bganson@hueston.com>; Eve Cervantez <ecervantez@altshulerberzon.com>; Derin McLeod <dmcleod@altshulerberzon.com>; eric <eric@defendstudents.org>; Libby Webster <libby@defendstudents.org>; Kilgore, R. Collins <ckilgore@omm.com>; Powers, Matt <mpowers@omm.com>  
**Subject:** RE: Lopez v. California Institute of Technology, Case No. CGC-23-607810, Request to Reserve Hearing Dates


Ms. Hayes,

As requested, I've reserved February 1, 2024, at 10:00 am, for hearing of defendant's Demurrer and Motion to Strike, and February 23, 2024, at 1:30 pm for the CMC.

Thank you,  
Felicia Green  
Complex Litigation, Dept. 304

---

**From:** Hayes, Emily <ehayes@omm.com>  
**Sent:** Tuesday, November 21, 2023 10:18 AM  
**To:** Complex Litigation <ComplexLit@sftc.org>  
**Cc:** Joseph A. Reiter <jreiter@hueston.com>; Corinne Johnson <cjohnson@altshulerberzon.com>; Karen Ding <kding@hueston.com>; Blair Ganson <bganson@hueston.com>; Eve Cervantez <ecervantez@altshulerberzon.com>; Derin McLeod <dmcleod@altshulerberzon.com>; eric <eric@defendstudents.org>; Libby Webster <libby@defendstudents.org>; Kilgore, R. Collins <ckilgore@omm.com>; Powers, Matt <mpowers@omm.com>  
**Subject:** RE: Lopez v. California Institute of Technology, Case No. CGC-23-607810, Request to Reserve Hearing Dates

 **WARNING: This email was generated from an external source. You should only open files from a trustworthy source.**

Ms. Green,

Thank you for providing those options. The parties are available Thursday, February 1, 2024 at 10:00 am for a hearing on Defendants' Demurrer to Plaintiff's First Amended Complaint and on Defendants' Motion to Strike.

The parties are available for the CMC on Friday, February 23, 2024 at 1:30 pm.



Can we please reserve the above dates and times?

Thank you,

Emily A. Hayes  
O: +1-310-246-6838  
[ehayes@omm.com](mailto:ehayes@omm.com)

---

**From:** Complex Litigation <[ComplexLit@sftc.org](mailto:ComplexLit@sftc.org)>  
**Sent:** Monday, November 20, 2023 4:43 PM  
**To:** Hayes, Emily <[ehayes@omm.com](mailto:ehayes@omm.com)>; Complex Litigation <[ComplexLit@sftc.org](mailto:ComplexLit@sftc.org)>  
**Cc:** Joseph A. Reiter <[jreiter@hueston.com](mailto:jreiter@hueston.com)>; Corinne Johnson <[cjohnson@altshulerberzon.com](mailto:cjohnson@altshulerberzon.com)>; Karen Ding <[kding@hueston.com](mailto:kding@hueston.com)>; Blair Ganson <[bganson@hueston.com](mailto:bganson@hueston.com)>; Eve Cervantez <[ecervantez@altshulerberzon.com](mailto:ecervantez@altshulerberzon.com)>; Derin McLeod <[dmcleod@altshulerberzon.com](mailto:dmcleod@altshulerberzon.com)>; eric <[eric@defendstudents.org](mailto:eric@defendstudents.org)>; Libby Webster <[libby@defendstudents.org](mailto:libby@defendstudents.org)>; Kilgore, R. Collins <[ckilgore@omm.com](mailto:ckilgore@omm.com)>; Powers, Matt <[mpowers@omm.com](mailto:mpowers@omm.com)>  
**Subject:** RE: Lopez v. California Institute of Technology, Case No. CGC-23-607810, Request to Reserve Hearing Dates

[EXTERNAL MESSAGE]

Ms. Hayes,

Yes, we can add the Motion to Strike to the same date as the hearing of the Demurrer.

The Court has the following availability during the weeks of January 29<sup>th</sup> and February 12<sup>th</sup>:


January 29<sup>th</sup> at 11:00 am;  
January 30<sup>th</sup> at 11:00 am;  
February 1<sup>st</sup> at 10:00 am;  
February 2<sup>nd</sup> at 9:00 am, 10:00 am or 11:00 am; and  
February 16<sup>th</sup> at 11:00 am.

The only available date during the week of March 4<sup>th</sup> is March 8<sup>th</sup> at 11:00 am.

Thank you,  
Felicia Green  
Complex Litigation, Dept. 304

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**From:** Hayes, Emily <[ehayes@omm.com](mailto:ehayes@omm.com)>  
**Sent:** Monday, November 20, 2023 3:36 PM  
**To:** Complex Litigation <[ComplexLit@sftc.org](mailto:ComplexLit@sftc.org)>  
**Cc:** Joseph A. Reiter <[jreiter@hueston.com](mailto:jreiter@hueston.com)>; Corinne Johnson <[cjohnson@altshulerberzon.com](mailto:cjohnson@altshulerberzon.com)>; Karen Ding <[kding@hueston.com](mailto:kding@hueston.com)>; Blair Ganson <[bganson@hueston.com](mailto:bganson@hueston.com)>; Eve Cervantez <[ecervantez@altshulerberzon.com](mailto:ecervantez@altshulerberzon.com)>; Derin McLeod <[dmcleod@altshulerberzon.com](mailto:dmcleod@altshulerberzon.com)>; eric <[eric@defendstudents.org](mailto:eric@defendstudents.org)>; Libby Webster <[libby@defendstudents.org](mailto:libby@defendstudents.org)>; Kilgore, R. Collins <[ckilgore@omm.com](mailto:ckilgore@omm.com)>; Powers, Matt <[mpowers@omm.com](mailto:mpowers@omm.com)>  
**Subject:** RE: Lopez v. California Institute of Technology, Case No. CGC-23-607810, Request to Reserve Hearing Dates

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Ms. Green,

Thank you for providing those dates. The parties are not available on February 9, 2024. Are there available times for the hearing the weeks of January 29 or February 12?

I neglected to include in my initial outreach that Defendants are also requesting a hearing on a Motion to Strike, to be held on the same day and time as the hearing on Defendants' Demurrer.

For the Case Management Conference, the parties are available on the date and time you provided. If the Demurrer and Motion to Strike hearing gets scheduled for the week of February 12, 2024 the parties are available for a CMC the week of March 4, 2024.

Thank you,

Emily A. Hayes  
O: +1-310-246-6838  
[ehayes@omm.com](mailto:ehayes@omm.com)

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**From:** Complex Litigation <[ComplexLit@sftc.org](mailto:ComplexLit@sftc.org)>  
**Sent:** Friday, November 17, 2023 3:12 PM  
**To:** Hayes, Emily <[ehayes@omm.com](mailto:ehayes@omm.com)>; Complex Litigation <[ComplexLit@sftc.org](mailto:ComplexLit@sftc.org)>  
**Cc:** Joseph A. Reiter <[jreiter@houston.com](mailto:jreiter@houston.com)>; Corinne Johnson <[cjohnson@altshulerberzon.com](mailto:cjohnson@altshulerberzon.com)>; Karen Ding <[kding@houston.com](mailto:kding@houston.com)>; Blair Ganson <[bganson@houston.com](mailto:bganson@houston.com)>; Eve Cervantez <[ecervantez@altshulerberzon.com](mailto:ecervantez@altshulerberzon.com)>; Derin McLeod <[dmcleod@altshulerberzon.com](mailto:dmcleod@altshulerberzon.com)>; eric <[eric@defendstudents.org](mailto:eric@defendstudents.org)>; Libby Webster <[libby@defendstudents.org](mailto:libby@defendstudents.org)>; Kilgore, R. Collins <[ckilgore@omm.com](mailto:ckilgore@omm.com)>; Powers, Matt <[mpowers@omm.com](mailto:mpowers@omm.com)>  
**Subject:** RE: Lopez v. California Institute of Technology, Case No. CGC-23-607810, Request to Reserve Hearing Dates

[EXTERNAL MESSAGE]

Good afternoon, Ms. Hayes,

At present, the Court is scheduled to be in trial during the week of February 5 – 8, 2024. The only available date is Friday, February 9, 2024, at 11 am.

The Court will still be in trial during the week of February 20 – 22, 2024. (Monday, February 19, 2024, is a court holiday). We can schedule the CMC on Friday, February 23, 2024, at 1:30 pm.

Please let me know if you would like to reserve one of both of those dates, or if you need additional dates.

Thank you,  
Felicia Green  
Complex Litigation, Dept. 304

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**From:** Hayes, Emily <[ehayes@omm.com](mailto:ehayes@omm.com)>  
**Sent:** Friday, November 17, 2023 2:17 PM  
**To:** Complex Litigation <[ComplexLit@sftc.org](mailto:ComplexLit@sftc.org)>  
**Cc:** Joseph A. Reiter <[jreiter@houston.com](mailto:jreiter@houston.com)>; Corinne Johnson <[cjohnson@altshulerberzon.com](mailto:cjohnson@altshulerberzon.com)>; Karen Ding <[kding@houston.com](mailto:kding@houston.com)>; Blair Ganson <[bganson@houston.com](mailto:bganson@houston.com)>; Eve Cervantez <[ecervantez@altshulerberzon.com](mailto:ecervantez@altshulerberzon.com)>; Derin McLeod <[dmcleod@altshulerberzon.com](mailto:dmcleod@altshulerberzon.com)>; eric <[eric@defendstudents.org](mailto:eric@defendstudents.org)>; Libby Webster <[libby@defendstudents.org](mailto:libby@defendstudents.org)>; Kilgore, R. Collins <[ckilgore@omm.com](mailto:ckilgore@omm.com)>; Powers, Matt <[mpowers@omm.com](mailto:mpowers@omm.com)>  
**Subject:** Lopez v. California Institute of Technology, Case No. CGC-23-607810, Request to Reserve Hearing Dates

**⚠ WARNING: This email was generated from an external source. You should only open files from a trustworthy source.**

Dear Ms. Larnauti,

I am writing on behalf of the Parties to *Lopez v. California Institute of Technology*, Case No. CGC-23-607810, to reserve a hearing date for Defendants' Demurrer to Plaintiff's First Amended Complaint. The Parties have conferred and are available on:

- February 5, 2024
- February 6, 2024
- February 7, 2024
- February 8, 2024

The Parties would also like to reserve a date for a second Case Management Conference. The Parties have conferred and are available on:

- February 19, 2024
- February 20, 2024
- February 21, 2024
- February 22, 2024

We look forward to hearing from you.

Best regards,

**O'Melveny**

**Emily A. Hayes (she)**

Associate

[ehayes@omm.com](mailto:ehayes@omm.com)

O: +1-310-246-6838

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O'Melveny & Myers LLP  
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