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Attorneys for Defendants Arla Ramsey and Thomas Frank

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

ACRES BONUSING, INC., a Nevada
 corporation, and JAMES ACRES, an
 individual

Plaintiffs,

v.

LESTER MARSTON, et al.

Defendants.

Case No.: 3:19-cv-05418-WHO

**DEFENDANTS ARLA RAMSEY
 AND THOMAS FRANK'S
 NOTICE OF MOTION AND
 RULE 12(B)(1) AND 12(B)(6)
 MOTION TO DISMISS
 PLAINTIFFS' FIRST
 AMENDED COMPLAINT**

Complaint Filed: August 28, 2019

Hearing Date: September 28, 2022
 Time: 2:00 p.m.
 Judge: Hon. William H. Orrick

TO ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on September 28, 2022 or as soon thereafter as this motion may be heard by Hon. William H. Orrick at the above-referenced court, Defendants Arla Ramsey and Thomas Frank (“Defendants”) will and hereby do move this Court for an order Dismissing Plaintiffs Acres Bonusing, Inc. (“ABI”) and James Acres’ (collectively, “Plaintiffs”) First Amended Complaint without leave to amend pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

The motion to dismiss should be granted under Rule 12(b)(1) because this Court has no subject matter jurisdiction over the Defendants given that the allegations in Plaintiffs’ First Amended Complaint all trigger personal immunities and privileges applicable to Defendants’ various alleged legal capacities. Alternatively, the motion to dismiss should be granted under Rule 12(b)(6) because each of Plaintiffs’ four causes of action against Defendants fail to state claims upon which relief can be granted. Specifically, ABI’s wrongful use of civil proceedings cause of action fails to satisfy several mandatory elements of its claim. Both of ABI’s aiding and abetting causes of action against Defendants fail because they rely on the false premise that Judge Lester Marston, as a presiding judge, owed a fiduciary duty to ABI as a litigant in Blue Lake Tribal Court. Plaintiffs’ RICO cause of action against Defendants also fails because Plaintiffs’ First Amended Complaint fails to allege cognizable predicate acts of racketeering, as all of Plaintiffs’ allegations against Defendants arise from litigation activity.

Dated: July 29, 2022

GORDON REES SCULLY
MANSUKHANI, LLP

By: /s/ Casey C. Shaw
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