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THE GATHERING INN
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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF PLACER
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17 CITY OF LINCOLN, a California municipal
corporation, CITY OF LINCOLN, by and for
18 the People of the State of California,

19 Petitioners and Plaintiffs,

20 vs.

21 THE GATHERING INN, a California public
benefit non-profit corporation; CALIFORNIA
22 DEPARTMENT OF SOCIAL SERVICES, a
California state agency, HORNE LLP, a
23 Delaware limited liability partnership, and
DOES 1 through 15 inclusive,

24 Respondents and Defendants.
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Case No. S-CV-0053711

**THE GATHERING INN'S NOTICE OF
DEMURRER AND DEMURRER TO CITY
OF LINCOLN'S SECOND AMENDED
COMPLAINT**

Date: October 7, 2025

Time: 8:30 a.m.

Dept.: 42

Judge: The Hon. Trisha J. Hirashima

Action Filed: September 30, 2024

Trial Date: Not yet set

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on October 7, 2025, in the above-entitled Court located at
3 10820 Justice Center Drive, Roseville, California, 95661, Respondent and Defendant The
4 Gathering Inn (“TGI”) shall bring for hearing its Demurrer to the Second Amended Complaint
5 (“FAC”) filed by Plaintiff the City Of Lincoln (the “City”).

6 TGI’s Demurrer is based on this Notice and Demurrer, the Memorandum of Points and
7 Authorities in Support of the Demurrer, the Declaration of Thomas B. Mayhew in Support of the
8 Demurrer, the Request for Judicial Notice in Support of the Demurrer, the pleadings and papers on
9 file in this action, and such other matters as may be presented prior to or at the hearing on the
10 Demurrer.

11 TGI provides the following information pursuant to Local Rule 20.2.3(C):

12 Pursuant to Local Rule 20.2.3, the court will issue a tentative ruling
13 for this matter on the court day before the hearing. The tentative
14 ruling will be available after 12:00 noon on the court’s website,
15 www.placer.courts.ca.gov. The tentative ruling shall become the
16 final ruling on the matter and no hearing will be held unless oral
argument is timely requested or the tentative ruling indicates
otherwise. Requests for oral argument must be made by calling (916)
408-6481 no later than 4:00 p.m. on the court day prior to the hearing.

17 In compliance with Code of Civil Procedure § 430.41, on August 14, 2025, counsel for TGI
18 met and conferred via videoconference with counsel for the City of Lincoln regarding the grounds
19 for TGI’s demurrer but could not reach an agreement to resolve TGI’s objections to the SAC.
20 Declaration of Thomas B. Mayhew in Support of TGI’s Demurrer to WPUSD’s Second Amended
21 Complaint, ¶ 3.

22 **DEMURRER**

23 **Demurrer to Second Claim for Relief (Violation of California**
24 **Business and Professions Code Section 17200, *et seq.*)**

25 1. TGI demurs to the Second Claim for Relief for Violation of California Business
26 and Professions Code Section 17200, *et seq.* pursuant to Code of Civil Procedure § 430.10(b) and
27 (e), because the FAC fails to state facts sufficient to constitute a cause of action. Under Section
28 17204 of California Business and Professions Code Section, the City of Lincoln’s City Attorney

1 does not have authority to prosecute a 17200 Unfair Practices Act claim in the name of the People
2 of the State of California.

3 **Demurrer to Fourth Claim for Relief (Declaratory Relief)**

4 2. TGI demurs to the Fourth Claim for Declaratory Relief pursuant to Code of Civil
5 Procedure § 430.10(e), because the FAC fails to state facts sufficient to constitute a cause of
6 action. The City does not allege that an actual controversy exists between it and TGI based on
7 legal rights and duties arising under a contract or other document and thus fails to allege a
8 concrete dispute that is ripe for adjudication. *See* Code Civ. P. § 430.10(a). The City seeks a
9 declaration regarding past acts, which are not a proper subject for declaratory relief. The Fourth
10 Claim for Declaratory Relief is also redundant to the substantive causes of action (the Second
11 Claim for Violation of California Business and Professions Code Section 17200, et seq. and the
12 Fifth Claim for Relief for Deceit/Concealment).

13 **Demurrer to Fifth Claim for Relief (Deceit/Concealment (Civ. Code §§ 1709, 1710))**

14 3. TGI demurs to the Fifth Claim for Relief for Deceit/Concealment pursuant to Code
15 of Civil Procedure § 430.10(e), because the FAC fails to state facts sufficient to constitute a cause
16 of action. The City fails to plead any actionable misrepresentation or fraudulent omission
17 (including because the City fails to plead the existence of a legal duty to disclose), reliance, or
18 damages as required to support a claim for fraud. *See* Code Civ. P. § 430.10(e).

19 **Demurrer to Sixth Claim for Relief (Fraud and Concealment (Tort of Another Doctrine))**

20 4. TGI demurs to the Sixth Claim for Relief for Fraud and Concealment (Tort of
21 Another Doctrine) pursuant to Code of Civil Procedure § 430.10(e), because the FAC fails to state
22 facts sufficient to constitute a cause of action. The Sixth Claim for Relief for Fraud and
23 Concealment (Tort of Another Doctrine) is redundant to the Fifth Claim for Relief for
24 Deceit/Concealment. “Tort of another” doctrine is not an independent cause of action but a theory
25 of economic recovery. Even if “tort of another” doctrine was a cause of action, the City’s claim
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1 would fail because the City cannot seek damages for fraud against a third party, based on the third
2 party's reliance rather than its own.

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4 Dated: August 26, 2025

FARELLA BRAUN + MARTEL LLP

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6 By: 

Thomas B. Mayhew

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8 Attorneys for Defendant
THE GATHERING INN