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FILED
 ALAMEDA COUNTY

DEC - 8 2017

CLERK OF THE SUPERIOR COURT

By Michelle R Deputy

6 Attorneys for Defendant and Cross-Complainant
 DIESTEL TURKEY RANCH
 7

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

10 DIRECT ACTION EVERYWHERE SF BAY
 AREA, an unincorporated association, on behalf
 11 of the general public, and BARBARA
 ELLIOTT, a consumer, on behalf of herself and
 12 all others similarly situated,

Case No. RG17847475

CLASS ACTION

*ASSIGNED FOR ALL PURPOSES TO:
 JUDGE George C. Hernandez, Jr.
 DEPARTMENT 17*

Plaintiffs,

v.

CROSS-COMPLAINT

15 DIESTEL TURKEY RANCH, a California
 corporation, exempt private foundation,

Complaint Filed: January 30, 2017

Trial Date: None Set

Defendant.

18 DIESTEL TURKEY RANCH, a California
 corporation, exempt private foundation,

Cross-Complainant,

v.

21 DIRECT ACTION EVERYWHERE SF BAY
 22 AREA, an unincorporated association, on behalf
 of the general public; WAYNE HSIUNG, an
 23 individual; LESLIE GOLDBERG, an individual;
 MICHAEL GOLDBERG, an individual; and
 24 ROES 1 through 20,

Cross-Defendants.

CROSS-COMPLAINT
Case No. RG17847475

BY FAX

DEC - 8 2017

1 Cross-Complainant DIESTEL TURKEY RANCH ("Cross-Complainant") hereby
2 alleges as follows:

3 **The Parties**

4 1. Cross-Complainant DIESTEL TURKEY RANCH ("Diestel" or "Cross-
5 Complainant") is a family owned California corporation that operates several turkey farms and
6 ranches in and around Tuolumne County. Diestel has been raising turkeys and selling premium
7 quality Diestel brand turkeys and turkey products for more than 67 years.

8 2. Diestel is informed and believes that Cross-Defendant Direct Action Everywhere
9 SF Bay Area ("DxE" or "Cross-Defendant") is an unincorporated association of animal rights
10 activists dedicated to "animal liberation" through "direct action".

11 3. Diestel is informed and believes Wayne Hsiung is an individual residing in
12 California. Diestel is informed and believes that Wayne Hsiung is a co-founder of DxE.

13 4. Diestel is informed and believes Leslie Goldberg is an individual residing in
14 California. Diestel is informed and believes that Leslie Goldberg is a DxE activist.

15 5. Diestel is informed and believes Michael Goldberg is an individual residing in
16 California. Diestel is informed and believes that Michael Goldberg is a DxE activist.

17 6. Cross-Complainant is ignorant of the true names and capacities of cross-
18 defendants sued as ROES 1-20, inclusive, and therefore sues these cross-defendants by such
19 fictitious names. Cross-Complainant is informed and believes, and thereupon alleges, that each of
20 said fictitiously named cross-defendants is responsible in some manner for the alleged
21 occurrences, including as an agent, co-conspirator, alter ego, and aider and abettor of each of the
22 other co- cross-defendants, and that Cross-Complainant's damages as herein alleged were
23 proximately caused by the acts and/or omissions of each of them. Cross-Complainant will amend
24 this cross-complaint to allege their true names and capacities when ascertained.

25 **Jurisdiction and Venue**

26 7. This Court has personal jurisdiction over Cross-Defendant DxE pursuant to Code
27 of Civil Procedure section 410.50(a) because DxE filed the complaint in this action. Diestel is
28 also informed and believes that DxE is based in Alameda County, California. This Court has

1 personal jurisdiction over Cross-Defendants Wayne Hsiung, Leslie Goldberg and Michael
2 Goldberg pursuant to Code of Civil Procedure 410.10 because Diestel is informed and believes
3 that they are domiciled in California and because they committed torts – trespass, conversion and
4 trespass to personal property – in California.

5 8. Venue is proper in Alameda County because Diestel is informed and believes that
6 DxE is based in Alameda County and because DxE filed its Complaint in Alameda County.

7 **General Allegations**

8 9. Diestel is informed and believes that DxE’s mission is “animal liberation.” DxE
9 defines “animal liberation” as follows: “We mean species equality. We mean legal protection of
10 every feeling being’s right to autonomy over their body. We mean legal personhood for
11 nonhuman animals. We mean an end to human use of conscious, feeling animals for food,
12 clothing, entertainment, research, or any other purpose that exploits nonhuman animals for human
13 benefit. We mean a world where all animals’ interests are honored, and where love, care, respect,
14 and freedom are present.”¹

15 10. Diestel is informed and believes that as part of its mission, DxE encourages and
16 engages in “Open Rescue” in which DxE activists illegally trespass onto places of animal
17 agriculture and “rescue” animals from “violence.” As part of its “Open Rescue,” DxE activists
18 take video footage. DxE’s activists then edit and publish the footage to create false and
19 misleading videos that suggests the animals have been mistreated.

20 11. Diestel is informed and believes that DxE activists engaged in “Open Rescues” --
21 that is they illegally trespassed onto private property used for raising livestock and illegally
22 removed livestock – at Petaluma Farms in Petaluma California on or about June, July and August
23 2013; at Diestel’s Jamestown Ranch in Jamestown, California in or about January to September
24 2015; at JS West at its Dwight Bell Ranch in Atwater, California and its Hilmar Farm in Hilmar,
25 California in or about 2015; at Hormel Foods’ Farmer John’s Farm in Kings County, California in
26

27 _____
28 ¹ DxE, <https://www.directactioneverywhere.com/faq/> (last visited October 5, 2017)

1 or about 2016; at Pleasant Valley Farms in Farmington, California on or about 2016; at Jaindl
2 Turkey Farms in or about 2016; and at Pitman Farms in Sanger, California in or about 2017.

3 12. As part of its ongoing practice, DxE activists continue to trespass on Diestel
4 property. As recently as November 17, 2017, four activists in a Prius circumvented Diestel's
5 security gates by following a member of the Diestel family through the gate when she entered the
6 property and before the gate could close. When confronted and told they were trespassing, the
7 four activists initially refused to leave. The activists only left once Diestel called the Sheriff.

8 **FIRST CAUSE OF ACTION**

9 **(Trespass against All Cross-Defendants)**

10 13. Cross-Complainant re-alleges and incorporates by reference each and every
11 allegation contained in Paragraphs 1 through 12 of this Cross-Complaint.

12 14. Diestel operates a commercial turkey farm at the Jamestown Ranch Property
13 located at 10700 La Grange Road, Jamestown, California 95327. Diestel has been raising
14 turkeys at the Jamestown Ranch Property since roughly 1995.

15 15. Diestel's Jamestown Ranch Property is not open to the public. Access to the
16 Jamestown Ranch Property is restricted to specific authorized personnel. In addition, the ranch
17 facilities are subject to a number of biosecurity management practices that are designed to reduce
18 the risk of introduction, establishment and spread of animal disease, infections or infestations to,
19 from and within its flocks. Biosecurity is important to Diestel, as it helps protect its flocks from
20 diseases like Avian Influenza.

21 16. Diestel is informed and believes that between January and September 2015, Cross-
22 Defendant DxE, acting through its activist Wayne Hsiung, Leslie Goldberg, Michael Goldberg,
23 and ROES 1-20, without the consent or authority and against the will of Diestel, entered onto the
24 Jamestown Ranch Property in the dead of night. To enter the property, Cross-Defendants had to
25 break through the barbed wire fencing that surrounds the property, cross the fields to the barns
26 where the turkeys live at night and unlatch and open a door to access the turkey barns. By
27 entering the turkey barns, Cross-Defendants violated several biosecurity protocols in place to
28 ensure the health of the flock. Moreover, according to the videos and information Cross-

1 Defendants published after breaking into the Jamestown Ranch Property, they removed two
2 turkeys from Diestel's facilities, which Cross-Defendants later named "Sarah" and "Angie."

3 17. By reason of Cross-Defendants' conduct, Diestel has suffered damage according to
4 proof at trial and incurred additional expenses related to violations of the biosecurity protocols as
5 well as further inspections and auditing of the farm after DxE's trespass was discovered. In
6 addition, Diestel has been deprived of the two turkeys that DxE claims to have stolen from the
7 property during their trespass.

8 18. Cross-Defendants' trespass occurred on lands under cultivation or intended or used
9 for the raising of livestock. As such, Diestel is entitled to recover its attorney's fees pursuant to
10 Code of Civil Procedure § 1021.9.

11 19. Cross-Defendants acted with oppression and malice in that Cross-Defendants
12 intended to illegally trespass onto Diestel's property and intended to steal Diestel's turkeys.
13 Cross-Defendants vehemently oppose animal agriculture and are trying by any means necessary
14 to destroy Diestel's reputation and business.

15 SECOND CAUSE OF ACTION

16 (Conversion against All Cross-Defendants.)

17 20. Cross-Complainant re-alleges and incorporates by reference each and every
18 allegation contained in Paragraphs 1 through 19 of this Cross-Complaint.

19 21. In or about January to September 2015, Diestel owned and was in possession of
20 two turkeys, which Cross-Defendants named "Sarah" and "Angie." "Sarah" and "Angie" were
21 housed in a turkey barn on the Jamestown Ranch Property.

22 22. Diestel is informed and believes that on or about January to September 2015,
23 Cross-Defendant DxE, acting through its activists Wayne Hsiung, Leslie Goldberg, Michael
24 Goldberg and ROES 1-20, trespassed onto the Jamestown Ranch Property and stole "Sarah" and
25 "Angie" for their own use and purposes.

26 23. As a result of Cross-Defendants' conversion Diestel has been deprived of the use
27 and possession of these two turkeys.

28

1 **FOURTH CAUSE OF ACTION**

2 **(Unlawful Competition Against Cross-Defendant DxE)**

3 32. Cross-Complainant re-alleges and incorporates by reference each and every
4 allegation contained in Paragraphs 1 through 31 of this Cross-Complaint.

5 33. From 2013 to present DxE has engaged in "open rescues." In these "open rescues"
6 DxE activists illegally trespass onto agricultural properties, violate biosecurity protocols,
7 illegally remove livestock, and take video footage. DxE activists later edit and publish their
8 video footage to create a misleading perception that the livestock are mistreated.

9 34. DxE activists use the video footage obtained from their illegal trespassing and the
10 images of the illegally removed livestock to create a media campaign against the victims of the
11 trespass and conversion.

12 35. These practices are a violation of Penal Code sections 459 (burglary) and 484
13 (theft), common law prohibitions against trespass, conversion and trespass to personal property,
14 and therefore constitute unlawful business acts or practice within the meaning of Business &
15 Professions Code §§ 17200, *et seq.*

16 36. DxE continues in its unlawful business practices and therefore present a continuing
17 threat to the public.

18 37. As a direct and proximate result of the DxE's conduct, Diestel has lost its personal
19 property (i.e., the two turkeys DxE activists stole from Diestel's Jamestown Ranch facilities) and
20 suffered damage to its Jamestown Ranch facilities in the form of increased past and future
21 operating and security expenses.

22 **PRAYER**

23 Wherefore, Cross-Complainant requests judgment against defendants, and each of them,
24 for the following:

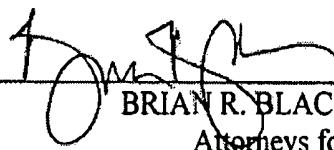
- 25 1. General damages on its First, Second and Third Causes of Action;
26 2. Nominal damages on its First, Second and Third Causes of Action;
27 3. Punitive damages on its First, Second and Third Causes of Action in an
28 amount to be shown at trial, but in an amount sufficient to deter this conduct in the future;

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- 4. Restitution on its Fourth Case of Action;
- 5. Injunctive Relief prohibiting Cross-Defendants from entering Cross-Complainant's property or facilities and from engaging in and encouraging "open rescues."
- 6. An award of attorney's fees and costs of suit; and
- 7. Any other and further relief that the court deems just and proper.

DATED: December 8, 2017

BLAXTER | BLACKMAN LLP

By: 
BRIAN R. BLACKMAN
Attorneys for
DIESTEL TURKEY RANCH

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PROOF OF SERVICE

I am employed in the City and County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is: Blaxter | Blackman, LLP, 475 Sansome Street, Suite 1850, San Francisco, California 94111.

On December 8, 2017 I served the following document(s):

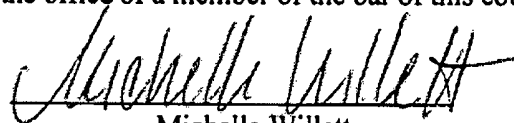
- **CROSS-COMPLAINT**

The foregoing documents were served by the following means:

- (BY U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to the person(s) listed below and placed the envelope for collection and mailing following our ordinary business practices. I am "readily familiar" with the firm's practice for collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business.
- (BY PERSONAL SERVICE) I personally delivered the documents to the person(s) listed below at the corresponding address.
- (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package provided by an overnight delivery carrier to the person(s) listed below at the corresponding address(es). I placed the envelope or package for collection and overnight delivery at an office or regularly utilized pick-up location utilized by the overnight carrier.
- (BY EMAIL) I caused the documents to be sent to the person(s) listed below at the corresponding email address(es). I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- (BY MESSENGER SERVICE) I served the documents by placing them in an envelope or package addressed to the person(s) listed below at the corresponding address(es) and providing them to a professional messenger service for delivery. A Declaration of Messenger is set forth below.

Executed on December 8, 2017 at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Michelle Willett

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