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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 BIG3 LLC, a limited liability
12 company; O’SHEA JACKSON a/k/a
13 ICE CUBE, an individual; and JEFF
14 KWATINETZ, an individual;

15 Plaintiffs,

16 vs.

17 Ahmed Al-Rumaihi, an individual;
18 Faisal Al-Hamadi, an individual;
19 Ayman Sabi, an individual; Sheikh
20 Abdullah bin Mohammed bin Sau Al
21 Thani, an individual and as CEO of
22 Qatar Investment Authority; DOES 1-
23 100,

24 Defendants.

CASE NO.: 2:18-cv-03466-DMG-SK

Assigned for all purposes to
The Honorable Dolly M. Gee

**PLAINTIFFS’ RESPONSE TO
ORDER TO SHOW CAUSE RE:
DISMISSAL FOR LACK OF
PROSECUTION**

**[Filed concurrently with Declaration
of Mark Geragos]**

25 Plaintiffs Big3 LLC, O’Shea Jackson a/k/a Ice Cube, and Jeff Kwatinetz
26 (collectively, “Plaintiffs”) respectfully submit the following response to this Court’s
27 July 25, 2018 Order to Show Cause Re: Dismissal For Lack of Prosecution.

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1 **I. INTRODUCTION**

2 On July 25, the Court issued an OSC re dismissal for lack of prosecution, citing
3 Fed. R. Civ. Proc. 4(m) for the proposition that “Absent a showing of good cause, an
4 action must be dismissed without prejudice if the summons and complaint are not
5 served on a defendant within 90 days after the complaint is filed.” Plaintiffs respond
6 as follows:

- 7
- 8 • Rule 4’s 90-day service rule does not apply where the unserved defendants
9 are located in a foreign country. FRCP 4(m) (“This subdivision (m) does
10 not apply to service in a foreign country under Rule 4(f), 4(h)(2), or
11 4(j)(1).”). As explained below, unserved defendants are indeed located in a
12 foreign country, and service would indeed be accomplished via Rule 4(f).
 - 13 • Service could be made by mail in this case, assuming proper addresses can
14 be determined. FRCP 4(f)(2)(c)(ii) (providing for service “using any form of
15 mail that the clerk addresses and sends to the individual and that requires a
16 signed receipt.”).
 - 17 • Plaintiffs’ failure to serve Defendant Faisal Al-Hamidi is at least partially
18 the result of game-playing by Defendants’ counsel. Mr. Al-Hamadi is one of
19 three members of Sport Trinity, LLC, an entity that contracted to invest in
20 Big 3 Basketball, LLC; along with his co-Defendants Ahmed Al-Rumaihi,
21 and Ayman Sabi. Defendants Al-Rumaihi and Sabi have both appeared in
22 this action, have signed declarations in the United States, and are represented
23 by Jones Day. Plaintiffs have repeatedly requested that Jones Day confirm
24 whether it also represents Defendant Al-Hamidi who is believed to reside in
25 Qatar, but these requests have been ignored. [Declaration of Mark Geragos
26 (“Geragos Decl.”) ¶ 2, Exh. A.]
 - 27 • Due to a number of new developments and revelations in this case, it has
28 become clear that Plaintiffs’ Complaint should be amended based on newly

1 uncovered defamatory conduct, including adding certain defendants (and
 2 perhaps dropping others), as well as adding a number of operative factual
 3 allegations. Plaintiffs submit that rather than serving the existing defendants
 4 now, judicial economy would be best served by allowing Plaintiffs further
 5 time to complete their investigation (including on how to serve the
 6 defendants, assuming no cooperation from their counsel), file an amended
 7 pleading, and then serve any as-yet unserved defendants.

- 8 • The most shocking and alarming new development came just last week,
 9 when Defendants' company, Sport Trinity, LLC, filed papers in a parallel
 10 legal proceeding revealing that Defendant Al-Rumaihi was and is one of the
 11 highest-ranking officials of the Qatari government, and a diplomat who has
 12 reported directly to the Amir since March 2017. This revelation contradicts
 13 public statements, and Defendants' representations made in this case,
 14 affirmatively stating or implying that Al-Rumaihi is a "private citizen" and
 15 not a government official. This fact is directly relevant to the service issue
 16 and amendment issue as explained below.
- 17 • The letter also reveals that Defendants have been less than honest with this
 18 Court and have provided different accounts of Mr. Al-Rumaihi's identity. As
 19 a result, and given the near-daily revelation of new facts in independent
 20 news reporting (many of which have been described to the Court in prior
 21 filings), Plaintiffs' need to depose Mr. Al-Rumaihi is all the greater.

22 **II. DEFENDANTS' JULY 31, 2018 LETTER REVEALS THAT AL-**
 23 **RUMAIHI IS NOT SIMPLY A PRIVATE CITIZEN**

24 **A. It was recently revealed, for the first time, that Al-Rumaihi is a high-**
 25 **ranking government official.**

26 On July 31, a letter brief was filed in a parallel legal proceeding between Big 3
 27 Basketball, LLC—the company operating the professional basketball league at the
 28

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1 center of this dispute (the “League”)—and Sport Trinity, LLC—the League’s
2 defaulting purported investor that is owned and controlled by Mr. Al-Rumaihi.
3 [Geragos Decl. ¶ 3, Exh. B.] The other members of Sport Trinity are Defendants
4 Ayman Sabi, and Faisal Al-Hamadi.

5 Although counsel filing the Letter Brief—Angela Agrusa of DLA Piper—does
6 not purport to represent Mr. Al-Rumaihi individually, she argues passionately against
7 the League’s efforts to depose him in the arbitration. In her letter, Ms. Agrusa makes a
8 number of revelations concerning Al-Rumaihi that serve his interests in that matter but
9 contradict his direct statements made to the public through official Qatar embassy
10 statements and to this Court. In particular, the Letter Brief states:

11 **In March 2017, Mr. Al-Rumaihi was appointed member of the**
12 **Supreme Council for Economic Affairs and Investments (“SCEAI”),**
13 **to which [the Qatari Investment Authority (“QIA”)] reports, and he**
14 **maintains that position today. The SCEAI is the highest decision**
15 **making body concerning energy, investment and economic affairs in**
16 **Qatar. The SCEAI, which is chaired by His Highness the Amir,**
17 **approves investment strategy, assigns funds and approves the budget**
18 **as well as certain QIA Regulations...**

19 **While Mr. Al-Rumaihi has previously lived in and traveled to the**
20 **United States (often as part of his diplomatic and official duties), he**
21 **has not done so for some time. [Geragos Decl., ¶ 3, Exh. B, at p. 2, ¶**
22 **3, p. 3, ¶¶ 1–2.]**

23 As explained below, these new revelations about Al-Rumaihi’s status within the
24 Qatari government, and history of travel to the United States further demonstrate
25 Plaintiffs’ need to depose Mr. Al-Rumaihi.

26 ///

27 ///

B. These revelations contradict Defendants’ public statements about this lawsuit.

Prior to the filing of the Letter Brief, Mr. Al-Rumaihi’s team had painted a very different picture. For instance, a June 18, 2018 Bloomberg Businessweek article regarding this case refers to the following statement from Sport Trinity, LLC’s “spokesperson”:

A spokesperson for Sport Trinity said Al-Rumaihi is a private citizen of Qatar and isn’t affiliated with the government or the QIA.

“While he previously worked for the Ministry of Foreign Affairs of the government of Qatar, he left the ministry in May 2016,” the person said in an emailed statement. “After leaving the ministry, he worked with the Qatar Investment Authority until March 2017. Subsequently, he has been a private business person and investor.” (emphasis supplied)

[Geragos Decl. ¶ 4, Exh. C.] These statements were widely disseminated in numerous other publications. Plaintiffs submitted copies of a selection of these articles on May 18 in support of their Motion to Lift Discovery Stay. [See, e.g., Docket No. 19-2, Exhibits A, G.]

C. The revelations show that Defendants’ prior submissions to this Court were—at best—highly misleading.

1. Defendants previously argued that Al-Rumaihi is domiciled in Qatar based on the fact that he holds a B-1 visa.

Defendants removed this action to this Court on the grounds that Al-Rumaihi was not a citizen of California—because he is domiciled in Qatar and has been for decades. [Docket No. 1-3, Declaration of Ahmed Al-Rumaihi in Support of Notice of Removal, at ¶¶ 4, 8.]¹ In support, Defendants filed a declaration from Al-Rumaihi

¹ Notably, this declaration was signed in “LA, CA” on April 24, 2018. This would appear to contradict the claims made in the Letter Brief that Al-Rumaihi has

1 asserting that he is the holder of a B-1 visa. [*Id.*, ¶ 6.] Plaintiffs subsequently
 2 requested leave to conduct limited jurisdictional discovery (because all of the
 3 evidence showed that Mr. Rumaihi lived in the United States for most of the last
 4 decade) including on the issue of whether Mr. Al-Rumaihi is domiciled in California,
 5 or Qatar.

6 In opposing Plaintiffs’ motion, Defendants relied heavily on the fact that Al-
 7 Rumaihi holds a B-1 visa, which does not permit him to seek permanent residence in
 8 the United States. [Docket No. 23, Defendants’ Opposition to Plaintiffs’ Motion for
 9 Jurisdictional Discovery, 1:2-6.] Defendants filed, under seal, a declaration from Al-
 10 Rumaihi, in which he stated that he holds a B-1 visa and attached a copy thereof.
 11 [Docket No. 37, Declaration of Ahmed Al-Rumaihi in Support of Opposition to
 12 Plaintiffs’ Motion for Jurisdictional Discovery.] Defendants argued that this fact is
 13 dispositive proof that Al-Rumaihi cannot be domiciled in California. [Docket No. 23,
 14 1:2-2:7.]

15 **2. Defendants failed to disclose Al-Rumaihi’s current diplomatic**
 16 **status.**

17 But Al-Rumaihi’s declaration did not stop there. Without disclosing the
 18 contents of the sealed declaration, suffice to say it is likely that Al-Rumaihi has a
 19 diplomatic visa in addition to his B-1 visa, because, inter alia, he is a diplomat.

20 Al-Rumaihi’s omission (or at least glossing over) of this additional information
 21 is no small matter. By doing so, Defendants are able to argue that it is impossible for
 22 Al-Rumaihi to be domiciled in the United States, much less California, based on the
 23 uncontroversial fact that the holder of a B-1 visa is ineligible to apply for permanent
 24 resident status. Holders of a diplomatic, or “A” visa are in fact allowed to apply for
 25 permanent resident status, and if Al-Rumaihi has this type of visa (which appears
 26

27 not traveled to, or lived in the United States “for some time.” [Geragos Decl. ¶ 3, Exh.
 28 B, the Letter Brief, p. 3, ¶ 2.]

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1 highly likely based on the recent factual revelations), he may very well have applied
2 for permanent residence in the U.S.—something that would comport with his recent
3 purchase of a multimillion dollar home in California that he shares with his girlfriend,
4 Helga. [*See, e.g.*, Docket No. 11, Supplemental Declaration of Ben Meiselas.]

5 In other words, it was not true that Mr. Al-Rumaihi’s holding of a B-1 visa
6 ended the inquiry as to his domicile. While it may generally be true that holders of
7 such visas cannot be considered to be domiciled in a U.S. state, the result is different
8 if a holder of such a B-1 visa also enjoys another immigration status that is consistent
9 with permanent residency.

10 **III. THE LETTER IS NOT THE FIRST REVELATION SINCE PLAINTIFFS**
11 **FILED THEIR LAWSUIT**

12 **A. Many material facts have been revealed since this case was**
13 **commenced.**

14 Since the original Complaint was filed, there has been a flood of factual details
15 concerning Defendants’ activities in the worlds of sports, politics, and culture.
16 Plaintiffs have described some of these revelations in briefs filed in connection with
17 the parties’ currently pending motions; including Defendant Al-Rumaihi’s efforts to
18 curry favor with President Trump, and his meetings with administration officials
19 (including the President’s private attorney, Michael Cohen) in 2016; and attempts to
20 bribe administration officials in order to further Qatar’s interests; [*See, e.g.*, Docket
21 No. 19-2, Declaration of David Erikson in Support of Plaintiffs’ Motion to Lift
22 Discovery Stay, ¶¶ 5-13; Exhs. B-G.] and Mr. Al-Rumaihi leading an influence and
23 intelligence operation for Qatar that targeted certain influential American citizens and
24 corporations.

25 ///

26 ///

27 ///

28

1 **B. Additional relevant facts have been brought to light while the**
2 **parties' motions have remained pending.**

3 In addition to the revelations from Sport Trinity's counsel (Ms. Agrusa from
4 DLA Piper), which contradict the allegations from Mr. Al-Rumaihi's personal counsel
5 from Jones Day about his actual identity, there are a number of other issues that have
6 come to light in the press and through Plaintiffs' independent investigation. The
7 following is a brief summary of key elements of these newly discovered facts:

- 8 • During the summer of 2017, Qatar was exposed for purportedly paying a
9 ransom to Iran, which in turn was actually money that went to Hezbollah
10 and other terrorist groups. [Geragos Decl., ¶ 5, Exh. D.] Qatar's neighbors
11 responded by imposing a blockade and threatening to invade. [Geragos
12 Decl., ¶ 6, Exh. E.]
- 13 • Hassan Al-Thawadi and Sheikh Mohamad bin Hamad Al Thani ("MBH")
14 served as the CEO and Chairman, respectively, for the Qatari committee that
15 succeeded in winning the bid to host the 2022 FIFA World Cup soccer
16 tournament. [Geragos Decl. ¶ 7; Exh. F.] However, it was revealed that the
17 Qatari committee engaged in massive fraud and bribery in order to secure
18 the award. [Geragos Decl. 8; Exh. G.] This revelation resulted in the
19 termination and expulsion of top FIFA executives, and calls from fans,
20 athletes, and commentators to revoke the award. [Geragos Decl. 9; Exh. H.]
21 In addition, Qatar utilized intelligence agents, ex-CIA operatives, and paid-
22 off journalists to defame American citizens.
- 23 • Following these scandals, it has been reported that Qatar has engaged in
24 influence operations in the United States, ordered and funded by two
25 separate Qatari government committees—the Supreme Council on
26 Economic Affairs and Investments (which Plaintiffs now know Al-Rumaihi
27 is a member of), and the Supreme Committee for Legacy and Delivery
28

1 (headed by MBH). [Geragos Decl. ¶ 10, Exh. I.] These efforts have been
 2 interpreted, at least in part, as a public relations push to improve Qatar’s
 3 image in the professional sports community, and rally support against the
 4 blockade. [*Id.*]

- 5 • Recent reporting by the Wall Street Journal, Mother Jones, Haaretz, and
 6 others indicates that Qatar has engaged in other influence operations in the
 7 United States, which have been carried out or overseen by the Supreme
 8 Council on Economic Affairs and Investments, and the Supreme Committee
 9 for Legacy and Delivery. [Geragos Decl. ¶¶ 10-12; Exhs. I-K.]
- 10 • These efforts included a “charm offensive” in the Jewish community in
 11 which Qatari representatives paid prominent Jewish Americans including the
 12 president of the Zionist Organization of America, Mort Klein; and well-
 13 known lawyer and professor, Alan Dershowitz, to portray Qatar favorably.
 14 These individuals have since made critical remarks about being misled by
 15 Qatar. [Geragos Decl. ¶¶ 10, 13; Exhs. I, L.]
- 16 • Qatar, through Ahmed Al-Rumaihi engaged in an influence operation
 17 against the Plaintiffs in this action at the direction of MBH and the Amir.
 18 The goal of the influence operation was to gain access to influential
 19 American business leaders and political figures. We have recently learned,
 20 for example, that one of objectives sought by Mr. Rumaihi and Qatar was to
 21 use Plaintiffs to curry favor with the Congressional Black Caucus.
- 22 • After Plaintiffs’ began exposing Defendants’ conduct, Defendants continued
 23 to engage in additional defamatory conduct against Plaintiffs and developed
 24 an entire media campaign to defame Plaintiffs to media in the United States.
- 25 • On June 7, 2018, an article published by Politico quotes Joey Allaham, a
 26 registered foreign agent for Qatar, as stating that Al-Rumaihi asked him to
 27 “lie to the press that Steve Bannon had maliciously created [Plaintiffs’]
 28

1 lawsuit....” [Geragos Decl. ¶ 13, Exh. L.] According to its June 15, 2018
 2 FARA registration, Mr. Allaham’s company, Lexington Strategies, LLC,
 3 was paid \$1,450,000 by its foreign principal “State of Qatar (Emir, Tamim
 4 bin Hamad Al Thani) and Qatar Supreme Committee for Delivery and
 5 Legacy (Sheikh, Mohamad bin Hamad Al Thani).” [Geragos Decl. ¶ 14;
 6 Exhibit M, at p. 3.]

7 Prior to the revelations described above, Defendants sought to portray Plaintiffs
 8 as conspiracy theorists for suggesting some of the facts that have now been shown to
 9 be true. Defendants call Plaintiffs allegations in this regard “pure Hollywood
 10 fiction”—but as these recent revelations indicate, Plaintiffs’ claims are far from mere
 11 theories.

12 By fleeing to Qatar after executing declarations in this action in the United
 13 States, Defendant Al-Rumaihi has been able to avoid accountability following the
 14 avalanche of damning revelations. Indeed, he has been so bold as to even admit that
 15 he is not actually a private citizen, as he previously stated, but rather a career diplomat
 16 who did not leave government service in March 2017, as claimed by his spokesperson,
 17 but was in fact promoted within the Qatari government, and now oversees the entire
 18 QIA. Plaintiffs will be greatly prejudiced if Mr. Al-Rumaihi is allowed to continue
 19 making contradictory, self-serving statements in this Court, the related action, and
 20 statements to the press, all while avoiding being deposed on these critical issues.

21 **IV. UNDER THE CIRCUMSTANCES, PLAINTIFFS WILL SEEK LEAVE**
 22 **TO AMEND**

23 Under Fed. Rule Civ. Proc. 15(a)(2), leave to amend should be given “freely”
 24 when justice so requires. FRCP 15(a)(2). “This policy is to be applied with extreme
 25 liberality.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir.
 26 2003) (internal quotations omitted). Leave to amend should be given “[i]n the absence
 27 of any apparent or declared reason—such as undue delay, bad faith or dilatory motive
 28

1 on the part of the movant, repeated failure to cure deficiencies by amendments
2 previously allowed, undue prejudice to the opposing party by virtue of allowance of
3 the amendment, futility of amendment, etc.” *Foman v. Davis*, 371 U.S. 178, 182
4 (1962).

5 Plaintiffs should be given leave to amend their complaint to correctly identify
6 the proper defendants, and add factual allegations based on the newly disclosed
7 factual revelations regarding Defendant Al-Rumaihi’s role in the Qatari government,
8 Defendants’ motivation to defame Plaintiffs, and the broader scope of Defendants’
9 conspiracy to do so. Plaintiffs will file a proper request for amendment following the
10 Court’s rulings on the parties’ currently pending motions. The grounds for such an
11 amendment would be, *inter alia*: 1) to allege further factual support for Plaintiffs’
12 claims based on the recent revelations described above; and 2) to add new defendants
13 and drop certain other defendants.

14 Specifically, Plaintiffs currently foresee alleging further facts regarding the
15 substance of the conspiracy to defame Plaintiffs, including:

- 16 • Allegations regarding Defendant Al-Rumaihi’s position within the
17 government of Qatar; and relationship to the United States, and
18 California.
- 19 • Adding MBH and other DOE high-ranking members of the Qatari
20 Supreme Council for Economic Affairs and Investment, and the Qatar
21 Investment Authority—as defendants based on the recent discovery of
22 their participation in the conspiracy to damage Plaintiff and Defendants’
23 waiver of sovereign immunity.
- 24 • Allegations of further facts regarding Defendants’ motives in conspiring
25 to damage Plaintiffs—i.e., Defendants’ shared desire to exert influence in
26 the world of professional sports, international relations, and popular
27 culture in general, in order to improve the image and strength of Qatar.

- Allegations of facts regarding additional defamatory acts committed by Defendants.

V. PLAINTIFFS’ NEED TO DEPOSE AL-RUMAIHI IS NOW EVEN GREATER

In light of these recent revelations about Mr. Al-Rumaihi’s status in the Qatari government—including that he is not in fact a *former* diplomat but rather a long-serving “career diplomat,” who has risen to the highest ranks in the Qatari government—it is all the more critical that Plaintiffs be given the opportunity to conduct limited discovery, including the deposition of Mr. Al-Rumaihi. Such limited discovery is necessary in order for Plaintiffs to ascertain critically relevant information, including Defendants’ addresses for purposes of serving the summonses, and the status of Al-Rumaihi’s visa, or visas, and the purposes of his presence in the United States, and California. Additionally, Plaintiffs should be given the opportunity to investigate the relationship between Sport Trinity, LLC and the Qatari government and the identities of those involved in the decisions regarding the dissemination of information about Plaintiffs to the press.

Plaintiffs have already been severely prejudiced by their inability to rebut Defendants’ jurisdictional arguments based on Al-Rumaihi’s selective presentation of facts to this Court.

VI. SERVICE BY MAIL IS PROPER IN THIS ACTION, WHICH REQUIRES ONLY THAT PLAINTIFFS LEARN DEFENDANTS’ PROPER ADDRESSES

Under Rule 4(f), service of a summons on an individual “at a place not within any judicial district of the United States” may be accomplished by “using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt,” unless prohibited by the foreign country’s law. Based on Plaintiffs’ counsel’s preliminary research, Qatar allows for the service of a summons on an individual by

1 means of registered mail. As explained above, Plaintiffs need to amend the operative
2 complaint in order to add the various recent factual revelations, name additional
3 defendants, and potentially dismiss certain current defendants. Once the proper
4 Defendants' addresses are ascertained, Plaintiffs will promptly request that the clerk
5 issue and send summonses by registered mail, return receipt requested.

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9 DATED: August 8, 2018

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