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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MAZAL GROUP, LLC, a
California Limited
Liability Company

Plaintiff,

v.

AGNER EMILIO ESPANA, an
individual; ERAN HENRY
DARMAN, an individual; and
DOES 1 to 10,

Defendants.

2:17-cv-05856-RSWL-KS

**ORDER re: Defendants
Darman's and Espana's
Motions to Dismiss, or,
in the Alternative,
Motions for More
Definite Statement [10,
12]**

Currently before the Court are Defendant Eran Henry Darman's ("Darman") Motion to Dismiss the Complaint, or, in the Alternative, Motion for More Definite Statement ("Darman's Motion") [10] and Defendant Agner Emilio Espana's ("Espana") Motion to Dismiss, or, in the Alterative, Motion for More Definite Statement ("Espana's Motion") [12]. Having reviewed all papers submitted pertaining to these Motions, the Court **NOW**

1 **FINDS AND RULES AS FOLLOWS:** the Court **GRANTS** Darman's
2 Motion; the Court **GRANTS in part and DENIES in part**
3 Espana's Motion.

4 **I. BACKGROUND**

5 **A. Factual Background**

6 Plaintiff Mazal Group, LLC ("Plaintiff") is a
7 California limited liability company that manufactures
8 and distributes beauty products. Compl. ¶¶ 5, 9, ECF
9 No. 1. Espana and Darman are individuals residing in
10 Broward County, Florida. Id. ¶ 6. Plaintiff alleges
11 that Defendants are engaged in a business relationship
12 and that each Defendant was an agent of the other at
13 all times relevant to this litigation. Id. Defendants
14 dispute Plaintiff's agency theory, see, e.g., Def.
15 Darman's Mot. to Dismiss ("Darman's Mot.") 1, 4, ECF
16 No. 10, but the parties do not dispute that Defendants
17 are officers of H & A Marketing and Sales, Inc. ("H &
18 A"), a Florida corporation, see Compl. ¶ 40; Def.
19 Darman's Reply ("Darman's Reply"), Ex. A, ECF No. 19.

20 Plaintiff enters into licensing agreements with
21 clients to license the right to sell beauty products.
22 Compl. ¶ 8. On February 3 and 9, 2017, Plaintiff and
23 Espana entered into licensing agreements to sell
24 Plaintiff's products. Id. ¶ 9. On April 3, 2017,
25 Plaintiff and Espana entered into a licensing agreement
26 to sell Plaintiff's brands at a trade show. Id.
27 Plaintiff alleges both Defendants were parties to these
28 agreements (the "Licensing Agreements"). Id. ¶¶ 6, 9.

1 The Licensing Agreements contain a provision regarding
2 the proper channels for sale of the licensed products:

3 Authorized Sales Channels. Licensee shall only
4 sell, offer for sale, or otherwise advertise MG
5 Products at the MG Licensed Location(s). Sale,
6 offers for sale, or advertisement of MG Products
7 via other sales channels including, but not
8 limited to online, wholesale or distribution
9 channels, or transfer of bulk quantities of
10 Products at reduced cost is strictly prohibited
and considered a material breach of this
Agreement. This Agreement is only for retail
sales direct to end-use consumers at the
Licensed Location(s). Licensee is not
authorized to sell, list, advertise or otherwise
market MG Products online, either directly or
indirectly.

11 Id., Ex. A § 1.03.

12 On May 1, 2017, Plaintiff discovered its products
13 were being sold on eBay. Id. ¶ 12. Plaintiff traced
14 the serial and batch numbers of these products back to
15 the products that Plaintiff provided to Espana as part
16 of the Licensing Agreements. Id. After conducting an
17 investigation in July 2017, Plaintiff discovered other
18 eBay and Amazon sellers who were selling Plaintiff's
19 products with the serial numbers of the products
20 subject to the Licensing Agreements. Id.

21 Plaintiff contacted Defendants regarding the
22 alleged violations of the Licensing Agreements, but
23 Defendants allegedly refused to comply with Plaintiff's
24 demands to adhere to the Licensing Agreements. Id. ¶¶
25 14-15.

26 **B. Procedural Background**

27 Plaintiff filed its Complaint against Defendants on
28 August 8, 2017, alleging (1) breach of contract, (2)

1 unjust enrichment, (3) statutory and common law unfair
2 competition and business practices, (4) negligent
3 interference with an economic relation, and (5)
4 fraudulent misrepresentation. See generally id.

5 On October 2, 2017, Darman filed his Motion [10].
6 On October 16, 2017, Plaintiff filed its Opposition to
7 Darman's Motion [16]. On October 30, 2017, Darman
8 filed his Reply [19].

9 On October 3, 2017, Espana filed his Motion [12].
10 Plaintiff filed its Opposition to Espana's Motion on
11 November 8, 2017 [21]. Espana did not file a Reply.

12 II. DISCUSSION

13 A. Legal Standard

14 Federal Rule of Civil Procedure ("Rule") 12(b)(6)
15 allows a party to move for dismissal of one or more
16 claims if the pleading fails to state a claim upon
17 which relief can be granted. To survive a motion to
18 dismiss on 12(b)(6) grounds, a complaint must "contain
19 sufficient factual matter, accepted as true, to state a
20 claim to relief that is plausible on its face."

21 Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)(internal
22 quotation marks omitted). Dismissal can be based on a
23 "lack of a cognizable legal theory or the absence of
24 sufficient facts alleged under a cognizable legal
25 theory." Balistreri v. Pacifica Police Dep't, 901 F.2d
26 696, 699 (9th Cir. 1990).

27 In ruling on a 12(b)(6) motion, a court may
28 generally consider only allegations contained in the

1 pleadings, exhibits attached to the complaint, and
2 matters properly subject to judicial notice. Swartz v.
3 KPMG LLP, 476 F.3d 756, 763 (9th Cir. 2007). A court
4 must presume all factual allegations of the complaint
5 to be true and draw all reasonable inferences in favor
6 of the non-moving party. Klarfeld v. United States,
7 944 F.2d 583, 585 (9th Cir. 1991).

8 The question presented by a motion to dismiss is
9 not whether the plaintiff will ultimately prevail, but
10 whether the plaintiff has alleged sufficient factual
11 grounds to support a plausible claim to relief, thereby
12 entitling the plaintiff to offer evidence in support of
13 its claim. Iqbal, 556 U.S. at 678; Swierkiewicz v.
14 Sorema N.A., 534 U.S. 506, 511 (2002). While a
15 complaint need not contain detailed factual
16 allegations, a plaintiff must provide more than "labels
17 and conclusions" or "a formulaic recitation of a cause
18 of action's elements." Bell Atl. Corp. v. Twombly, 550
19 U.S. 544, 555 (2007)(internal citation omitted).
20 However, "[a] complaint should not be dismissed under
21 Rule 12(b)(6) 'unless it appears beyond doubt that the
22 plaintiff can prove no set of facts in support of his
23 claim which would entitle him to relief.'" Balistreri,
24 901 F.2d at 699 (quoting Conley v. Gibson, 355 U.S. 41,
25 45-46 (1957)).

26 **B. Discussion**

27 Plaintiff notes in its Oppositions that Darman and
28 Espana did not seek to meet and confer with Plaintiff

1 prior to filing the Motions as Local Rule 7-3 requires.¹
2 "When a party fails to comply with Local Rule 7-3, the
3 court can, in its discretion, refuse to consider the
4 motion." Carmax Auto Superstores Cal. Ltd. Liab. Co.
5 v. Hernandez, 94 F. Supp. 3d 1078, 1087 (C.D. Cal.
6 2015)(internal citations omitted). "Failure to comply
7 with the Local Rules does not automatically require the
8 denial of a party's motion, however, particularly where
9 the non-moving party has suffered no apparent prejudice
10 as a result of the failure to comply." Id. (internal
11 citations omitted).

12 Plaintiff does not argue that the Court should deny
13 Darman's or Espana's Motions because of their failure
14 to comply with Local Rule 7-3; nor does Plaintiff argue
15 that Darman or Espana's failure to meet and confer
16 prejudiced Plaintiff. Further, Defendants each appear
17 in this matter pro se and live in Florida. While it is
18 the duty of the parties to comply with the Local Rules,
19 the lack of evidence of prejudice to Plaintiff and
20 Defendants' out-of-state and pro se status excuse their
21 initial failure to comply with Local Rule 7-3. See
22 Brodie v. Bd. of Trs. of the Cal. State Univ., No. CV
23 12-07690 DDP (AGRx), 2013 U.S. Dist. LEXIS 122059, at

24

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26 ¹ According to Local Rule 7-3, "counsel contemplating the
27 filing of any motion shall first contact opposing counsel to
28 discuss thoroughly, preferably in person, the substance of the
contemplated motion and any potential resolution. The conference
shall take place at least seven (7) days prior to the filing of
the motion."

1 *2 (C.D. Cal. Aug. 27, 2013)(considering merits of
2 motion when non-moving party failed to show it suffered
3 prejudice from failure to comply with Local Rule 7-3).
4 However, moving forward in this matter, all parties
5 should be on notice that they are required to comply
6 with all of the Court's Local Rules.²

7 1. Breach of Contract

8 The Court now turns to the merits of Defendants'
9 Motions. Plaintiff asserts a breach of contract claim
10 premised on the contract Plaintiff and Espana signed.
11 "To plead a breach of contract claim, a plaintiff must
12 allege: (1) the existence of a contract, (2) [its]
13 performance of the contract . . . , (3) defendant's
14 breach, and (4) resulting damage." Benton v. Baker
15 Hughes, No. CV 12-07735 MMM (MRWx), 2013 U.S. Dist.
16 LEXIS 94988, at *16-17 (C.D. Cal. June 30, 2013). In
17 its Complaint, Plaintiff alleges that "each Defendant
18 was an agent of the other Defendant and was acting in
19 the course of their agency at all relevant times."
20 Compl. ¶ 6. To sufficiently plead an agency
21 relationship, a plaintiff must allege facts

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23 ² The Court also notes that Darman filed his Reply six days
24 late. According to Local Rule 7-10, "A moving party may, not
25 later than fourteen (14) days before the date designated for the
26 hearing of the motion, serve and file a reply memorandum." Reply
27 briefs are optional. In the interests of adjudicating motions on
28 the merits, the Court will consider Darman's Reply in ruling on
his Motion. See Chabot v. Chabot, No. 4:11-CV-217-BLW, 2011 U.S.
Dist. LEXIS 131361, at *31 (D. Idaho Nov. 14, 2011). However, as
noted, Darman is cautioned that his pro se status will not
relieve his duty to comply with the Local Rules. In the future,
the Court may not consider a late-filed pleading.

1 demonstrating the principal's control over its agent.
2 Imageline, Inc. v. CafePress.com. Inc., No. CV 10-9794
3 PSG (MANx), 2011 U.S. Dist. LEXIS 39828, at *12 (C.D.
4 Cal. Apr. 6, 2011)(citing Sonora Diamond Corp. v.
5 Superior Court, 99 Cal. Rptr. 2d 824 (Ct. App. 2000)).

6 Other than stating that Defendants are agents of
7 each other, the only allegations Plaintiff makes
8 regarding the alleged agency relationship between
9 Darman and Espana is that Defendants "are engaged in a
10 business relationship and partnership, the details of
11 which Plaintiff is entirely ignorant," Compl. ¶ 6;
12 "Defendants are engaged in business together as
13 verified by the Florida Secretary of State," id. ¶ 39;
14 and Darman "was in league with" Espana, id. ¶ 40.
15 These allegations alone fail to satisfy the pleading
16 requirements of Rule 8(a). See Hines v. Wells Fargo
17 Home Mortg., Inc., No. 2:14-CV-01386 JAM-KJN, 2015 U.S.
18 Dist. LEXIS 8700, at *10 (E.D. Cal. Jan. 23, 2015)("The
19 FAC also alleges that West Coast Financial 'worked
20 closely with' and 'in concert with' Defendant. These
21 statements—even if the Court, as it must, takes them as
22 true—do not establish an agency relationship.").

23 Consequently, the Court **GRANTS** Darman's Motion as to
24 Plaintiff's breach of contract claim.

25 With regards to Espana's Motion, Espana contends
26 that Plaintiff has failed to sufficiently plead breach
27 and damages. Def. Espana's Mot. to Dismiss ("Espana's
28 Mot.") 4:19, 5:1-2, ECF No. 13.

1 To plead breach, Plaintiff alleges "Defendants
2 repeatedly violated Section 1.03 of the Agreements
3 constituting a material breach . . . by intentionally
4 selling to re-sellers rather than end-users as
5 required." Compl. ¶ 17. Plaintiff is not required to
6 provide specific evidence of Espana's breach at the
7 pleading stage. Rather, to plead breach, Plaintiff
8 only needs to allege how Espana breached a relevant
9 term of the Licensing Agreements. See TreeFrog Devs.,
10 Inc. v. Seidio, Inc., No. 13cv0158-IEG(KSC), 2013 WL
11 4028096, at *4 (S.D. Cal. Aug. 6, 2013)(internal
12 citations omitted)(denying motion to dismiss breach of
13 contract counterclaim where claimant alleged
14 nonclaimant's breach of a specific term of the
15 agreement). Plaintiff has done so by alleging how
16 Espana breached Section 1.03 of the Licensing
17 Agreements.

18 Finally, to sufficiently plead damages for a
19 breach of contract claim, a plaintiff must allege
20 appreciable and actual damage rather than nominal
21 damages or speculative harm. In re Facebook Privacy
22 Litig., 791 F. Supp. 2d 705, 717 (N.D. Cal. 2011).
23 Plaintiff pleaded actual damages by alleging (1) that
24 Espana's breach "did harm to Plaintiff and [its]
25 relations to other vendors and others," and (2) that
26 Section 8.03 of the Licensing Agreements provided that
27 Espana would pay Plaintiff \$100,000 in liquidated
28 damages in the event of breach. Compl. ¶¶ 17-18, Ex.

1 A. See Castro v. Wells Fargo Bank, N.A., No. CV 12-
2 2393 RSWL(AGRx), 2012 WL 2077294, at *1 (C.D. Cal. June
3 6, 2012)(holding plaintiffs sufficiently alleged
4 damages for breach of contract claim by alleging that
5 they suffered "financial and other continuing damages
6 as a result of Defendants' breach and that Plaintiffs
7 will lose their home if Defendants' breach continues").

8 Because Plaintiff has put forward sufficient
9 factual allegations for each element of its breach of
10 contract cause of action against Espana, the Court
11 **DENIES** Espana's Motion as to Plaintiff's breach of
12 contract claim.

13 2. Unjust Enrichment

14 In its Complaint, Plaintiff alleges that Defendants
15 "drew benefit from and enjoyment due to their
16 participation in" the Licensing Agreements and
17 "unjustly retained and enjoyed such benefits while
18 violating the [Licensing Agreements] to Plaintiff's
19 detriment." Compl. ¶¶ 21-22. Plaintiff's unjust
20 enrichment claim is premised solely on the Licensing
21 Agreements between Plaintiff and Espana through which
22 Plaintiff alleges Defendants unjustly obtained a
23 benefit to Plaintiff's detriment. Because Plaintiff
24 has not sufficiently alleged that Darman was a party to
25 these Licensing Agreements through an agency theory,
26 Plaintiff has failed to plead a claim of unjust
27 enrichment against Darman. Therefore, the Court **GRANTS**
28 Darman's Motion as to Plaintiff's unjust enrichment

1 claim.

2 Additionally, in California, “unjust enrichment is
3 an action in quasi-contract, which does not lie when an
4 enforceable, binding agreement exists defining the
5 rights of the parties.” Paracor Fin., Inc. v. Gen.
6 Elec. Capital Corp., 96 F.3d 1151, 1167 (9th Cir.
7 1996). Plaintiff bases its unjust enrichment claim
8 entirely on the Licensing Agreements, binding
9 agreements that define the rights of the parties, and
10 thus, an unjust enrichment claim cannot proceed.
11 See Nestle USA, Inc. v. Crest Foods, Inc., No. LA
12 CV16-07519 JAK (AFMx), 2017 U.S. Dist. LEXIS 136557, at
13 *53 (C.D. Cal. July 28, 2017)(granting motion to
14 dismiss unjust enrichment claim that was based solely
15 on binding contracts). Accordingly, the Court **GRANTS**
16 Espana’s Motion as to Plaintiff’s unjust enrichment
17 claim.

18 3. Unfair Business Practices

19 Plaintiff’s unfair business practices claim appears
20 to be primarily premised on California’s Unfair
21 Competition Law (“UCL”). The UCL prohibits “unlawful,
22 unfair or fraudulent business practices.” Cal. Bus. &
23 Prof. Code § 17200 et seq. The UCL separately
24 prohibits business practices that are (1) unlawful, (2)
25 unfair, or (3) fraudulent. Chabner v. United of Omaha
26 Life Ins. Co., 225 F.3d 1042, 1048 (9th Cir. 2000).

27 Under the unlawful prong, “section 17200 ‘borrows’
28 violations of other laws and treats them as unlawful

1 practices that the unfair competition law makes
2 independently actionable." Id. (quoting Cel-Tech
3 Commc'ns, Inc. v. L.A. Cellular Tel. Co., 973 P.2d 527,
4 539-40 (Cal. 1999)). Importantly, "a common law
5 violation such as breach of contract is insufficient"
6 to support a claim under the unlawful prong of section
7 17200. Shroyer v. New Cingular Wireless Servs., 622
8 F.3d 1035, 1044 (9th Cir. 2010). Because Plaintiff
9 does not go beyond alleging a violation of common law,
10 it fails to state a claim under the lawful prong of
11 section 17200.

12 Under the unfair prong, California Courts of Appeal
13 are split as to the test for what constitutes an unfair
14 business practice. See Drum v. San Fernando Valley Bar
15 Ass'n, 106 Cal. Rptr. 3d 46, 53-54 (Ct. App.
16 2010)(internal citations omitted)(describing three
17 tests courts use when analyzing the unfair prong in
18 actions involving consumers). In its Complaint,
19 Plaintiff does not assert any specific allegations
20 regarding an unfair business practice. Instead, it
21 essentially relies on its breach of contract
22 allegations. See Compl. ¶ 28. Accordingly, Plaintiff
23 has failed to state a claim under the unfair prong of
24 the UCL. See Grant v. Pensco Tr. Co., No.
25 12-cv-06084-WHO, 2014 U.S. Dist. LEXIS 53224, at *19
26 (N.D. Cal. Apr. 15, 2014)(granting motion to dismiss
27 UCL claim when plaintiff did not include any specific
28 allegations regarding the unfair prong and simply

1 incorporated breach of contract allegations).

2 Finally, to state a claim under the "fraudulent"
3 prong of the UCL, a plaintiff must plead that the
4 defendant's allegedly fraudulent business practice is
5 one by which "members of the public are likely to be
6 deceived." Obesity Research Inst., 165 F. Supp. 3d at
7 953 (quoting Schanll v. Hertz Corp., 93 Cal. Rptr. 2d
8 439, 457 (Ct. App. 2000)). The heightened pleading
9 standard of Federal Rule of Civil Procedure 9(b)
10 applies to a claim under the "fraudulent" prong of the
11 UCL, requiring Plaintiff to plead its fraud claim with
12 particularity. Id. Under the heightened standard of
13 Rule 9(b), Plaintiff must allege "the who, what, when,
14 where, and how" of Espana's fraudulent conduct. Vess
15 v. Ciba-Geigy Corp. USA, 317 F.3d 1097, 1106 (9th Cir.
16 2003)(internal citations omitted). Here, the Complaint
17 merely states that "Defendants [have] been, and [are]
18 engaged in 'unlawful, unfair, or fraudulent business
19 practices' in violation of §§ 17200." Compl. ¶ 27.
20 This allegation does not meet the heightened pleading
21 standard that Rule 9(b) requires of fraud claims.

22 Accordingly, Plaintiff has failed to sufficiently
23 plead a claim under any of the three prongs of the UCL,
24 and the Court **GRANTS** Darman's and Espana's Motions as
25 to Plaintiff's unfair business practices claim.

26 4. Negligent Interference with Prospective
27 Economic Relations

28 To adequately plead the first element of a

1 negligent interference with prospective economic
2 relations claim, a plaintiff "must identify with
3 particularity the relationships or opportunities with
4 which [the d]efendant is alleged to have interfered."
5 Damabeh v. 7-Eleven, Inc., No. 5:12-CV-1739-LHK, 2013
6 U.S. Dist. LEXIS 66565, at *30-31 (N.D. Cal. May 8,
7 2013). Further, generic "[r]elationships with the
8 'general public' and 'tourists' do not satisfy the
9 specificity requirement." Blue Dolphin Charters, Ltd.
10 v. Knight & Carver Yachtcenter, Inc., No.
11 11-cv-565-L(WVG), 2011 U.S. Dist. LEXIS 127628, at *14
12 (S.D. Cal. Nov. 3, 2011). The only relationships to
13 which Plaintiff refers are with licensees. See Compl.
14 ¶ 34. Plaintiff has not pleaded any facts showing a
15 *specific* economic relationship with which Defendants
16 interfered. See R Power Biofuels, LLC v. Chemex LLC,
17 No. 16-CV-00716-LHK, 2016 U.S. Dist. LEXIS 156727, at
18 *49 (N.D. Cal. Nov. 11, 2016)(finding allegation that
19 plaintiff had an economic relationship with "major
20 consumers of biodiesel" was not specific enough to
21 survive 12(b)(6) motion). Accordingly, the Court
22 **GRANTS** Darman's and Espana's Motions as to Plaintiff's
23 negligent interference cause of action.

24 5. Fraudulent Misrepresentation

25 Under California law, the elements of a fraudulent
26 misrepresentation claim include: (1) misrepresentation;
27 (2) knowledge of falsity; (3) intent to defraud;
28 (4) justifiable reliance; and (5) resulting damages.

1 Agosta v. Astor, 15 Cal. Rptr. 3d 565, 569 (Ct. App.
2 2004). According to Rule 9(b), a plaintiff must plead
3 each element of a fraud claim with particularity.
4 F.T.C. v. Lights of Am., Inc., 760 F. Supp. 2d 848, 850
5 (C.D. Cal. 2010). This means that "fraud claims must
6 be accompanied by the 'who, what, when, where, and how'
7 of the fraudulent conduct charged.'" Id. (quoting
8 Vess, 317 F.3d at 1106).

9 Plaintiff alleges that Defendants deceived
10 Plaintiff into believing that Espana was the sole
11 person engaged in the Licensing Agreements, when in
12 reality, Espana and Darman were working together.
13 Compl. ¶ 40. However, Plaintiff does not identify any
14 specific misrepresentation Defendants made to deceive
15 Plaintiff, or when such a misrepresentation occurred.
16 Further, Plaintiff does not differentiate between
17 Defendants when alleging that Defendants "knowingly and
18 intentionally misrepresented the identity of the
19 licensee" and "their intention to abide by the terms of
20 the AGREEMENTS." Id. ¶¶ 45-46. Such a failure to
21 allege the specific identities of who made the alleged
22 misrepresentations results in a failure to meet the
23 heightened pleading standard of Rule 9(b). See Swartz,
24 476 F.3d at 764 ("Rule 9(b) does not allow a complaint
25 to merely lump multiple defendants together but
26 require[s] plaintiffs to differentiate their
27 allegations when suing more than one defendant . . .
28 and inform each defendant separately of the allegations

1 surrounding his alleged participation in the fraud."
2 (internal quotations omitted)).

3 While the Complaint may contain a recitation of the
4 elements of a fraud claim, see Compl. ¶¶ 44-48, because
5 Plaintiff fails to provide any details with regards to
6 the alleged fraud, the Court **GRANTS** Darman's and
7 Espana's Motions as to Plaintiff's fraud claim. See
8 Vess, 317 F.3d at 1106 (finding plaintiff failed to
9 plead its fraud claim with particularity where it
10 alleged a "fraudulent conspiracy" between defendants
11 but did not "provide the particulars of when, where, or
12 how the alleged conspiracy occurred").

13 6. Leave to Amend

14 Rule 15(a)(2) directs courts to "freely give leave
15 [to amend] when justice so requires." Leave to amend
16 lies "within the sound discretion of the trial court."
17 United States v. Webb, 655 F.2d 977, 979 (9th Cir.
18 1981). This policy should "be applied with extreme
19 liberality." Owens v. Kaiser Found. Health Plan, Inc.,
20 244 F.3d 708, 712 (9th Cir. 2001)(quoting Morongo Band
21 of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th
22 Cir. 1990)).

23 Plaintiff has yet to file an amended complaint. It
24 is likely that, with the opportunity to amend the
25 Complaint, Plaintiff will be able to cure the
26 deficiencies in the causes of action Plaintiff pleads
27 against Defendants. Accordingly, the Court **GRANTS**
28 Plaintiff leave to amend its Complaint.

1 **III. CONCLUSION**

2 Based on the foregoing, the Court **GRANTS** Darman's
3 Motion [10]. The Court **GRANTS in part and DENIES in**
4 **part** Espana's Motion [13] as follows: the Court **DENIES**
5 Espana's Motion as to Plaintiff's breach of contract
6 claim; and the Court **GRANTS** Espana's Motion as to
7 Plaintiff's unjust enrichment, unfair competition,
8 negligent interference with prospective economic
9 advantage, and fraudulent misrepresentation claims.

10 The Court gives Plaintiff twenty days from the date
11 of this order to amend its Complaint.

12 **IT IS SO ORDERED.**

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14 DATED: December 4, 2017

s/ RONALD S.W. LEW

15 **HONORABLE RONALD S.W. LEW**
16 Senior U.S. District Judge
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