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In Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

RUSSELL ROPE,

       Plaintiff,

v.

COINBASE, INC. & DOES 1-20,

       Defendants.

Case No.: 25STCV16692

PLAINTIFF'S RESPONSE TO DEFENDANT COINBASE, INC.'S REPLY IN SUPPORT OF PETITION TO COMPEL ARBITRATION AND MOTION TO STAY PROCEEDINGS

I. INTRODUCTION

Defendant Coinbase, Inc. ("Coinbase") asks this Court to compel arbitration based on a purported online "User Agreement."

Coinbase's petition collapses under its own weight: it provides **no competent evidence** of mutual assent, relies on **unspecified and shifting versions** of its Terms of Service, and seeks to

use private arbitration to **shield alleged fraudulent and malicious conduct** from judicial

oversight.

Plaintiff **Russell Rope** never knowingly agreed to arbitrate any dispute with Coinbase.

The record shows only that Plaintiff created an account years ago under different terms—if any.

Coinbase's failure to produce the **exact version of the agreement**, **screens displayed to the

user**, and **server-side acceptance data** is fatal.

Defendant's Reply continues to rely on speculation that Plaintiff 'must have' agreed to Terms,

without producing the exact version, record of assent, or contemporaneous metadata required

under Cal. Evid. Code §§ 1400–1402.

Even if some later version contained an arbitration clause, Plaintiff **explicitly rejected

Coinbase's Terms of Service** after being locked out of his account and receiving a post-lockout

email announcing a new or modified arbitration provision. The Court, not an arbitrator, must

decide **whether any agreement to arbitrate was ever formed**. Because formation is disputed

and the requested injunctive relief serves the **public interest under McGill v. Citibank, N.A., 2

Cal.5th 945 (2017)**, Coinbase's petition must be denied.

II. NO EVIDENCE OF ASSENT OR FORMATION

A. Coinbase bears the burden of proving mutual assent.

- Online assent requires **clear notice** and **manifestation of consent**.

- Where terms are buried or change over time, courts demand strict proof of assent.

- Coinbase provides none—no screenshots, no timestamps, and no logs connecting Plaintiff to any click-through acceptance.

See **Nguyen v. Barnes & Noble, Inc.**, 763 F.3d 1171, 1177–79 (9th Cir. 2014) (no arbitration where defendant failed to show user had actual or constructive notice of terms). Recent decisions echo the same deficiency: courts refused to enforce Coinbase's arbitration clause when the company could not produce the **specific version accepted** by a user (*Reuters*, Apr. 5 2024, Second Circuit remand). Without that evidence, there is no agreement.

B. Plaintiff explicitly rejected any purported agreement.

After Coinbase locked Plaintiff out and demanded **biometric verification**, Plaintiff notified Coinbase that he rejected its Terms of Service, ceased using the platform, and would use it only for **claim-and-delivery** of his property. Plaintiff never agreed to arbitrate criminal misconduct or post-dispute "updates."

III. DELEGATION CLAUSE DOES NOT APPLY WHERE FORMATION IS CONTESTED

Formation is a **gateway issue for the court**. An arbitration clause—delegation or not—cannot bootstrap itself into existence.

- **Granite Rock Co. v. Int'l Brotherhood of Teamsters**, 561 U.S. 287, 296–99 (2010) — courts decide whether and when an arbitration agreement was formed.

- **Rosenthal v. Great W. Fin. Sec. Corp.**, 14 Cal.4th 394 (1996) — fraud in the execution negates assent.

- **Engalla v. Permanente Med. Grp.**, 15 Cal.4th 951 (1997) — court may deny arbitration where petitioner's misrepresentations taint assent.

- **Rent-A-Center v. Jackson**, 561 U.S. 63 (2010) — courts must decide specific challenges to delegation provisions.

Because Plaintiff challenges **formation**, **fraud**, and **post-lockout modification**, the delegation clause cannot strip this Court of authority.

IV. FRAUD, MALICE, & IDENTITY-EXPLOITATION ALLEGATIONS GO TO FORMATION & PUBLIC POLICY

Coinbase's lockout and forced biometric demand were not neutral security steps but, as alleged, part of a **pattern of coordinated misconduct** to defraud and extort the Plaintiff. Coinbase support used **alias "name-hack" accounts** and **misleading communications** designed to frustrate asset recovery and exploit Plaintiff's refusal of biometric scans. Such conduct destroys the very basis of assent and invokes California's strong policy **against using private contracts to shield illegality**. (See **Engalla**, supra; **Rosenthal**, supra.) Compelling arbitration here would perpetuate concealment of criminal acts and undermine public trust in emerging digital-asset platforms.

V. PLAINTIFF'S CLAIMS FALL WITHIN McGILL; PUBLIC INJUNCTIVE RELIEF IS NOT ARBITRABLE

A. Plaintiff seeks forward-looking, public relief.

While initial filings sought recovery of NFTs and assets, Plaintiff now seeks **injunctive relief** to:

1. Bar Coinbase and Does from colluding with outside actors to exploit users' digital assets;

2. Compel disclosure of decommissioning timelines for Web3 wallets to prevent further losses; and

3. Prohibit deceptive or coercive biometric-verification practices.

These remedies protect not only Plaintiff but **current and future Coinbase users**—the general public.

B. The McGill Rule prohibits contractual waivers of public injunctive relief.

Under **McGill v. Citibank, N.A.**, 2 Cal.5th 945 (2017),** any agreement waiving the right to seek public injunctive relief "in any forum" is invalid.

The Ninth Circuit reaffirmed McGill in **Blair v. Rent-A-Center**, 928 F.3d 819 (9th Cir. 2019)**, and distinguished purely private disputes in Hodges v. Comcast, 21 F.4th 535 (9th Cir. 2021)**.

Most recently, the California Court of Appeal in **Khan v. Coinbase, Inc., A172063 (Oct. 23 2025)** held that McGill barred Coinbase's identical attempt to compel arbitration where users sought UCL-based public injunctions. The same principle applies here.

VI. COINBASE'S "WAIVER" & "TIMELINESS" ARGUMENTS FAIL

Waiver and timeliness presuppose an existing agreement. Since **no contract was formed**, these issues never arise. Even if they did, Coinbase's conduct—post-dispute modification, misleading emails, and continued concealment of account access—shows bad faith, not diligence.\

VII. UNCONSCIONABILITY & SCOPE DEFENSES REMAIN FOR THE COURT

California law permits courts to refuse enforcement of unconscionable contracts. See **Nagrampa v. MailCoups, Inc.**, 469 F.3d 1257 (9th Cir. 2006) (en banc). Coinbase's one-sided terms, unilateral modification rights, and post-dispute imposition of arbitration are procedurally and substantively unconscionable.

Further, **Engalla** recognizes that where an arbitration system is infected by fraud or bias, the petition should be denied outright.

VIII. EVIDENCE & DISCOVERY REQUEST

If the Court contemplates any factual hearing under Evidence Code § 402, Plaintiff requests that

Coinbase be ordered to produce:

1. **Exact registration screen(s)** shown to Plaintiff (with layout and dimensions);

2. **Versioned User Agreement** in force at sign-up;

3. **Server logs** evidencing any "accept" click by Plaintiff;

4. **Change logs** documenting all subsequent arbitration modifications; and

5. **The post-lockout email** announcing new or modified arbitration terms.

Absent such production, Coinbase cannot meet its burden under **Nguyen** and **Granite Rock**.

IX. PROPOSED ORDER

It is hereby ordered:

1. Coinbase's **Petition to Compel Arbitration** is **DENIED**.

2. Coinbase has failed to prove that Plaintiff **assented to any arbitration agreement**

   governing these disputes.

3. Independently, any agreement purporting to waive the right to seek **public injunctive**

   relief is **invalid and unenforceable** under **McGill v. Citibank** and **Blair v. Rent-A-**

   Center.

4. The Court retains jurisdiction over all claims, including those alleging fraud, malice, oppression, and public-interest injunctive relief.

X. EQUITABLE ESTOPPEL & NON-SIGNATORY THEORIES DO NOT APPLY

Coinbase cannot evade its failure of proof on formation by invoking **equitable estoppel** or **non-signatory** doctrines. Estoppel requires that Plaintiff's claims be **"intimately founded in and intertwined with"** the contract containing arbitration. Plaintiff's core claims (fraud, identity exploitation, deceptive sunsetting, public-injunctive UCL relief) arise from **statutory and tort duties owed to the public**, not from any alleged contractual promise to arbitrate.

Where a platform cannot first show **assent** to an arbitration clause, estoppel is improper. See **Goldman v. KPMG, LLP**, 173 Cal.App.4th 209, 229–31 (2009). Coinbase also cannot bootstrap unnamed Does or third-party vendors into an arbitration that **never formed**.

XI. UNILATERAL MODIFICATION & ILLUSORY PROMISE: CLAUSE IS UNENFORCEABLE

Any purported arbitration term subject to Coinbase's unilateral, retroactive, or **post-dispute** "updates" is **illusory** and **procedurally unconscionable**. Courts refuse to enforce clauses where one party can **change the rules after a dispute arises** or where notice is obscured. See **Douglas v. Talk America, Inc.**, 495 F.3d 1062, 1066–67 (9th Cir. 2007); **Nagrampa**, 469 F.3d at 1280–88. Plaintiff specifically alleges Coinbase highlighted an "arbitration update" **after** the lockout—precisely the kind of retroactive maneuver California law forbids.

XII. FAA §2 "SAVINGS CLAUSE" AND NO PREEMPTION OF MCGILL

Section 2 of the FAA preserves **generally applicable contract defenses** (fraud, unconscionability, lack of formation). The **McGill** rule is one such **generally applicable** principle: a contract may not waive the right to seek **public injunctive relief in any forum**. The Ninth Circuit has held the FAA **does not preempt McGill**. **Blair v. Rent-A-Center**, 928 F.3d 819, 827–31 (9th Cir. 2019). Coinbase's preemption insinuations therefore fail; McGill remains binding.

XIII. FORUM-SELECTION / CHOICE-OF-LAW CONFLICTS ARE FOR THE COURT (SUSKI)

To the extent Coinbase relies on competing forum-selection, choice-of-law, or rules-incorporation provisions across **different Coinbase instruments** (e.g., user terms vs. promotion/feature rules), the **gateway conflict is for the Court**, not an arbitrator. See **Coinbase, Inc. v. Suski**, 602 U.S. ___ (2024) (court decides which agreement governs when instruments conflict despite a delegation clause). Any clash between a California forum clause and an arbitration forum must be resolved **judicially**, defeating Coinbase's delegation gambit.

XIV. SCOPE: TORT/STATUTORY CLAIMS AND PUBLIC INJUNCTIONS ARE NOT "PRIVATE DISPUTES"

Even if an arbitration clause existed (it does not), Plaintiff's claims include **statutory UCL/FAL/CLRA public-injunction** requests and **tort-based misconduct** (fraud, identity exploitation, harassment) **not dependent on contract interpretation**. This is not a simple "account dispute." Relief sought is **forward-looking** to protect the **general public**, thus squarely within **McGill** and **outside** any private bilateral arbitration.

XV. SMALL-CLAIMS CARVE-OUT (IF RAISED)

If Coinbase invokes a small-claims carve-out as evidence of "mutuality," it is irrelevant. Plaintiff seeks **equitable and public injunctive relief** unavailable in small-claims court. A

carve-out for low-value claims does not cure procedural or substantive unconscionability, nor does it prove assent.

XVI. EVIDENTIARY OBJECTIONS TO COINBASE DECLARATIONS

Plaintiff objects to Coinbase's declarations and exhibits to the extent they:

- lack **foundation** (no competent witness attesting to the **exact** registration screens or version-control records);
- constitute **hearsay** (summaries without proper business-records foundation);
- violate the **best-evidence** rule (post-hoc screenshots instead of contemporaneous records);
- offer **improper opinion** on legal conclusions (e.g., that Plaintiff "assented"); and
- rely on unauthenticated web pages.

The Court should **sustain** these objections and disregard incompetent evidence.

XVII. LIMITED DISCOVERY / EVID. CODE §402 HEARING (EXPANDED)

If the Court deems any factual dispute material, Plaintiff requests targeted discovery and/or an **Evidence Code §402** hearing limited to **formation**, including:

1. **Pixel-accurate registration flows** as presented to Plaintiff;
2. **Versioned TOS** at sign-up;

3. **Server-side acceptance logs**;

4. **Change logs** for arbitration edits; and

5. **Post-lockout arbitration email** with full metadata.

Without this record, Coinbase cannot meet its burden.

XVIII. STAY POSTURE (BIELSKI) —

WHY A STAY DOES NOT APPLY OR SHOULD BE LIMITED

Coinbase v. Bielski, 599 U.S. ___ (2023), mandates an automatic stay **only after** a court denies

a motion to compel and the defendant files an interlocutory appeal of that denial.

It says nothing about **proving formation** or about **McGill**. If this petition is denied and

Coinbase appeals, Plaintiff requests that any stay be **narrowly tailored** to permit preservation or

claim-and-delivery actions preventing irreparable harm.

XIX. SEVERABILITY/BLUE-PENCIL LIMITS

To the extent Coinbase seeks "severance" to salvage arbitration, any clause infected by **lack of**

formation, **fraud in execution**, or **public-injunction waiver** cannot be blue-penciled into

existence. See **Armendariz v. Foundation Health Psychcare**, 24 Cal.4th 83, 124–25 (2000).

The combined defects—no assent, illusory updates, McGill conflict—require **complete denial**.

XX. REQUESTED RELIEF (EXPANDED)

Plaintiff respectfully requests that the Court:

1. **Deny** Coinbase's Petition to Compel Arbitration;

2. **Overrule** Coinbase's delegation argument because **formation** and **McGill** are gateway judicial questions;

3. **Sustain** Plaintiff's evidentiary objections;

4. Order a **§402 hearing** and limited discovery if needed; and

5. Issue preservation/claim-and-delivery directives to safeguard Plaintiff's digital property.

CATCH-ALL SUMMARY

To the extent Coinbase's Reply advances any additional theories—equitable estoppel, non-signatory enforcement, incorporation-by-reference, unilateral modification, FAA preemption, small-claims carve-outs, or forum conflicts—each fails because:

1. **No formation/assent** was proven on competent evidence;

2. **Public injunctive relief** cannot be waived under **McGill** and **Blair**;

3. Post-dispute "updates" render the clause **illusory and unconscionable**;

4. Forum and law conflicts are **gateway judicial issues** under **Suski**; and

5. Plaintiff's claims arise from **statutory and tort duties** protecting the public, not private contract terms.

XXI. CONCLUSION

Claims involving fraud, misrepresentation, wrongful deprivation of access, or malicious interference with property are not subject to private arbitration, and no stay may be used to conceal or delay investigation into criminal conduct

Coinbase's boilerplate petition ignores the threshold issue of contract formation, evades serious allegations of fraud and malice, and seeks to privatize justice through an arbitration clause never proven to exist. California law and public policy forbid using private contracts to conceal illegality. The Court should deny Coinbase's petition in its entirety and permit this action to proceed to discovery on the merits.

Respectfully submitted,

Dated: November 12, 2025

/s/ Russell Rope
Plaintiff In Pro Per