

FILED

San Francisco County Superior Court

OCT 05 2023

CLERK OF THE COURT

BY: Attilia Eche
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 304

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No. CGC-22-601826

ORDER SUSTAINING IN PART AND
OVERRULING IN PART PLAINTIFF AND
CROSS-DEFENDANT THE PEOPLE OF
THE STATE OF CALIFORNIA'S
DEMURRER TO AMAZON.COM, INC.'S
CROSS-COMPLAINT

Plaintiff and Cross-Defendant the People of the State of California's Demurrer to Amazon.com, Inc.'s Cross-Complaint was set for hearing on October 6, 2023. The Court circulated a written tentative ruling in advance of the hearing. The parties stipulated to the tentative ruling prior to the hearing. Accordingly, the Court hereby adopts its tentative ruling and orders the October 6, 2023 hearing off calendar. Plaintiff and Cross-Defendant the People of the State of California's Demurrer to Amazon.com, Inc.'s Cross-Complaint is sustained in part and overruled in part.

BACKGROUND

On September 15, 2022, Plaintiff, the People of the State of California ("the People"), filed an antitrust and unfair competition action against Defendant Amazon.com, Inc. ("Amazon"). The People allege Amazon, through certain agreements with its third-party sellers and wholesale suppliers, has "prevented effective competition across a wide swath of online marketplaces and stores," which insulates

1 Amazon from price competition, entrenches its dominance, prevents effective competition, and harms
2 consumers and the California economy. (Compl. ¶¶ 1-2, 4-7, 9.) On March 30, 2023, the Court overruled
3 Amazon’s Demurrer to the Complaint. (See Mar. 20, 2023 Order, 1, 16.) On May 30, 2023, Amazon
4 filed its Answer. On the same day, Amazon filed a Cross-Complaint (or “XC”) against the People.
5 Amazon alleges as follows.

6 The retail industry is competitive. (XC ¶ 4.) To compete in retail, “Amazon invests heavily in
7 improving the consumer experience and seeks to offer customers low prices, fast and free delivery, easy-
8 to-use functionality, and timely customer service.” (*Id.* ¶ 5; see *id.* ¶¶ 35, 56.) Amazon has also “been a
9 procompetitive force in the retail industry.” (*Id.* ¶ 6; see *id.* ¶ 12.) “Amazon continuously innovates to
10 provide opportunities for third-party sellers in its store and in doing so expands customer choice.” (*Id.* ¶
11 7; see *id.* ¶ 8.) Amazon is committed to helping third parties succeed in the retail market by “investing
12 billions of dollars, building hundreds of tools, and providing sellers with rich data to accelerate their
13 sales.” (*Id.* ¶ 7.) “To foster consumer trust and offer a high-quality consumer experience, Amazon has in
14 place policies and practices for third-party sellers that set forth specific terms on which third-party sellers
15 may sell in Amazon’s store.” (*Id.* ¶ 10; see *id.* ¶¶ 17, 28-29, 31, 39, 41-43, 48, 50, 52, 54.) The People
16 challenge Amazon’s practices, in particular, Amazon’s agreements with third-party sellers and wholesale
17 suppliers, “which are common in retail, beneficial to consumers, and clearly procompetitive.” (*Id.* ¶¶ 11-
18 15, 56; see, e.g., *id.* ¶¶ 20-22, 44-55.) However, Amazon does not set prices for third-party sellers and no
19 policy prohibits third-party sellers from discounting their product offers outside of Amazon’s platform.
20 (*Id.* ¶¶ 18-19.)

21 Amazon alleges nine causes of action for declaratory relief that: (1) Plaintiff’s damages claims
22 based on off-Amazon purchases are fatally indirect and speculative; (2) Amazon’s selling policies and
23 Seller Code of Conduct are lawful; (3) Amazon’s Marketplace Fair Pricing Policy is lawful; (4) Amazon’s
24 Guaranteed Minimum Margin Agreements are lawful; (5) Amazon’s Matching Compensation Program is
25 lawful; (6) the Amazon Standard for Brands Policy is lawful; (7) Amazon’s practices to determine
26 Featured Offer eligibility are lawful; (8) Amazon’s Business Solutions Agreement is lawful; and (9)
27 Amazon’s third-party seller pricing policies since March 2019 are lawful. (*Id.* ¶¶ 57-118.) Amazon
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1 alleges such declaratory relief “will give much-needed certainty to Amazon, its third-party sellers and
2 vendors, and retail competitors more broadly that the standard agreements, policies, and practices that
3 Amazon has in place are lawful.” (*Id.* ¶ 11; see *id.* ¶ 56 [“will confirm the legality of the challenged
4 practices and create a stable foundation for Amazon’s business moving forward.”].) In addition, Amazon
5 alleges the declaratory relief will “narrow the present litigation.” (*Id.* ¶ 11.)

6 The People now demur to Amazon’s Cross-Complaint on the ground that Amazon fails to state
7 facts sufficient to constitute a cause of action for declaratory relief. (Demurrer, i-ii; see Opening Brief,
8 4.)¹ The People assert “Amazon’s Cross-Complaint suffers from two interconnecting, fatal defects.”
9 (Opening Brief, 1.) First, the People contend Amazon’s Cross-Complaint “is largely duplicative of
10 Amazon’s defenses to the People’s underlying Complaint, covering identical issues,” therefore, it “is not
11 an appropriate vehicle.” (*Id.*; see *id.* at 4.) Second, the People contend “Amazon improperly seeks a
12 broad declaration that its policies and practices are ‘lawful’—far in excess of any actual, present
13 controversy between Amazon and the People.” (*Id.* at 1; see *id.* at 4.) Amazon opposes the demurrer.²

14 LEGAL STANDARD

15 A demurrer lies where “the pleading does not state facts sufficient to constitute a cause of action.”
16 (Code Civ. Proc. § 430.10(e).) A demurrer admits “all material facts properly pleaded, but not
17 contentions, deductions, or conclusions of fact or law.” (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)
18 The complaint is given a reasonable interpretation, reading it as a whole and its parts in their context.
19 (*Id.*) The Court accepts as true, and liberally construes, all properly pleaded allegations of material fact,
20 as well as those facts which may be implied or reasonably inferred from those allegations; its sole
21 consideration is whether the plaintiff’s complaint is sufficient to state a cause of action under any legal
22 theory. (*O’Grady v. Merchant Exchange Prods., Inc.* (2019) 41 Cal.App.5th 771, 776-777.)

23 “To allege facts sufficient to state a cause of action for declaratory relief, the plaintiff must allege
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26 ¹ The People’s Request for Judicial Notice is denied as the document is not relevant to the Court’s
resolution of the instant demurrer.

27 ² Amazon’s Request for Judicial Notice is denied on the ground that written trial court rulings have no
precedential value. (*Bolanos v. Superior Court* (2008) 169 Cal.App.4th 744, 761 [denying request for
28 judicial notice]; see also, e.g., *Santa Ana Hospital Medical Center v. Belshe* (1997) 56 Cal.App.4th 819,
831.)

1 two essential elements: (1) a proper subject of declaratory relief, and (2) an actual controversy involving
2 justiciable questions relating to the rights or obligations of a party.” (*Childhelp, Inc. v. City of Los*
3 *Angeles* (2023) 91 Cal.App.5th 224, 235, quoting *Lee v. Silveira* (2016) 6 Cal.App.5th 527, 546 (cleaned
4 up).)

5 DISCUSSION

6 **I. Amazon Alleges Necessary And Proper Declaratory Relief, Except As To Count 1.**

7 The People contend Amazon’s Cross-Complaint is improper because it “is largely duplicative of
8 Amazon’s defenses to the People’s underlying Complaint, covering identical issues as the People’s
9 antitrust and unfair competition case against the company’s retail and wholesale price parity scheme.”

10 (Opening Brief, 1, 4.) The Court agrees as to Count 1 only.

11 Code of Civil Procedure section 1060 confers a right of action for “[a]ny person . . . who desires a
12 declaration of his or her rights or duties with respect to another . . . may, in cases of actual controversy
13 relating to the legal rights and duties of the respective parties, bring an original action or cross-
14 complaint.” (Code Civ. Proc. § 1060.) “The broad scope of Code of Civil Procedure section 1060 is
15 limited by section 1061 which states: ‘The court may refuse to exercise the power granted . . . in any case
16 where its declaration or determination is not necessary or proper at the time under all the
17 circumstances.’” (*Warren v. Kaiser Foundation Health Plan, Inc.* (1975) 47 Cal.App.3d 678, 683.)

18 When issues invoked in a cause of action for declaratory relief are “fully engaged by other causes of
19 action,” then declaratory relief is “unnecessary and superfluous” because “[t]he declaratory relief statute
20 should not be used for the purpose of anticipating and determining an issue which can be determined in
21 the main action. The object of the statute is to afford a new form of relief where needed and not to
22 furnish a litigant with a second cause of action for the determination of identical issues.” (*Hood v.*
23 *Superior Court* (1995) 33 Cal.App.4th 319, 324, quoting *General of America Ins. Co. v. Lilly* (1968) 258
24 Cal.App.2d 465, 470, *California Ins. Guarantee Assn. v. Superior Court* (1991) 231 Cal.App.3d 1617,
25 1624.) “California trial courts may consider in their section 1061 analysis whether the timing of the
26 declaratory relief action suggests litigation strategy motivated the filing rather than a concern that judicial
27 guidance was needed and would not be forthcoming absent the filing of a declaratory relief action.”

1 (*Osseous Technologies of America, Inc. v. DiscoveryOrtho Partners LLC* (2010) 191 Cal.App.4th 357,
2 376.)

3 Here, the People contend nine of Amazon’s affirmative defenses to the Complaint are
4 unnecessarily duplicative of the declaratory relief Amazon seeks in the Cross-Complaint. (Opening
5 Brief, 2, 6.) The People group Amazon’s affirmative defenses into three categories: (1) the People’s
6 “claims are barred, in whole or in part, because the conduct, policies, contracts, and other matters over
7 which Plaintiff is suing are lawful, justified, procompetitive, and carried out for legitimate business
8 reasons”; (2) “the People lack harm to competition, antitrust injury, and proximate cause”; and (3) “the
9 People cannot seek damages on purchases from non-Amazon entities.” (*Id.* at 2.)

10 Amazon alleges in Count 1 of its Cross-Complaint that the People are attempting
11 to recover, in whole or in part, for purchases from third parties in which Amazon was not the seller
12 and not part of the supply chain, and over whose prices Amazon has no control when sold through
13 other outlets. This is a type of ‘umbrella standing’ theory that is routinely rejected in antitrust
14 cases, because umbrella claims are based on indirect ripple effects through a speculative chain of
causation that here includes multiple independent decision-makers, such as third-party sellers,
retailers, and consumers.

15 (XC ¶ 59.) As a result,

16 Amazon seeks a declaratory judgment that Plaintiff’s claims for damages based on purchases of
17 products from third parties in which Amazon was not the seller and not part of the supply chain
18 are fatally indirect and speculative, that Plaintiff lacks antitrust standing to seek such damages, and
that Plaintiff fails to establish Amazon proximately caused any such alleged injury to support such
damages.

19 (*Id.* ¶ 60.)

20 Count 1 of the Cross-Complaint mirrors Amazon’s affirmative defenses for lack of antitrust
21 injury, lack of proximate cause, umbrella damages, and intervening or superseding acts of third parties.
22 (Compare Answer, 32-33 with XC ¶¶ 59-60.)³ Amazon contends “Courts routinely reject such theories of
23 harm . . . and thus the early resolution of this issue has the potential to narrow, or completely eliminate,
24 Plaintiff’s claims.” (Opposition, 12.) However, such early resolution can be achieved through summary
25 adjudication of the People’s Complaint. (See Code Civ. Proc. § 437c(f)(1) [Amazon “may move for
26 summary adjudication as to one or more causes of action . . . if [it] contends that the cause of action has

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28 ³ The Court takes judicial notice of Amazon’s Answer to Plaintiff’s Complaint filed May 30, 2023
pursuant to Evidence Code § 452(d)(1).

1 no merit.”.) In particular, a defendant, such as Amazon, can meet its “burden of showing that a cause of
2 action has no merit if [it] has shown that . . . there is a complete defense to the cause of action.” (*Id.* §
3 437c(p)(2).) Therefore, if Amazon asserts the People lack standing, cannot establish proximate causation,
4 or cannot seek umbrella damages, then Amazon can seek summary adjudication of the People’s
5 Complaint. Accordingly, the Court sustains the People’s demurrer to Count 1 of the Cross- Complaint
6 without leave to amend on the ground that Count 1 is not necessary and proper. (See *DeLaura v. Beckett*
7 (2006) 137 Cal.App.4th 542, 545 [“court also may sustain a demurrer without leave to amend if it
8 determines that a judicial declaration is not ‘necessary or proper at the time under all the
9 circumstances.”], quoting Code Civ. Proc. § 1061; *Difko Admin. (US) Inc. v. Superior Court* (1994) 24
10 Cal.App.4th 126, 132 [when “the subject of declaratory relief has already been raised as a defense in
11 pending litigation . . . it is logical to say that the declaratory relief action is unnecessary.”]; *C.J.L.*
12 *Construction, Inc. v. Universal Plumbing* (1993) 18 Cal.App.4th 376, 391 [“when an issue can be raised
13 by means of an affirmative defense, a trial judge may therefore dismiss a declaratory relief claim raising
14 the same questions in the cross-complaint.”], citing *Welfare Investment Co. v. Stowell* (1933) 132
15 Cal.App. 275, 278 [“All the issues raised in the cross-complaint can be readily determined in the trial of
16 the special defenses raised in the answer and, because this affirmatively appears upon the face of the
17 pleading, the trial court properly refused to exercise the power granted by” Code of Civil Procedure §§
18 1060-1061]; see also *Kirkwood v. California State Automobile Assn. Inter-Ins. Bureau* (2011) 193
19 Cal.App.4th 49, 59-60 [“A court is only justified in refusing a declaration because of the availability of
20 another remedy when it concludes that more effective relief could and should be obtained by another
21 procedure, and for that reason a declaration will not serve a useful purpose.”].)

22 In its remaining counts in the Cross-Complaint, Amazon seeks declaratory judgments that specific
23 policies, agreements, and practices are lawful. (See XC ¶¶ 62-118.) The People contend “several
24 counts” seek “determination of identical issues” raised in the Complaint. (Opening Brief, 5.) In
25 particular, the People challenge the alleged anticompetitive and unfair aspects or terms of Amazon’s
26 selling and pricing policies as well as Amazon’s Guaranteed Minimum Margin and Matching
27 Compensation agreements. (*Id.*) The People’s contention is misplaced. As Amazon points out, “the
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1 resolution of Plaintiff's claims does not require the Court to affirmatively rule on the legality of
2 Amazon's business practices." (Opposition, 6; see *id.* at 10; Reply, 1.) Simply put, should the People
3 unsuccessfully litigate the antitrust and unfair competition claims, the lack of a judgment does not
4 conclusively establish Amazon's practices are lawful. (See XC ¶ 11 ["At the end of the case, there
5 should be a judgment stating not only that the Attorney General has failed to prove its case, but that the
6 practices the Attorney General has wrongfully challenged are lawful."]; see, e.g., *Baxter Healthcare*
7 *Corp. v. Denton* (2004) 120 Cal.App.4th 333, 359 ["Thus, the only way for a business to obtain a binding
8 preenforcement determination that a Proposition 65 warning is not required with respect to exposing the
9 public to certain chemicals is via a declaratory relief judgment from the superior court."]) Rather, the
10 lack of a judgment indicates that under the facts of the case, the Court, or jury, could not determine that
11 Amazon violated the Cartwright Act or UCL. Accordingly, the People's demurrer is overruled as to
12 Counts 2 through 9.

13 **II. Amazon Sufficiently Alleges The Existence Of An Actual Controversy.**

14 The People argue "Amazon improperly seeks a broad declaration that its policies and practices are
15 'lawful'—far in excess of any actual, present controversy between Amazon and the People." (Opening
16 Brief, 1; see *id.* at 6-11; Reply, 1-4.) The People also argue that the declarations sought by Amazon
17 "apparently would enjoin the Attorney General—and other law enforcement agencies—from investigating
18 and prosecuting a range of civil and criminal conduct." (Opening Brief, 10; see *id.* at 11-13; Reply, 1, 8-
19 10.) In contrast, Amazon argues the People "challenged the legality of a number of Amazon's business
20 practices under two California competition laws," therefore, "Amazon has requested declaratory relief
21 regarding the present controversy between it and Plaintiff: that specific Amazon practices do not violate
22 the Cartwright Act or the UCL." (Opposition, 18.) The Court agrees.

23 Even in an action presenting a proper subject for declaratory relief, there must be an "actual
24 controversy." (See Code Civ. Proc. § 1060; *Wilson & Wilson v. City Council of Redwood City* (2011) 191
25 Cal.App.4th 1559, 1582.) "In the context of a demurrer, the court will evaluate 'whether the factual
26 allegations of the complaint for declaratory relief reveal that an actual controversy exists between the
27 parties.'" (*D. Cummins Corp. v. United States Fidelity & Guaranty Co.* (2016) 246 Cal.App.4th 1484,
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1 1489, quoting *Otay Land Co. v. Royal Indem. Co.* (2008) 169 Cal.App.4th 566, 562; see *Monterey*
2 *Coastkeeper v. Central Coast Regional Water Quality Control Board* (2022) 76 Cal.App.5th 1, 13 [“A
3 complaint for declaratory relief is legally sufficient if it sets forth facts showing the existence of an actual
4 controversy relating to the legal rights and duties of the parties and requests that the rights and duties of
5 the parties be adjudged by the court.”].) A probable future controversy relating to the legal rights and
6 duties of the parties are an “actual controversy,” but a conjectural controversy that is anticipated to occur
7 in the future or an attempt to obtain an advisory opinion from the court is not an “actual controversy.”
8 (See *Wilson*, 191 Cal.App.4th at 1582.)

9 To evaluate ripeness, courts in turn evaluate the fitness of the issue for judicial decision and the
10 hardship that may result from withholding court consideration. (*Id.*) In evaluating the fitness of an issue
11 for judicial decision, courts consider whether the abstract posture of the proceeding makes it difficult to
12 evaluate the issues or requires the court to speculate on the resolution of hypothetical situations. (*Id.* at
13 1582-1583.) In evaluating whether a party will suffer hardship from delayed judicial review, a court may
14 consider whether there will be appropriate legal remedies available should judicial review become
15 appropriate. (See *id.* at 1585.)

16 Here, Amazon alleges the People allege “that natural persons residing in the State of California
17 were injured in their business and property by Amazon’s policies and practices identified in Plaintiff’s
18 complaint.” (XC ¶ 58.) Amazon alleges the People challenge its “practices, which are common in retail,
19 beneficial to consumers, and clearly procompetitive.” (*Id.* ¶ 11; see *id.* ¶ 12 [“The Complaint alleges the
20 existence of agreements between Amazon and third-party sellers and wholesale suppliers to agree not to
21 offer lower prices off-Amazon. (Compl. ¶ 3). No such agreements exist.”].) In Counts 2 through 9 of
22 the Cross-Complaint, Amazon seeks declaratory judgments that its specific policies, agreements, and
23 practices are lawful. (*Id.* ¶¶ 62-118.)

24 The People focus on the term “lawful” when arguing Amazon seeks a broad declaration. (See
25 Opening Brief, 1, 8-10; Reply, 1-4.) However, reading the Cross-Complaint as whole reveals that
26 Amazon is seeking declarations that its policies, agreements, and practices are lawful in the context of
27 the People’s Complaint, despite not explicitly referencing the Cartwright Act or UCL in the Cross-
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1 Complaint. (See XC ¶¶ 11-12, 56; see, e.g., *id.* ¶¶ 62-68 [Seller Code of Conduct is procompetitive], ¶¶
2 71-76 [Marketplace Fair Pricing Policy is procompetitive], ¶¶ 79-83 [Guaranteed Minimum Margin
3 Agreements are procompetitive], ¶¶ 86-90 [Matching Compensation Program is procompetitive], ¶¶ 93-
4 97 [Standard for Brands Policy is procompetitive], ¶¶ 100-104 [practices to determine Featured Offer
5 eligibility are procompetitive], ¶¶ 107-111 [Business Solutions Agreement is procompetitive], ¶¶ 114-
6 117 [third-party seller pricing policies since March 2019 are procompetitive].) In other words, the
7 People seek to establish Amazon violated the Cartwright Act and the UCL and Amazon seeks to
8 establish that it was engaged in lawful conduct, not in violation of the Cartwright Act and the UCL. (See
9 *Kirkwood*, 193 Cal.App.4th at 59 [“Resort to declaratory relief therefore is appropriate to attain judicial
10 clarification of the parties’ rights and obligations under the applicable law.”]; *In re Claudia E.* (2008)
11 163 Cal.App.4th 627, 633 [“judicial economy strongly supports the use of declaratory relief to avoid
12 duplicative actions to challenge [a party’s] statutory interpretation or alleged policies.”].) Additionally,
13 each of the specific agreements, conduct, and policies alleged in the Cross-Complaint are placed at issue
14 in the Complaint. (Compare XC ¶¶ 62-118 with Compl. ¶¶ 4-6, 9, 14, 30-31, 34, 88, 113-116, 118-126,
15 128-129, 132-139, 142-147, 151, 153, 156, 159-160, 162, 167, 169-171, 175, 177-179, 184, 186, 199-
16 204, 206, 208; see XC ¶¶ 12-15, 22.)⁴

17 The People concede there is a present dispute between the parties. (Opening Brief, 1, 6-9; Reply,
18 2, 5.) As Amazon does not seek declaratory relief that is beyond the present dispute involving violations
19 of the Cartwright Act and the UCL, the Court does not find the allegations conjectural or an improper
20 attempt to seek an advisory opinion. (See, e.g., *Baxter Healthcare Corp.*, 120 Cal.App.4th at 362
21 [finding an actual controversy existed between the parties when “Baxter was compelled either to provide
22 a stigmatizing warning regarding its products even though it could show DEHP does not cause cancer in
23 humans, or risk being subjected to an enforcement action and costly civil penalty if its PPARa theory is
24 rejected in an enforcement action.”].)

25 Moreover, should Amazon prevail on its Cross-Complaint, neither the People nor any law
26 enforcement agency would be precluded from investigating or instituting an action against Amazon. As

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28 ⁴ The Court takes judicial notice of the People’s Complaint filed September 15, 2022 pursuant to
Evidence Code § 452(d)(1).

1 alleged in the Cross-Complaint, Amazon only seeks judicial declarations that its agreements, policies,
2 and conduct that the People challenge in the underlying complaint are lawful (i.e., procompetitive rather
3 than anticompetitive). (See, e.g., XC ¶ 56.) Amazon does not seek an injunction or any other type of
4 relief that would hinder the People or other law enforcement agency's ability to execute their respective
5 duties.

6 The People argue "antitrust claims are properly analyzed as a whole, rather than in a piece-by-
7 piece manner." (Reply, 7; see Opening Brief, 8-9.) Although Amazon's Cross-Complaint is pleaded in a
8 manner that would require piecemeal determinations, that would not preclude a further antitrust
9 investigation or action against Amazon if the same conduct as a whole or other aspects of Amazon's
10 business violated antitrust laws. Therefore, a finding that something is lawful in one context does not
11 provide blanket immunity from civil or criminal liability.

12 Furthermore, without a declaratory judgment, Amazon argues its business will be in "a state of
13 uncertainty that . . . may very well [] remain unresolved at the end of this litigation" making "it
14 exceedingly difficult for Amazon to conduct its business." (Opposition, 19; see XC ¶¶ 56, 69, 77, 84, 91,
15 98, 105, 112, 118.) The Court agrees. Amazon alleges that to effectively compete in the marketplace, it
16 "invests heavily in improving the consumer experience and seeks to offer customers low prices, fast and
17 free delivery, easy-to-use functionality, and timely customer service." (XC ¶ 5.) One way of doing so is
18 by providing "opportunities for third-party sellers in its store and in doing so expands consumer choice."
19 (*Id.* ¶ 6; see also *id.* ¶ 8.) Amazon alleges that if the People "prevail in this action, the Attorney General
20 would hurt California consumers, sellers, and the state's retail industry as a whole." (*Id.* ¶ 16.) "As the
21 California Supreme Court [has] reaffirmed, 'declaratory relief is designed in large part as a practical
22 means of resolving controversies, so that parties can conform their conduct to the law and prevent future
23 litigation.'" (*Doan v. State Farm General Ins. Co.* (2011) 195 Cal.App.4th 1082, 1095, quoting *Meyer v.*
24 *Sprint Spectrum L.P.* (2009) 45 Cal.4th 634, 648.) That is precisely what Amazon seeks to do here.
25 Amazon seeks declaratory relief to "confirm the legality of the challenged practices and create a stable
26 foundation for Amazon's business moving forward." (XC ¶ 56.)

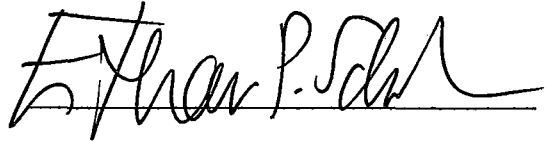
27 Accordingly, the People's demurrer is overruled on this ground.
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1 CONCLUSION AND ORDER

2 Based on the foregoing reasons, the People's demurrer is sustained without leave to amend as to
3 Count 1 and overruled as to Counts 2 through 9.

4 IT IS SO ORDERED.

5 Dated: October 5, 2023



Ethan P. Schulman
Judge of the Superior Court

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CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, Felicia Green, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On October 5, 2023, I electronically served ORDER SUSTAINING IN PART AND OVERRULING IN PART PLAINTIFF AND CROSS-DEFENDANT THE PEOPLE OF THE STATE OF CALIFORNIA'S DEMURRER TO AMAZON.COM INC.'S CROSS-COMPLAINT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: **OCT 05 2023**

Brandon E. Riley, Court Executive Officer

By: 
Felicia Green, Deputy Clerk