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 AMAZON.COM, INC.

11
 12 **UNITED STATES DISTRICT COURT**
 13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 JONATHAN CORRELL, on behalf of
 15 himself and all others similarly
 situated,

16 Plaintiffs,

17 v.

18 AMAZON.COM, INC., and DOES 1-
 19 10

20 Defendants.

CASE NO. 3:21-cv-01833-BTM-MDD

**REPLY MEMORANDUM IN
 SUPPORT OF MOTION TO DISMISS
 PLAINTIFF'S COMPLAINT
 PURSUANT TO FEDERAL RULES
 OF CIVIL PROCEDURE 12(b)(1) and
 12(b)(6)**

[FRCP 12(b)(1) and 12(b)(6)]

**SPECIAL BRIEFING SCHEDULE
 ORDERED**

**PER CHAMBERS, NO ORAL
 ARGUMENT UNLESS REQUESTED
 BY THE COURT**

Hearing Date: June 3, 2022
 Time: 11:00 a.m.
 Judge: Hon. Barry Ted Moskowitz
 Courtroom: 15B

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TABLE OF CONTENTS

Page

INTRODUCTION	1
ARGUMENT	2
A. Correll Lacks Article III Standing To Pursue This Case	2
B. Correll’s Complaint Fails On The Merits Because Amazon’s Initiatives Do Not Violate The Unruh Act	6
CONCLUSION.....	10

1
2
3
4
5
6
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8
9
10
11
12
13
14
15
16
17
18
19
20
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23
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25
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27
28

TABLE OF AUTHORITIES

Page(s)

CASES

Angelucci v. Century Supper Club,
158 P.3d 718 (Cal. 2007)..... 6

Bradley v. T-Mobile US, Inc.,
2020 WL 1233924 (N.D. Cal. Mar. 13, 2020)..... 5

Braunstein v. Arizona Department of Transportation,
683 F.3d 1177 (9th Cir. 2012)..... 2

Candelore v. Tinder, Inc.,
19 Cal. App. 5th 1138 (2019)..... 8

Carroll v. Nakatani,
342 F.3d 934 (9th Cir. 2003)..... 2, 3, 5

Diamond v. Charles,
476 U.S. 54 (1986) 6

Georges v. Bank of America, N.A.,
845 F. App'x 490 (9th Cir. 2021)..... 7

Heckler v. Mathews,
465 U.S. 728 (1984) 6

Javorsky v. Western Athletic Clubs, Inc.,
242 Cal. App. 4th 1386 (2015)..... 6

Koire v. Metro Car Wash,
707 P.2d 195 (Cal. 1985)..... 1, 2, 6

Namisnak v. Uber Technologies, Inc.,
971 F.3d 1088 (9th Cir. 2020)..... 5

*Northeast Florida Chapter of Associated General Contractors of America v. City
of Jacksonville*,
508 U.S. 656 (1993) 2, 3, 5, 6

Opiotennione v. Facebook, Inc.,
2020 WL 5877667 (N.D. Cal. Oct. 2, 2020)..... 5

1 *Planned Parenthood of Greater Washington & North Idaho v. U.S. Department of*
 2 *Health & Human Services,*
 3 946 F.3d 1100 (9th Cir. 2020)..... 3
 4 *Steel Co. v. Citizens for a Better Environment,*
 5 523 U.S. 83 (1998) 1, 4
 6 *TransUnion LLC v. Ramirez,*
 7 141 S. Ct. 2190 (2021) 1
 8 *Vargas v. Facebook, Inc.,*
 9 2021 WL 214206 (N.D. Cal. Jan 21, 2021) 5
 10 *White v. Square, Inc.,*
 11 446 P.3d 276 (Cal. 2019)..... 2, 4
 12 *White v. Square, Inc.,*
 13 891 F.3d 1174 (9th Cir. 2018)..... 2, 3, 4, 5, 6

STATUTES

14 15 U.S.C. § 631(f)(1)..... 7
 15 15 U.S.C. § 9007(b)(1) 8
 16 Cal. Educ. Code § 71028 9
 17 Cal. Gov’t Code § 12100.61(b) 8
 18 Cal. Gov’t Code § 12100.61(i) 9
 19 Cal. Gov’t Code § 12100.63(h)(2)..... 8
 20 Cal. Ins. Code § 927.2(a)(1) 10
 21 Cal. Ins. Code § 10140 10
 22 Cal. Pub. Res. Code § 25230(b)(2)..... 9
 23 Cal. Pub. Util. Code § 8281(a) 7, 10
 24 Cal. Pub. Util. Code § 8281(b)(1)(A)..... 10
 25 Cal. Pub. Util. Code § 8283(a) 8
 26 Cal. Pub. Util. Code § 8283(b)..... 8

INTRODUCTION

1
2 Plaintiff Jonathan Correll is eager to argue about anything except the legal
3 issues presented by Amazon’s motion to dismiss. His Opposition, which mainly
4 reiterates the allegations in his complaint, purports to vindicate “disfavored” sellers.
5 But Correll’s arguments are unfounded. Amazon does not prevent *any* seller from
6 using its stores on the basis of their race, gender, or sexual orientation. Rather,
7 Amazon has implemented initiatives designed to help customers access a diverse
8 range of sellers. For example, Amazon allows Amazon Business customers to
9 search for sellers that meet their specific needs. Amazon also helps
10 underrepresented businesses—including veteran-, women-, and minority-owned
11 small businesses—get their start in Amazon’s stores. What is at issue here is whether
12 Correll’s disagreement with these initiatives gives rise to a cognizable claim under
13 the Unruh Act. For the reasons Amazon has explained, it does not.

14 Correll’s Opposition does not show why his complaint should survive
15 dismissal. He tries to rebut Amazon’s Article III standing argument largely by
16 pointing to a decision regarding *statutory* standing under the Unruh Act. But that is
17 a red herring: Statutory standing is fundamentally different from Article III
18 standing. *See, e.g., Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 97 (1998).
19 And the dispute here concerns *Article III* standing. To demonstrate Article III
20 standing, Correll must show “an injury in fact that is concrete, particularized, and
21 actual or imminent.” *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2203 (2021).
22 He has not done so. Instead, Correll’s only argument about Article III standing rests
23 on readily distinguishable precedent.

24 Correll’s Unruh Act claims also fail on the merits, as a matter of law.
25 Amazon’s efforts to foster a diversity of choice are specifically and expressly
26 encouraged by numerous provisions of California and federal law. Because
27 Amazon’s initiatives are consistent with established public policy, they do not
28 violate the Unruh Act. *See* MTD 13-23; *Koire v. Metro Car Wash*, 707 P.2d 195,

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