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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Jacqueline J. Walters, Deputy Clerk

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION
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13 ANTHONY J. JOHNSON, an individual,
14 Plaintiff,

15 vs.

16 DAVID HUFFMAN, an individual;
17 RICHARD TURNER, an individual;
18 MANUEL ALTAMIRANO, an individual;
19 DAVID KINNEY, an individual; and
DOES 1-20;

20 Defendants.
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Case No. 37-2019-00002457-CU-BT-CTL

**VERIFIED COMPLAINT FOR
DAMAGES FOR:**

- (1) WRONGFUL USE OF CIVIL
PROCEEDINGS**
(2) BREACH OF FIDUCIARY DUTY
(3) CONVERSION
(4) ECONOMIC INTERFERENCE
(5) FRAUD/CONSTRUCTIVE FRAUD
(6) CIVIL CONSPIRACY

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DEMAND FOR JURY TRIAL

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1 Plaintiff Anthony Johnson (Johnson) alleges as follows:

2 **PARTIES**

3 1. Plaintiff Anthony J. Johnson (“Johnson”), an individual, was a citizen of the State of
4 California and resident of the County of San Diego, California until July 2015. Johnson was a citizen of
5 the State of Florida and resident of the County of Broward, Florida from July 2015 to November 2017.
6 Johnson was, and is, a citizen of the State of Nevada and resident of the County of Clark, Nevada from
7 November 2017 to present.

8 2. Plaintiff is informed and believes that defendants Richard Turner (“Turner”), Manuel
9 Altamirano (“Altamirano”) and David Huffman (“Huffman”), all individuals, are and at all times
10 mentioned herein were, citizens of the State of California and residents of the County of San Diego,
11 California. Plaintiff is informed and believes that defendant David Kinney (“Kinney”), an individual,
12 was a citizen of the State of California and resident of the County of San Diego, California until about
13 October 2015 and was, and is, a citizen of the county of Ramsey County, Minnesota since October 2015.

14 3. Because all defendants, unless otherwise stated, knowingly conspired to initiate, continue or
15 otherwise commit the wrongful acts alleged below, they are hereafter collectively referred to as
16 “Defendants”.

17 **JURISDICTION AND VENUE**

18 4. This Court has original jurisdiction over Plaintiff’s claim on the basis that he seeks recovery
19 of damages in excess of \$25,000.00. This Court has personal jurisdiction over the Defendants, and each
20 of them, because acts and conduct relevant to the present action occurred within the State of California,
21 and/or because they are or were, or conspired with Defendants who are or were, California residents at
22 the time of events alleged herein.

23 5. Venue for this action is proper in the County of San Diego because relevant events and
24 occurrences giving rise to the present action occurred within the County of San Diego, and because
25 Defendants, and each of them, are or were, or conspired with Defendants who are or were, residents of
26 the County of San Diego during significant periods in which relevant events occurred.

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1 **FACTUAL BACKGROUND**

2 6. In 1999, Johnson completed the design and development of the first version of the
3 “SBAdmin” software used for backup and recovery of computer data. Johnson registered his copyright
4 to SBAdmin in 1999, and sold and distributed SBAdmin as a sole proprietor under the D.B.A. “Storix
5 Software” until 2003.

6 7. In February 2003, Johnson incorporated Storix, Inc. (“Storix”) to continue selling SBAdmin
7 under a corporate entity. From 2003 through 2011, Johnson was the sole shareholder, officer and
8 director of Storix.

9 8. Upon its formation, Johnson entered into an oral contract with Storix, wherein Storix was
10 granted rights to market, sell, copy, distribute and license SBAdmin to third-parties in exchange for
11 future compensation for the copyright if and when Johnson’s participation in Storix ended. Between
12 2003 and 2011, Johnson performed his obligations under the contract by providing Storix all copyrights
13 necessary to conduct its business, and Johnson managed Storix’s business and designed and developed
14 software improvements to SBAdmin.

15 9. In September 2011, Johnson took a medical leave from Storix due to a diagnosis of terminal
16 melanoma with an average 2-year life expectancy. Before taking leave, Johnson agreed to issue 1500
17 new shares of Storix to Defendants, thereby reducing his 100% ownership of Storix to 40%, in exchange
18 for Defendants’ agreement to continue managing Storix and improving SBAdmin to ensure the ongoing
19 viability of the company. Johnson further agreed to remain involved in Storix by providing periodic
20 assistance with product research and development in exchange for remaining on Storix’s payroll at less
21 than 1/3 his former salary so as to retain Storix’s group medical insurance. Since being issued their
22 stock, Defendants have retained a collective majority of Storix’s outstanding shares, the majority of
23 Storix board seats, and all officer positions.

24 10. In 2013, Johnson was given a surprising clean bill of health and returned to Storix to develop
25 significant software improvements to the network security of SBAdmin that had grown obsolete.
26 Johnson worked alone full time on the new version for about nine (9) months at no increase in his
27 reduced salary, and with the expectation that his work would result in increased sales and profits that
28 would be distributed to all shareholders.

1 11. In March 2014, Defendants began antagonizing Johnson, irrationally criticizing his work,
2 making unreasonable demands on his time, and intentionally complicating his efforts to develop the new
3 version as it neared completion. By May 2014, Johnson could no longer tolerate Defendants' hostility
4 and resigned from Storix in protest. Johnson offered his assistance in completing the new version, and
5 made considerable effort to resolve the conflict in order to continue participating in the company.
6 Defendants informed Johnson, without explanation, that he was no longer welcome at Storix.

7 12. In June 2014, Johnson, as the registered author and owner of the copyright to SBAdmin,
8 threatened to withdraw Storix's license to sell the software if Defendants were unwilling to work out
9 their differences. Defendants refused to discuss any compromise and threatened to sue Johnson if he did
10 not withdraw his claim of copyright ownership. Johnson filed a copyright infringement suit in federal
11 court in July 2015. Storix filed a counter-claim for a declaratory judgment of ownership of all SBAdmin
12 copyrights on the theory that Johnson implicitly transferred all exclusive rights to Storix upon its
13 formation.

14 13. In February 2015, Johnson received summary financial reports that showed Storix had
15 become unprofitable for the first time. Johnson used his 40% shares in Storix to elect himself to the
16 Storix board of directors in effort to continue his involvement n the company, still hoping he and
17 Defendants would work out their differences, and to avoid triggering Storix's obligation to pay for the
18 copyright he then knew Storix could no longer afford. Defendants used their majority of shares to retain
19 their board majority and all officer positions, and since used their collective control of Storix to refuse
20 Johnson, even as a director, any access to Storix's offices or corporate records.

21 14. In May 2015, Defendants changed the Storix bylaws, adopted new board policies, and
22 created a written shareholder agreement between only themselves and Storix that limits the rights of
23 minority shareholders and directors while increasing the authority of their majority. Since then,
24 decisions and actions taken in the name of Storix and relevant to this action were exclusively those of
25 Defendants without the authorization, approval or ratification of disinterested directors or shareholders.

26 15. In July 2015, Johnson sold his San Diego home and moved to Florida because Defendants
27 were intentionally and unnecessarily increasing the cost of the copyright litigation, and because
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1 Defendants expressed their determination to continue litigating the case to a jury even if the copyright
2 ownership was decided at summary judgment in Johnson's favor.

3 16. In August 2015, Johnson traveled to San Diego to attend a mandatory settlement conference.
4 Johnson returned home without having met or discussed any compromise with Defendants, who instead
5 directed Storix's copyright attorney to file a direct lawsuit against Johnson, Case No. 2015-00028262-
6 CU-BT-CTL ("Direct Suit") in Superior Court, three hours before the settlement conference began. The
7 Direct Suit alleged that Johnson breached a fiduciary duty to Storix by failing to inform the board of his
8 intent to start a competing business in California while serving as a Storix director. Johnson had no
9 knowledge of the claim until he was served the complaint after returning home to Florida.

10 17. In October 2015, Johnson brought a shareholder derivative suit on Storix's behalf, Case No.
11 2015-00034545-CU-BT-CTL ("Derivative Suit") in Superior Court, against Defendants, alleging breach
12 of fiduciary duty, abuse of control, and wasteful spending. In December 2015, Defendants demanded
13 that Johnson post a \$50,000 bond to secure himself as a shareholder representative plaintiff, and Johnson
14 posted the bond without opposition. Defendants nevertheless directed their personal counsel and Storix
15 counsel to continue challenging Johnson's standing.

16 18. In December 2015, Defendants unsuccessfully attempted to show the jury in the federal
17 copyright action that Johnson had been compensated for his copyright. The jury did not reach a decision
18 of whether compensation was provided, but nevertheless found that Johnson *implicitly* transferred
19 ownership of all SBAdmin to Storix upon its formation. The appellate court upheld the district court
20 decision on grounds that Johnson assigned his ownership rights by way of an oral agreement between
21 himself and Storix, which it considered a sufficient defense against Johnson's infringement claim.

22 19. The SBAdmin copyright remains registered to Johnson because Storix does not possess a
23 writing sufficient to record an ownership transfer with the U. S. Copyright Office. Without recording the
24 transfer, Storix has no rights to enforce any copyrights against a third party.

25 20. In early 2016, after Johnson filed a demurrer to the Direct Suit against him for failure to state
26 any harm, Defendants had Storix counsel amend the complaint to add an allegation that Johnson sent an
27 email to Storix's customers intending to harm the company. After the court sustained Johnson's motion
28 to strike punitive damages and injunctive relief, Defendants amended the complaint again to allege that

1 Johnson “stole” a copy of its SBAdmin software in 2014. In subsequent pleadings, Defendants claim
2 that Johnson was actively marketing a competing product and actually operating a competing business,
3 but never produced any evidence to support the claims. Defendants nevertheless refused Johnson any
4 access to Storix’s records based on the *existence* of the lawsuit.

5 21. In February 2016, Storix counsel stated to Johnson at a board meeting that their firm was not
6 *in any way* involved in the Derivative Suit, but Johnson found that they had filed their first demurrer to
7 the lawsuit the previous day. In July 2016, Storix brought its second demurrer to the amended complaint
8 on the same grounds that Johnson lacked standing to bring the action because he was adverse to the
9 company’s interests, and that Johnson failed to make a demand that Storix bring the action itself. The
10 court found that, because the Defendants occupied the board majority, Storix was not disinterested and
11 therefore could not challenge Johnson’s standing.

12 22. For the next two years, Defendants nevertheless directed Storix counsel to continue attacking
13 Johnson’s standing to bring the Derivate Suit, deny Johnson all access to financial records, oppose
14 Johnson’s efforts to prevent Defendants from using corporate funds for their defense, and otherwise
15 unlawfully interfere in all aspects of the Derivative Suit. Johnson continued pursuing the shareholder
16 claims in Storix’s interest, believing the trial would occur in January 2017. Defendants and Storix
17 demanded repeated continuances that extended the trial 15 months and moved the case to a new court,
18 during which time Storix refused to produced records of Storix’s sales, expenditures, business plans or
19 operations, software development, or customer support necessary to show Storix’s damages.

20 23. In August 2016, Johnson discovered that Defendants had also been using Storix funds to pay
21 their personal attorneys to defend against the Derivative Suit. Defendants concealed this by persistently
22 refusing Johnson access to corporate financial records. Johnson further discovered that Defendants
23 directed their attorneys to send their bills to Storix for payment, where they were recorded as business
24 operating expenses, thus improperly reducing shareholder profits and defrauding the IRS. Defendants
25 never notified the other shareholders of their intent to indemnify or advance the funds or obtain a vote of
26 disinterested directors as required by California statutes and the Storix bylaws.

27 24. In September 2017, Defendants held a board meeting where they informed Johnson that they
28 had been negotiating the sale of Storix to Veeam Software, a competitor, for several months. Veeam had

1 offered to license SBAdmin from Storix to include in a larger business opportunity, but Defendants
2 insisted that Veeam instead purchase Storix in its entirety. Veeam finally agreed and provided Storix a
3 letter of intent (LOI) to purchase Storix for \$5M – far above its prior valuation. Defendants instructed
4 Johnson that the deadline to sign the deal was that same day, and that the deal required all pending
5 litigation to be dismissed, including the Derivative Suit and his appeal of the copyright ownership
6 ruling, and that Johnson’s share of the sale be used pay off the company’s substantial debt owed to
7 Storix’s and their personal attorneys. Defendants further refused to dismiss the Direct Suit brought
8 against Johnson unless he signed the deal. The LOI was not signed that day. Johnson attempted to
9 salvage the perpetual license agreement that Veeam originally wanted, which would have significantly
10 increased Storix’s ongoing income, but Veeam’s management indicated they had lost confidence in
11 Storix’s management and withdrew the offer.

12 25. In February 2018, a jury rejected Storix’s claims in the Direct Suit for “unjust enrichment”
13 and “unfair head start”, finding that Johnson did not use Storix’s confidential information to its
14 detriment or breach his duty of confidentiality or loyalty to Storix for his benefit. The court later denied
15 all eleven (11) of Storix’s demands for related injunctive relief.

16 26. In April 2018, the same court granted Defendants’ pre-trial motion to dismiss Johnson as a
17 shareholder plaintiff in the Derivative Suit on grounds that he could not fairly and adequately represent
18 the interests of the company, and ruled in favor of the Defendants on all causes of action. Johnson is
19 informed and believes that Storix still remains deeply insolvent due, in great part, to debts owed to
20 Storix counsel for their unlawful interference in the Derivative Suit, and that, soon after the trial,
21 Defendants gave themselves additional salary increases.

22 27. In August 2018, Johnson abandoned any hope of Defendants relinquishing their control, or
23 the likelihood of ever receiving future distributions from Storix, and chose not to re-elect himself to the
24 board. This finally terminated Johnson’s involvement in Storix and triggered Storix’s obligation to pay
25 Johnson for the copyright to SBAdmin. Soon thereafter, Johnson sent Storix an invoice for \$2.75M,
26 which was a discount to the actual value of the copyright. Defendants responded that Storix owed
27 Johnson nothing and would not pay for the copyright. In December 2018, Johnson informed the board
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1 that he was rescinding the copyright ownership transfer due to Storix's failure to perform its obligation
2 under the contract, and Defendants responded that they rejected the rescission.

3 28. In September 2018, Johnson sent a written demand for indemnification to the Storix board
4 detailing his legal expenses incurred in direct connection with his successful defense against the false
5 claims of his secret competing company in the Direct Suit, noting that Storix was required to reimburse
6 Johnson within 90 days according to California statutes and Storix's bylaws. Defendants never
7 responded to Johnson's demand.

8 29. In October 2018, Johnson obtained information showing that Defendants converted profits
9 that Johnson earned prior to his issuing stock to Defendants into their personal equity accounts.
10 Defendants represented to Johnson in 2012 that all profits earned prior to the stock transfer had been
11 distributed to him. But, while Johnson was on medical leave in 2012, Defendants changed the
12 company's accounting method, amended the 2011 tax records, and thereafter denied Johnson access to
13 financial records that would have allowed him a reasonable opportunity to discover this fact earlier.
14 Johnson informed the board of his findings, and again, Storix never responded.

15 30. Since Johnson was forced out of the company in 2014, Storix has released no changes to
16 SBAdmin other than necessary to maintain compatibility, and Storix has paid no distributions to
17 shareholders since the Direct Suit was filed against Johnson in August 2015.

18 31. This action is the only remedy available to Johnson for recovering personal property or relief
19 from damages alleged herein because Defendants' misconduct and neglect has rendered Storix deeply
20 insolvent. Also, because a court recently granted Defendants' demand that Johnson be precluded from
21 bringing shareholder claims on Storix's behalf, Johnson has no other remedy for recovering his damages
22 as a minority shareholder that may also have been caused to other shareholders.

23 32. Because Defendants have, in engaging in the acts alleged herein, acted with and been guilty
24 of oppression, fraud and malice, an award of punitive and exemplary damages against them in an
25 amount to be established at trial, is warranted.

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1 **FIRST CAUSE OF ACTION**

2 **(Wrongful Use of Civil Proceedings – Against All Defendants)**

3 33. Johnson incorporates the allegations made in Paragraphs 1 through 32 above as though fully
4 set forth herein.

5 34. Defendants directed Storix counsel to commence the afore-mentioned Direct Suit against
6 Johnson without probable cause, without stating any cause of harm, and without the approval of any
7 disinterested directors or shareholders of Storix. No reasonable person in these circumstances would
8 have believed that there were grounds to bring the lawsuit against Johnson, and the claim was pursued to
9 a legal termination on the merits in Johnson’s favor.

10 35. The Direct Suit was brought for malicious purposes other than to succeed on the merits of the
11 complaint, as evidenced by its only frivolous claim that Defendants pursued for 3 ½ years without cause,
12 in furtherance of their efforts to force Johnson to abandon his copyright and dismiss claims in the
13 Derivative Suit against them. Defendants further used the mere *existence* of the Direct Suit to deny
14 Johnson access corporate records needed to prove his derivative claims.

15 36. Defendants, and each of them, whether or not having personally authorized the action, had
16 full knowledge of the Direct Suit, knew the claim to be false, and possessed the opportunity and ability
17 to end the litigation at any time by use of his shareholder vote.

18 37. Johnson was harmed by the emotional and financial stress of defending against a meritless
19 and malicious lawsuit, including the cost of Johnson’s personal defense and the Defendants’ use of
20 Johnson’s 40% of Storix profits to fund the Direct Suit against him. Johnson was harmed by Defendants
21 having used the existence of the Direct Suit itself to justify depriving Johnson employment benefits from
22 Storix and other rights necessary to prove Defendants misconduct, and the destruction of Johnson’s
23 professional reputation by Defendants publicly disseminating false claims of Johnson’s malicious
24 motives and intentions in the complaint and dozens of subsequent pleadings. Johnson was further
25 harmed by Defendants’ unnecessarily expanding the cost and duration of the litigation in order to
26 intentionally inflict excessive financial burden that Defendants knew had forced Johnson to sell his
27 home and other substantial assets and relocate out of state.

1 38. Defendants' conduct in filing and continuing the Direct Suit was a substantial factor in
2 causing Johnson's harm. Johnson is informed and believes that Defendants filed and pursued the lawsuit
3 with malice and intent to harm Johnson as demonstrated by their callous indifference or wanton
4 disregard for Johnson's rights and the extreme financial burden their conduct was causing.

5 **SECOND CAUSE OF ACTION**

6 **(Breach of Fiduciary Duty – Against All Defendants)**

7 39. Johnson incorporates the allegations made in Paragraphs 1 through 38 above as though fully
8 set forth herein.

9 40. Defendants owed and continue to owe a fiduciary duty of loyalty, good faith and fidelity to
10 Johnson by virtue of the trust and confidence bestowed on them in their collective roles as majority
11 shareholders and business partners in a closely-held corporation, and by Defendants' position of
12 dominance and superior influence over Johnson as a minority shareholder.

13 41. Defendants breached their fiduciary duty to Johnson, a minority shareholder, by unfairly
14 denying benefits to Johnson that Defendants afforded themselves, including, but not limited to,
15 depriving Johnson indemnification for his successful defense against Defendants' false claims in the
16 Direct Suit, and to deny Johnson employment benefits based on their disproven claims. Defendants
17 further breached their duty to Johnson by using company profits otherwise payable to Johnson to direct
18 Storix counsel to exclusively advise and assist Defendants in perpetuating and protecting their
19 dominance and control, to facilitate, conceal and defend their tortious conduct, and to unlawfully
20 interfere and defend against the shareholder Derivative Suit. Johnson is informed and believes that
21 Defendants expanded Storix's corporate debt and prolonged Storix's deepening insolvency in order to
22 pay their personal expenses and deny Johnson money owed to him.

23 42. Johnson's harm caused by Defendants' breaches include his being deprived substantial
24 money owed to him and denial of his rights as a major shareholder and director for many years. Johnson
25 was harmed by the use of Johnson's 40% of shareholder profits to pay corporate counsel to unlawfully
26 interfere, obstruct and defend against the shareholder Derivative Suit and the resulting increase in
27 expenses that Johnson personally bore on Storix's behalf.

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1 43. Johnson is informed and believes that Defendants breached their fiduciary duty to Johnson
2 with intent to harm Johnson as demonstrated by their callous indifference or wanton disregard for
3 Johnson's rights and the financial hardship they were intentionally imposing on Johnson.

4 **THIRD CAUSE OF ACTION**

5 **(Conversion - Against All Defendants)**

6 44. Johnson incorporates the allegations made in Paragraphs 1 through 43 above as though fully
7 set forth herein.

8 45. Any and all Storix profits earned before Defendants became shareholders were Johnson's
9 personal property to which he was fully entitled. At all times since Defendants were issued their stock
10 in Storix, they remained and still remain in possession and exclusive control of all accounts and records
11 related to Storix's earnings. Johnson is informed and believes that Defendants converted substantial
12 profits owed to Johnson to their personal equity accounts. Defendants misrepresented and concealed the
13 conversion of Johnson's retained earnings, and Johnson placed faith and trust in Defendants prior to
14 their having forced him out of Storix in 2014. Since then, Johnson was unable to reasonably discover
15 the conversion because Defendants substantially interfered with Johnson's rights to Storix's financial
16 records. In 2018, information became available to Johnson that raised his suspicions and led to further
17 investigation and discovery of the conversion.

18 46. Defendants also converted a substantial amount of Storix's profits to business operating
19 expenses used to pay their personal attorneys. Any advancements of legal expenses, even if proper,
20 should not have reduced shareholder profits unless *and until* Defendants were successful in their defense
21 and relieved of liability for such expenses. Johnson is informed and believes that, by the time the
22 litigation concluded, Defendants recorded about \$2M of such expenses. Johnson first discovered that
23 Defendants were using Storix funds to pay for their defense in 2016, but did not discover the wrongful
24 conversion until late 2017.

25 47. Johnson did not give informed consent or otherwise approve of Defendants' conversion.

26 48. Johnson was harmed by the loss of \$475,560 that Storix owed to him prior to Defendants
27 becoming shareholders. Johnson was harmed by being deprived shareholder profits during 3 ½ years of
28 litigation that were converted to expense accounts and used for Defendants' benefit, resulting in

1 damages that cannot be ascertained without an accounting of the dates and amounts recorded. Johnson
2 was further harmed by Defendants' withholding significant monetary property from Johnson, without
3 which he would not have had to sell his home and other substantial assets to afford the excessive cost
4 and length of litigation that Defendants were using money owed to Johnson to increase.

5 49. Johnson is informed and believes that Defendants engaged in the conversion with intent to
6 harm Johnson as demonstrated by their callous indifference or wanton disregard for Johnson's rights and
7 the financial burden the conversion imposed on Johnson.

8 **FOURTH CAUSE OF ACTION**

9 **(Economic Interference – Against All Defendants)**

10 50. Johnson incorporates the allegations made in Paragraphs 1 through 49 above as though fully
11 set forth herein.

12 51. Johnson entered into a contractual relationship with Storix wherein Storix was granted the
13 copyrights to SBAdmin necessary to operate its business in exchange for future compensation for the
14 copyrights at such time Johnson's participation in Storix terminated. No Defendant was a party to the
15 contract or an agent of Storix, nor had any financial interest in Storix when the agreement took place.
16 Defendants were aware of the agreement and that Johnson was entitled to compensation for his
17 copyright.

18 52. Johnson continually performed his obligations under the contract by gratuitously providing
19 Storix the copyrights to SBAdmin for over fifteen (15) years, during which Storix received all profits
20 from the sale of the software. Since 2015, Defendants deprived Johnson of any benefits from Storix's
21 use of the copyrights. Defendants intentionally interfered in Johnson's business and contractual
22 relationship with Storix by preventing Johnson from having any participation in the company, thus
23 triggering Storix's obligation to pay Johnson for the SBAdmin copyright. Defendants induced Storix to
24 breach the contract by refusing Johnson payment for the copyright, and further interfered by rejecting
25 Johnson's rescission of the contract for failure to perform.

26 53. Defendants also interfered in Johnson's prospective economic advantage by withholding a
27 significant business opportunity with Veeam Software unless Johnson relinquished his stock, dismissed
28 all claims against them, and used his share of the sale to pay all of the legal debt they imposed on Storix.

1 Defendants further refused to dismiss claims brought against Johnson unless he agreed to the deal.
2 Johnson is informed and believes that Defendants withheld this significant economic opportunity from
3 Johnson, and used a continued threat of litigation and deepening financial hardship, to force Johnson to
4 abandon his contract with Storix, release them from all legal and financial liability, and deprive Johnson
5 compensation for his copyright, all so they could take \$3M of profit from the sale.

6 54. Johnson was harmed by being deprived \$2.5M owed to him by Storix under contract and the
7 return of Johnson's intellectual property after the contract was rescinded. Johnson was also harmed by
8 the loss of \$2M from the sale of Storix to Veeam or the alternative years of substantial profits from sales
9 of software licenses to Veeam. Johnson was further harmed by Defendants' persistent and intentional
10 interference in Johnson's relationship with Storix that resulted in Johnson being unlawfully denied all
11 rights and income for four (4) years and the complete loss of his twenty (20) year investment in a
12 company he founded and the software he designed and developed.

13 55. Defendants benefitted from their economic interference because they were and are
14 shareholders who received and/or will receive profits from Storix in the form of employment and other
15 benefits that were increased by their denial the same benefits and other money owed to Johnson.

16 **FIFTH CAUSE OF ACTION**

17 **(Fraud/Constructive Fraud – Against all Cross-Defendants)**

18 56. Plaintiff incorporates the allegations made in Paragraphs 1 through 55 above as though fully
19 set forth herein.

20 57. By committing the wrongful acts alleged herein, Defendants took advantage of the trust and
21 confidence bestowed on them by Johnson and breached their fiduciary duties, including their duty to
22 disclose facts to Johnson, for their personal benefit.

23 58. Defendants falsely represented that all Storix's profits owed to Johnson prior to their
24 becoming shareholders in 2011 were properly distributed to him. Johnson is informed and believes that
25 Defendants made the representation knowing it was false and/or the representation was made recklessly
26 and without regard for the truth. Johnson was unaware of the truth of the representation when it was
27 made, and reasonably relied on the false representation based on Defendants' nondisclosure or
28 concealment of facts and the trust he bestowed on them. Had Johnson known of the truth of the

1 representation, Johnson would have demanded that his retained earnings be distributed to him before
2 Defendants destroyed Storix's capacity to do so.

3 59. Defendants falsely represented that that Storix counsel was not involved in the shareholder
4 Derivative Suit and that they were not using Storix funds for their defense. Defendants secretly directed
5 Storix counsel to interfere in all aspects of the shareholder Derivative Suit, not to communicate with
6 Johnson, and to obstruct Johnson's rights to Storix's records that would have otherwise revealed their
7 interference. Defendants knew their representations were false when they made them, intentionally
8 concealed material facts, and Johnson reasonably relied on the representations to his detriment. Had
9 Johnson known the representations were false, he would have taken swift legal action to enjoin Storix
10 counsel's unlawful interference, or Johnson would have abandoned the Derivative Suit had he known
11 the added financial burden their interference would continue to impose.

12 60. Defendants falsely represented that, if Johnson posted a bond, Johnson would secure his
13 standing as a plaintiff to bring the shareholder Derivative Suit on Storix's behalf. Defendants continued
14 challenging Johnson's standing for three years, and successfully had Johnson dismissed as a plaintiff
15 after the case was moved to a new court three (3) years later. Defendants then took Johnson's bond to
16 pay for their personal legal defense, even though they incurred no expense by having Storix pay all of
17 their legal bills. Defendants knew their representation that Johnson's standing as a plaintiff would be
18 secure by posting the bond was false when they made it, concealed their intent to continue challenging
19 his standing, and Johnson reasonably relied on the representation to his detriment. Had Johnson known
20 the representation was false, he would have opposed the bond and secured his standing, or he would
21 have abandoned the shareholder Derivative Suit without posting the bond.

22 61. Johnson was harmed by the loss of \$475,560 in profits that Storix earned while Johnson was
23 its sole shareholder. Johnson was substantially harmed by unnecessarily posting a \$50,000 bond and
24 spending over \$500,000 for a shareholder Derivative Suit on Storix's behalf. Johnson was further
25 harmed by Defendants' use of Johnson's 40% of shareholder profits to pay Storix counsel to unlawfully
26 interfere in the Derivative Suit, and the substantial increase in Johnson's litigation costs as a direct result
27 of the unlawful interference.

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1 **PRAYER FOR RELIEF**

2 68. For general and special damages against all Defendants, jointly and severally, according to
3 proof at trial;

4 69. For constructive trust;

5 70. For the recovery of personal property, including money owed by Storix;

6 71. For restitution and disgorgement of all illicit proceeds generated as a result of the wrongful
7 conduct alleged herein;

8 72. For punitive damages according to proof at trial at the maximum amount permitted by law;

9 73. For pre-judgment interest;

10 74. For reasonable attorney’s fees and other costs of suit;

11 75. For an accounting between Johnson and Defendants to include any and all records of Storix
12 under the control of Defendants; and

13 76. For such other and further relief as the Court may deem proper.

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15 Dated: January 13, 2019

16 s/Anthony Johnson
17 In Pro Per

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20 **JURY DEMAND**

21 Plaintiff Anthony Johnson hereby demands a trial by jury on his claims herein involving factual
22 disputes so triable in this action.
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VERIFICATION OF PLEADING

I, Anthony Johnson, declare that I am the self-represented plaintiff in the above-entitled matter. I personally drafted and read the foregoing complaint and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe to be true.

I declare under penalty of perjury and under the laws of the State of California that the foregoing is true and correct.

Executed on January 13, 2019 at Las Vegas, Nevada.



Anthony Johnson