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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10  
11 ANTHONY JOHNSON, an individual, )

12 Plaintiff, )

13 vs. )

14 MANUEL ALTAMIRANO, an )  
individual, RICHARD TURNER, an )  
15 individual; DAVID KINNEY, an )  
individual, DAVID HUFFMAN, an )  
16 individual, PAUL TYRELL, an )  
individual, SEAN SULLIVAN, an )  
17 individual, STORIX, INC., a California )  
Corporation and DOES 1-5, inclusive, )

18 Defendants. )  
19

Case No. 19CV1185-H-BLM

**DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
ENTRY OF PARTIAL FINAL  
JUDGMENT UNDER RULE 54(B)  
OR CERTIFICATION UNDER 28  
U.S.C. § 1292**

Judge: Hon. Marilyn L. Huff  
Dept.: Courtroom 15A

Complaint Filed: June 24, 2019  
Trial Date: Not Set

20  
21 Defendants Manuel Altamirano, Richard Turner, David Kinney, and David  
22 Huffman (collectively, "Defendants") hereby submit this opposition to Plaintiff  
23 Anthony Johnson's ("Johnson") Motion for Entry of Partial Final Judgment under  
24 Rule 54(b) or Certification Under 28 U.S.C. § 1292.

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1 **I. DISCUSSION**

2 Johnson has not articulated a seriously important reason justifying certifying  
 3 this Court’s December 2, 2019 Order (“Order”) for appeal.<sup>1</sup> Certifying the Order  
 4 will not serve the just, speedy, and inexpensive determination of this action. To the  
 5 contrary, certifying the Order will result in increased litigation expense because  
 6 Johnson has demonstrated his appetite for multiple appeals to the Ninth Circuit on  
 7 any issue appealable. Defendants would be forced to litigate this appeal, litigate the  
 8 trial court proceedings, and the eventual appeal of any judgment/order resulting from  
 9 the remaining breach of fiduciary duty and conversion claims. Defendants therefore  
 10 respectfully request the Court deny Johnson’s motion.

11 Rule 54(b) “applies where the district court has entered a final judgment as to  
 12 particular claims or parties, yet that judgment is not immediately appealable because  
 13 other issues in the case remain unresolved.” *James v. Price Stern Sloan, Inc.*, 283  
 14 F.3d 1064, 1068 n. 6 (9th Cir.2002) (citations omitted). Rule 54(b) requires a two-  
 15 step process: (1) the court determines whether the challenged order is a final  
 16 judgment; and (2) the court determines whether there is any just reason for delay.  
 17 *Curtiss–Wright Corp. v. Gen. Elec. Corp.*, 446 U.S. 1, 7–10, 100 S.Ct. 1460, 64  
 18 L.Ed.2d 1 (1980) (“Plainly, sound judicial administration does not require that Rule  
 19 54(b) requests be granted routinely.”). The Ninth Circuit has held that, “[a]bsent a  
 20 seriously important reason, both the spirit of Rule 1 and the interests of judicial  
 21 administration counsel against certifying claims or related issues in remaining claims  
 22 that are based on interlocking facts, in a routine case, that will likely lead to  
 23 successive appeals.” *Wood v. GCC Bend, LLC*, 422 F.3d 873, 883–84 (9th Cir.2005)  
 24 (citing Fed.R.Civ.P. 1, which “mandates construing the rest of the rules ‘to secure the  
 25 just, speedy, and inexpensive determination of every action’ ”).

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 27  
 28 <sup>1</sup> Johnson’s request under 28 U.S.C. § 1292 as to the denial of his motion to stay is so intertwined with the Court’s December 2, 2019 Order that separate treatment is not warranted.

1 The proceedings before this Court are not new. As the Court is aware,  
2 Johnson is simply repackaging claims and issues already litigated to judgment before  
3 this Court in the copyright litigation and before a state court of this jurisdiction in a  
4 consolidated action. Both of these matters are now pending on appeal. To permit  
5 Johnson to appeal the Order would only compound the expense and just and speedy  
6 determination of the litigation between Defendants and Johnson. The claims subject  
7 to the Order are based on facts intertwined with the remaining claims in this matter  
8 and will undoubtedly result in successive appeals. Without belaboring the point,  
9 because Johnson has not identified a seriously important reason for certifying the  
10 Order, Defendants request his motion be denied.

## 11 **II. CONCLUSION**

12 The orderly judicial administration of this matter strongly favors denial of  
13 Johnson's motion. Defendants are already burdened by the ongoing litigation  
14 instituted by Johnson. The certifying of the Order for appeal would only compound  
15 that burden. Accordingly, no seriously important reason justifies Johnson's request.  
16 The motion should be denied.

17  
18 Dated: January 7, 2020

**WILSON, ELSER, MOSKOWITZ,  
EDELMAN & DICKER LLP**

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