

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
HALL OF JUSTICE
TENTATIVE RULINGS - October 13, 2016

EVENT DATE: 10/14/2016 EVENT TIME: 11:00:00 AM DEPT.: C-70
JUDICIAL OFFICER: Randa Trapp

CASE NO.: 37-2015-00028262-CU-BT-CTL

CASE TITLE: STORIX INC VS ANTHONY JOHNSON [IMAGED]

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Business Tort

EVENT TYPE: Demurrer / Motion to Strike

CAUSAL DOCUMENT/DATE FILED: Demurrer, 09/22/2016

(1) DEMURRER TO PLAINTIFF'S SECOND AMENDED COMPLAINT by defendant Anthony Johnson is OVERRULED.

(2) MOTION TO STRIKE PORTIONS OF PLAINTIFF'S SECOND AMENDED COMPLAINT by defendant Anthony Johnson is DENIED in part and GRANTED in part.

Request for Judicial Notice is granted.

The Demurrer is overruled because there are sufficient facts pled to support the claim for breach of fiduciary duty and aiding/abetting breach of fiduciary duty. (See, *Berg & Berg Enterprises, LLC v. Boyle* (2009) 178 Cal.App.4th 1020, 1037; *Bancroft-Whitney Co. v. Glen* (1966) 64 Cal.2d 327, 347 disapproved of by *Frantz v. Johnson* (2000) 116 Nev. 455) This court previously found the claim for breach of fiduciary duty was sufficient for purposes of pleading.

The Motion to Strike is granted as the claims for punitive damages. There still are insufficient specific facts to support a claim for punitive damages. Leave to amend is denied as this court previously granted leave to amend and the allegations are still insufficient.

The Motion to Strike is denied for the remaining allegations sought to be stricken. For purposes of pleading, there are sufficient facts to support injunctive relief. The remainder of the challenged portions of the Second Amended Complaint are not irrelevant, false or improper and/or otherwise rely on facts outside the pleadings. The court cannot resolve factual disputes when ruling on a Motion to Strike.

Defendant shall answer by November 1, 2016.