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

11 ANTHONY JOHNSON, an individual,

12 *Plaintiff,*

13 v.
14

15 DAVID KINNEY, an individual;
16 RICHARD TURNER, an individual;
17 MANUEL ALTAMIRANO, an individual;
18 DAVID HUFFMAN, an individual; and
19 DAVID SMILJKOVICH, an individual;
20 PAUL TYRELL, an individual;
21 SEAN SULLIVAN, an individual;
22 MARTY READY, an individual;
23 DAVID AVENI, an individual;
24 MICHAEL MCCLOSKEY, an individual;
25 STORIX INC., a California corporation;
26 JUDGE MARILYN HUFF, an individual;
27 JUDGE RANDA TRAPP, an individual;
28 JUDGE KEVIN ENRIGHT, an individual;
JUDGE KATHERINE BACAL, an
individual,

Defendants.

Case No. 3:20-CV-01354-CAB-MSB

**VERIFIED FIRST AMENDED
COMPLAINT**

DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1
2 1. Plaintiff Anthony Johnson (“Johnson”) claims federal jurisdiction pursuant to
3 article III § 2 which extends the jurisdiction to cases arising under the U.S. Constitution.

4 2. This Court has jurisdiction over Johnson’s claims against Judge Marilyn Huff
5 (“Judge Huff”) pursuant to Title 28 U.S. Code § 1331 for claims arising from violations of
6 federal constitutional rights guaranteed by the First and Fifth amendments to the U.S.
7 Constitution and redressable pursuant to *Bivens v. Six Unknown Narcotics Agents*, 403 U.S.
8 388 (1971).

9 3. This Court has jurisdiction over Johnson’s claims against all defendants
10 pursuant to Title 42 U.S. Code §§ 1983, 1985(b) and 1986 for violations of protections
11 guaranteed by the First, Fifth, and Fourteenth Amendments of the federal Constitution by
12 defendants under color of state law.

13 4. This Court has jurisdiction over Johnson’s claims against defendant Storix Inc.
14 (“Storix”) on the basis of diversity because Johnson resides in a different State than Storix
15 and because Johnson seeks damages in excess of \$75,000.

16 5. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) and (c).

17 **PARTIES**

18 6. Plaintiff Anthony Johnson (“Johnson”) is a natural person who is a citizen of
19 Las Vegas, Nevada residing in Clark County.

20 7. Defendant David Kinney is a citizen of the State of Minnesota and resident of
21 Ramsey County and was at times mentioned herein a citizen of the State of California and
22 resident of San Diego County.

23 8. Defendants David Huffman, Richard Turner, Manuel Altamirano, David
24 Kinney, and David Smiljkovich are citizens of the State of California and residents of San
25 Diego County.

26 9. Defendants Paul Tyrell and Sean Sullivan are attorneys with the firm of
27 Procopio, Cory, Hargreaves, Savitch, LLP (collectively “Procopio”) and citizens of the
28 State of California and resident of San Diego county.

1 Management unreasonably criticized Johnson's work and otherwise antagonized Johnson
2 until he resigned in 2014.

3 18. Johnson threatened to withdraw Storix's license to sell SBAdmin if
4 Management would not allow him a position at Storix in which he could protect the
5 integrity of his software without their interference. Procopio sent a letter threatening
6 Johnson with securities fraud for allegedly forcing Management to buy their stock to keep
7 their jobs without informing them that Johnson owned the copyrights to SBAdmin.

8 19. In October 2014, Johnson filed a copyright infringement lawsuit against Storix
9 hoping to encourage Management to compromise. (Case No. 3:14-cv-1873, "Copyright
10 Suit".) Storix filed a counter-complaint demanding a declaration of ownership of Johnson's
11 copyrights to SBAdmin. The case was assigned to Judge Huff.

12 20. Johnson brought a motion for summary judgment and summary adjudication in
13 the Copyright Suit because Storix possessed no clear and unambiguous written agreement
14 required by the Copyright Act to transfer ownership of SBAdmin. Judge Huff denied the
15 motion, finding that a jury should decide if the words "transferred all assets" in Storix's
16 2003 Annual Report Johnson signed as its president constituted a transfer of his copyrights.

17 21. In February 2015, Johnson used his remaining 40% of stock in Storix to elect
18 himself to the board of directors. In June, Johnson sold his San Diego home due to the cost
19 of the Copyright Suit and moved to Florida where he purchased another home at less than
20 half the price.

21 22. In August 2015, Management instructed Procopio to file a direct lawsuit against
22 Johnson in California Superior Court alleging that he breached a fiduciary duty to Storix
23 by intending to operate a competing business while serving as a director. (Case No. 37-
24 2015-00028262-CU-BT-CTL, "Direct Suit".) The complaint falsely alleged that Johnson
25 resided in California when they filed the Direct Suit and relevant events therein occurred.
26 The case was assigned to Judge Trapp.

27 23. After the Direct Suit was served to Johnson at his home in Florida, he sent an
28 email to Management threatening counter claims and to instruct Storix's customers not to

1 buy new copies of SBAdmin until after his copyright ownership was confirmed at summary
2 judgement (hereafter the “2015 email”). Procopio filed a motion for an injunction, which
3 Judge Huff denied due to “significant First Amendment Rights at stake.”

4 24. In September 2015, Judge Huff denied summary judgment the Copyright Suit,
5 finding that a jury must decide whether a term in Storix’s 2003 Annual Report indicated
6 Johnson’s intent to transfer all exclusive and irrevocable copyrights to SBAdmin to Storix.
7 This was the first time ownership of a registered copyright was considered a factual issue.

8 25. In October 2015, Johnson and another shareholder, Robin Sassi (“Sassi”), filed
9 a shareholder derivative lawsuit in California Superior Court against Management, which
10 was assigned to Judge Joel Wohlfeil. (Case No. 37-2015-00034545-CU-BT-CTL,
11 “Derivative Suit”.) The complaint alleged various causes of actions pertaining to majority
12 abuse, including that Storix was harmed by Management filing the Direct Suit against
13 Johnson without board approval. The case was filed by an attorney since Johnson couldn’t
14 represent a corporation, and Johnson funded the lawsuit on Storix’s behalf. Wilson/Elser
15 represented Management as defendants, and demanded Johnson post a \$50,000 shareholder
16 plaintiff’s bond to secure his standing as a derivative plaintiff which Johnson voluntarily
17 paid. Wilson/Elser sent all their bills Storix to payment, which Management recorded as
18 ordinary business expenses.

19 26. Throughout the state litigation, Management and Procopio insisted that Johnson
20 and Sassi could have no access to Storix’s premises or records because there was a claim
21 against Johnson for competing and Sassi was helping him. Judge Ronald Praeger was
22 assigned as a discovery referee in the Derivative Suit. Sassi filed a motion to allow only
23 herself to inspect Storix’s financial records. Judge Praeger decided all Sassi’s evidence of
24 Procopio interfering and obstructing the Derivative Suit was improperly attached to a reply
25 brief and based his decision instead on Judge Huff’s fee order which was itself based on
26 the 2015 Email that had never been litigated. Although Sassi’s motion had nothing to do
27 with Johnson, Judge Praeger’s recommendation began by saying, “Anthony Johnson
28

1 (Johnson) founds Storix, gives up control, returns, and tries to destroy Storix" and ended
2 by saying Sassi was "colluding" with him.

3 27. In December 2015, the jury in the Copyright Suit returned a verdict that the
4 2003 Annual Report constituted an ownership transfer of Johnson's registered copyrights
5 to Storix, constituting the first assignment of exclusive copyrights absent a written
6 agreement. In another unprecedented decision, the jury found that Storix owned all
7 subsequent versions of SBAdmin Johnson created while he was Storix's sole owner
8 because he was a work for hire. Storix cannot enforce its copyrights to SBAdmin because
9 it possesses no written agreement required by the Copyright Office to record the transfer.

10 28. In August 2016, Judge Huff heard Storix's motion for attorney fees in the
11 Copyright Suit and their concurrent request for an injunction based on the *2015 email*.
12 Judge Huff denied the injunction because Storix could cite no harm but nevertheless
13 awarded Storix \$543,704 in attorney fees based on the same email. Judge Huff granted
14 Johnson's motion to stay execution of the judgement only if he posted a supersedeas bond
15 for the full judgment amount knowing Johnson would not be able to afford an attorney to
16 appeal her decisions without selling his home in Florida. Johnson did so and has been living
17 with family in Las Vegas ever since.

18 29. The Ninth Circuit affirmed the copyright ownership transfer without addressing
19 the question of whether a clear written agreement is required to transfer copyright
20 ownership. However, the panel reversed the attorney's fee award as unreasonable and
21 remanded to Judge Huff for reconsideration.

22 30. Johnson brought a demurrer to the Direct Suit, arguing that allegations of his
23 "intending" to compete did not constitute a cause of action because it stated no harm, and
24 because the lawsuit must have been brought as a shareholder derivative action. Judge Trapp
25 summarily overruled the demurrer. Judge Trapp denied Johnson's concurrent motion to
26 strike the false allegation of his California residency by finding that judicial notice of the
27 summons served at his home in Florida constituted "facts outside the pleading."
28

1 31. In April 2016, Johnson filed a cross-complaint to the Direct Suit (“Cross-
2 Complaint”) alleging personal damages from Management as a result of their majority
3 abuse, including their filing the Direct Suit against Johnson without board approval and
4 denying him a job at his own company. Management again instructed Wilson/Elser to send
5 all their bills to Storix to pay for their defense.

6 32. Johnson filed for a writ of mandamus with Judge Trapp to compel Storix to
7 allow all directors the same inspection rights, alleging that Storix was the real plaintiff in
8 the Derivative Suit and that Procopio’s obstruction of Storix’s own claims imposed
9 unnecessary discovery on the company. Judge Trapp denied the petition based on
10 Procopio’s argument that there was a Direct Suit against Johnson for competing, there was
11 a restraining order against Johnson, and because Johnson sent the *2015 Email*. None of the
12 claims had been litigated or decided. Judge Trapp allowed Johnson to only request records
13 through Procopio that they determined could not be “used against the company.”

14 33. The Direct Suit was consolidated under the Derivative Suit four months before
15 trial. The consolidation forced Johnson to pay an attorney to represent him in the Direct
16 Suit and Cross-Complaint in addition to representing Storix in the Derivative Suit.

17 34. Johnson brought a summary judgment motion to dismiss the Direct Suit
18 because the Storix board did not authorize or approve the action. Management quickly held
19 a special board meeting to ratify their unlawful filing of the Direct Suit two years earlier.
20 Judge Wohlfeil denied the motion because Procopio disputed whether the ratification was
21 sufficient.

22 35. Procopio and Wilson/Elser demanded and were granted multiple trial
23 continuances until Judge Wohlfeil had a conflict and the state cases were transferred to
24 Judge Enright for trial.

25 36. In January 2018, Judge Enright allowed Procopio and Wilson/Elser to sit
26 together at the plaintiff’s table at trial, granted their pre-trial motions precluding Johnson
27 from saying he supported Storix or that Storix endorsed the Derivative Suit. He also
28 precluded Johnson from presenting evidence of claims affecting other shareholders,

1 thereby removing from the jury trial all but Johnson's claim of being denied employment
2 benefits.

3 37. Judge Enright allowed Management an "at-will employment" jury instruction
4 only applicable to wrongful termination claims against an employer and refused Johnson's
5 instruction that majority shareholders cannot deny a 40% shareholder of a close corporation
6 a position in the company if he had a reasonable expectation commensurate with his stock
7 ownership. The jury awarded Johnson nothing on his cross-claim based on Management's
8 sole defense that *Storix* didn't have to hire him because California is an at-will employment
9 state.

10 38. Judge Enright refused Johnson's jury instruction that *Storix* had no authority to
11 bring the Direct Suit against him unless it was approved or ratified by a disinterested
12 shareholder or board majority. Procopio demanded \$1.25 million in damages from Johnson
13 for "unjust enrichment" for allegedly operating a competing business but presented no
14 evidence at trial to support the claim. Instead, Procopio introduced a new claim in closing
15 arguments that *Storix* suffered a \$3,739.14 "loss of employee productivity" from Johnson's
16 *2015 Email* which Johnson had no opportunity to dispute. The jury rejected the \$1.25
17 million claim of Johnson competing but awarded *Storix* the \$3,739.14 it demanded on the
18 *2015 Email* claim. Johnson was not afforded any opportunity to dispute the claim.

19 39. After the jury trial, Johnson brought a motion for directed verdict because the
20 Direct Suit was not approved by a majority of disinterested directors. Judge Enright
21 refusing to acknowledge that Management were that majority when denying the motion.
22 Minutes before the bench trial on the Derivative Suit, Judge Enright granted Wilson/Elser's
23 motion to dismiss Johnson as a derivative plaintiff because he couldn't fairly and
24 adequately represent the interests of the Management shareholder based on the *2015 Email*
25 claim. Sassi remained a derivative plaintiff, so Judge Enright proceeded with the bench
26 trial, but ignored all Johnson's testimony and evidence and generally found in favor of
27 Management on all *Storix*'s claims.
28

1 40. Judge Enright denied Storix's motion for injunctive relief, finding it
2 superfluous because Judge Praeger's discovery order and Judge Trapp's denial of
3 Johnson's inspection rights still stood, ignoring that they were based on the dismissed
4 restraining order, the disproven competition claim, and the *2015 Email*.

5 41. Johnson filed a motion for new trial based on the surprise introduction of the
6 *2015 Email* claim, because the Direct Suit was never approved by a disinterested board of
7 Storix, and because the Direct Suit must have been brought as a shareholder derivative
8 action. Johnson also argued that the jury was misled by the irrelevant and misleading "at
9 will employment" instruction that defeated his Cross Complaint. Judge Enright denied the
10 motion without responding to Johnson's arguments.

11 42. Johnson opposed Procopio's and Wilson/Elser's separate motions for costs and
12 fees, raising numerous legal arguments including that the \$3,739.14 judgment was based
13 solely on the *2015 Email* claim he was afforded no opportunity to dispute, that
14 Management incurred no legal expenses, and that it was unlawful for Management to use
15 Storix funds to pay Procopio to defend against the company's own derivative claims
16 against them. Judge Enright ignored all Johnson's arguments and awarded over \$180,000
17 in costs and fees for all parties in all consolidated actions, including the \$50,000 bond
18 Johnson posted to secure his standing as a plaintiff in the Derivative Suit.

19 43. Johnson could no longer afford an attorney and was therefore *pro se* in all
20 proceedings that followed. Johnson appealed Judge Enright's judgments and orders in the
21 Direct Suit and Cross-Complaint, which is currently pending. (Case No. D075308.)
22 Johnson could not appeal the decisions in the Derivative Suit because Johnson cannot not
23 represent Storix's interests.

24 44. Following the state jury trial, Judge Huff heard Storix's motion for attorney fees
25 in the Copyright Case following remand. Johnson showed that the prior \$543,704 fees
26 award was based entirely on the *2015 Email* from which Storix claimed only \$3,739 in
27 damage, that the Derivative Suit Johnson funded on Storix's behalf proved he was not
28 trying to harm Storix, and that Procopio was paid millions to unlawfully defend against

1 Storix's own derivative claims. Procopio offered no reply to Johnson's arguments., and
2 Judge Huff acknowledged none of Johnson's facts when simply reducing the fees to
3 \$407,778 to comply with the Ninth Circuit mandate and then adding three years of interest
4 not previously awarded. Judge Huff's order specifically states the fees were awarded to
5 deter Johnson from threatening litigation and sending inappropriate emails. The copyright
6 attorney's fee award remains 4 times larger than any other against an individual in U.S.
7 history.

8 45. On second appeal, the Ninth Circuit affirmed the copyright attorney fee award
9 based on Procopio's argument that Johnson appealed Judge Huff's decision to award fees
10 rather than the amount of fees remanded for reconsideration. The panel did not address
11 Johnson's questions of whether Judge Huff violated Johnson's constitutional rights by
12 awarding fees to punish him for exercising his First Amendment rights or whether she
13 complied with the mandate to reduce the fees to a reasonable amount.

14 46. In 2018, Johnson finally abandoned his efforts to save Storix from
15 Management's abuse and chose not to reelect himself to the board. This triggered Storix's
16 obligation to pay Johnson for the copyrights to SBAdmin, so Johnson sent Storix an invoice
17 for the value of the copyrights. Procopio responded that Storix would pay Johnson nothing.

18 47. Soon thereafter, Johnson obtained a financial record showing that Management
19 converted his Storix retained earnings to their personal equity accounts while he was on
20 medical leave between 2011-2013. Johnson informed Management and Procopio of his
21 finding and demanded payment of the money owed to him. Johnson received no response.

22 48. In early 2019, Johnson filed a new lawsuit in California state court against
23 Management for conversion of his retained earnings and for malicious prosecution of the
24 claim against him for competing. (Case 37-2020-00002457-CU-BT-CTL, "Conversion
25 Suit".) The case was assigned to Judge Bacal.

26 49. Management filed a motion demanding that Johnson post a \$160,000 out-of-
27 state plaintiff's bond and a motion to stay proceedings until the bond was furnished, despite
28 Wilson/Elser continuing to send all their bills to Storix for payment.

1 50. After Management failed to answer the Conversion Suit, Johnson filed a request
2 to enter default. Judge Bacal rejected the request because there was a motion to stay on
3 file. Johnson contacted the clerk to inform her that a stay motion under C.C.P § 1030(b)
4 was not a responsive pleading. She verified that Johnson was correct and instructed him to
5 refile the request for default, which Johnson did the same day.

6 51. Judge Bacal scheduled a status conference to address the bond motion, whereat
7 Procopio stood with Wilson/Elser even though Storix wasn't a party to the case. Judge
8 Bacal didn't address the bond, but informed Johnson that she would be rejecting his request
9 to enter default because Management filed a demurrer. Johnson noted that the demurrer
10 was filed the day before the conference, 28-days late without a request for an extension,
11 and three weeks after he filed a request for entry of default. Judge Bacal said she granted
12 Management an extension without a request, and they were free to file their demurrer as
13 long as Johnson's request for default was still pending. Judge Bacal denied Johnson's
14 request for default the next day because there was a demurrer on file.

15 52. Judge Bacal stated that the status conference constituted Johnson's first
16 appearance, so Johnson filed a timely peremptory challenge which Judge Bacal
17 nevertheless denied as untimely. Johnson scheduled an *ex parte* hearing to address why it
18 was denied, whereat Judge Huff stated only that Johnson was confused as to when the 15-
19 day deadline began.

20 53. Johnson voluntarily dismissed the Conversion Suit without prejudice because
21 Judge Bacal's procedural tactics prevented him from amending his complaint before or
22 after Wilson/Elser filed their concurrent demurrer and special motion to strike (anti-SLAPP
23 motion). Johnson then revised and filed the claims under diversity jurisdiction in the United
24 Stated District Court for the Southern District of California. (Case no. 3:19-cv-1185-H-
25 BLM.) The complaint added Procopio as a malicious prosecution defendant and added
26 breach of contract and indemnification claims against Storix.

27 54. Judge Huff had the new federal Conversion Suit reassigned to her court on the
28 basis that Johnson and Storix were parties to the Copyright Suit in 2015. Johnson brought

1 a motion to reassign the case back to the originally assigned judge, that Judge Huff recuse
2 herself based on her prior refusal to acknowledge Procopio's misconduct that was relevant
3 to the claims, or allow another judge to decide the motion. Judge Huff refused to transfer
4 the case, recuse herself, or allow another judge to hear the motion.

5 55. In the new Conversion Suit, Wilson/Elser (representing Procopio and
6 Management) and Procopio (representing Storix) brought three Rule 12(b)(6) motions and
7 two anti-SLAPP motions to dismiss Johnson's claims, Judge Huff vacated the hearing,
8 ignored all Johnson's opposing arguments and authority that clearly defeated the
9 defendants' motions, and raised numerous *sua sponte* arguments in her order that were
10 unsupported by the cases she cited but Johnson had no chance to dispute. Judge Huff
11 dismissed 5 of Johnson's 7 well-pled claims with prejudice because there was no possibility
12 of amending the complaint to cure any deficiencies despite her finding many claims
13 premature or too speculative.

14 56. Johnson relied on Judge Huff's and the Ninth Circuit's rulings that the Storix
15 2003 Annual Report confirmed the existence of an oral contract to transfer Johnson's
16 copyrights to Storix. Judge Huff dismissed Johnson's breach of oral contract claim
17 demanding payment for the copyrights by finding the Copyright Act "requires that in order
18 for a transfer of ownership in a copyright to be valid, 'it must be in writing'", thus "Plaintiff
19 is barred from alleging that he had an *oral contract* with Storix wherein he gave the
20 copyrights to Storix."

21 57. Johnson stated in the complaint that the *2015 Email* claim in the Direct Suit was
22 pending appeal, and he directed the malicious prosecution action only to the \$1.25 million
23 claim of his competing that the jury rejected. Johnson anticipated that Judge Huff would
24 accept Procopio's argument that he must prevail on the entire underlying lawsuit, even
25 though Procopio the only cited to support the argument involved a single claim. Johnson
26 therefore moved to stay the malicious prosecution action pending his appeal of the *2015*
27 *Email* claim. Judge Huff denied Johnson's motion to stay, dismissed the malicious
28 prosecution claim with prejudice, then granted Management's motion to stay the remaining

1 conversion claim pending the same appeal. Judge Huff instructed Management to raise a
2 *res judicata* defense after the appeal is decided, ignoring facts in the complaint stating that
3 the conversion was discovered after the state litigation concluded. The stay has been
4 pending over six months without a request for an extension.

5 58. Johnson argued in a motion for reconsideration that Judge Huff's order contains
6 manifest errors of law, ignored all argument or authority in his opposition briefs, and
7 dismissed claims based on *sue sponte* arguments improperly raised on the defendants'
8 behalf. Again, Judge Huff vacated the hearing, then denied reconsideration because
9 "Plaintiff relies on arguments that he either did raise or reasonable could have raised in his
10 oppositions to Defendants' motions."

11 59. Judge Bacal awaited Judge Huff's decision to dismiss Johnson's malicious
12 prosecution action before granting Management \$12,237 in attorney's fees in the prior
13 Conversion Suit, finding they would have prevailed on their anti-SLAPP motion had
14 Johnson not dismissed the case. Echoing Judge Huff's order, Judge Bacal found that
15 Johnson's could not allege favorable termination of the "entire lawsuit" underlying his
16 malicious prosecution claim because he didn't prevail on the *2015 Email* claim, reciting
17 the same irrelevant and misquoted cases cited by Wilson/Elser and similarly ignoring all
18 well-established authority to the contrary.

19 60. Judge Bacal then awarded Management \$2,364 in costs after denying Johnson's
20 motion to strike or tax costs by ignoring and misapprehending all statutes and case law
21 contrary to her decisions. Judge Bacal refused Johnson's request to stay her ruling pending
22 the appeal of the Direct Suit, wherein Johnson challenged Judge Enright's order granting
23 costs to the same defendants by ignoring and misquoting the same statutes and cases.
24 Johnson appealed Judge Bacal's cost and fee awards with the California Court of Appeals
25 on all the same grounds, case no. D077096, and later filed a request to consolidate the two
26 appeals under the former case no D075308.

27 61. On April 10, after Judge Huff dismissed and stayed his claims in the federal
28 Conversion Suit, Johnson filed a new complaint in California state court alleging common

1 counts – this time against Storix for failure to provide compensation for his copyrights and
2 for money had and received of his retained earnings. (Case No. 37-2020-00019054-CU-
3 MC-CTL, “Common Counts Suit”.)

4 62. On June 3, Johnson received notice that his filing was rejected because his name
5 appeared on the Vexatious Litigant List. Johnson contacted the court clerk, who instructed
6 him to refile his complaint with a request to file new litigation by vexatious litigant.
7 Johnson did so the same day, showing that he was not the same “Anthony Johnson” on the
8 list who filed his last case in Los Angeles in 2011.

9 63. On June 12, Johnson received notice that his request for filing by a vexatious
10 litigant was denied by Judge Trapp. Johnson called the clerk to find out why his filing was
11 again denied and why the case number on the notice didn’t appear on the court’s register
12 of actions. The clerk told Johnson the case was assigned and voided the same day and that
13 he’d have to schedule an *ex parte* hearing to address why the filing was denied.

14 64. On June 23, Judge Trapp held Johnson’s *ex parte* hearing apart from the other
15 hearings that day. Her clear hostility toward Johnson increased during the half hour she
16 spent looking for a reason to reject his filing. Judge Huff said she found it suspicious that
17 Johnson’s complaint showed “Anthony J Johnson” in the caption but was signed without
18 a middle initial, but had no choice but to permit the filing because Johnson provided a
19 sworn declaration stating he never filed a case in Los Angeles.

20 65. On June 24, the Common Counts Suit was unvoided and appeared on the
21 register of actions. Johnson saw for the first time that the case was assigned to Judge Bacal,
22 and he electronically filed a peremptory challenge the same day. Judge Bacal again denied
23 Johnson’s peremptory challenge as “Untimely 6/25/20”. The case docket shows the notice
24 of case assignment was filed and printed on June 8, which would have made Johnson’s
25 peremptory challenge a day late if he’d received the notice of the case assignment on that
26 day. Johnson never received notice because Judge Bacal voided the case immediately after
27 it was assigned to her. Johnson downloaded the actual notice from the docket, which
28 indicates it was actually printed on June 16.

73. Defendants unlawfully denied Johnson rights to his own company records and knowingly imposed unnecessary bonds and substantial costs and fees on Johnson, intentionally ignored and misrepresented statutes and controlling law, in attempt to prevent Johnson from defending himself, litigating his claims, and affording an attorney to represent him on appeal.

74. Defendants violated Johnson's constitutional rights as part of a conspiracy to impede, hinder, obstruct and defeat Johnson's due course of justice with intent to deny Johnson the equal protection of the laws, and to injure Johnson for lawfully enforcing and attempting to enforce his right to equal protection of the laws.

Count 2: Against Management Defendants

75. Johnson re-alleges and incorporates by reference all prior paragraphs as though fully set forth herein.

76. Defendants abused their shareholder majority to induce Storix to terminate Johnsons at-will employment maliciously and without justifiable cause despite Johnson being Storix's largest shareholder with a reasonable expectation of a position at Storix commensurate with his 40% company ownership.

77. Defendants acted and continue to act as part of a conspiracy to impede, hinder, obstruct and defeat Johnson's due course of justice to lawfully enforce or attempt to enforce his right to equal protection of the laws.

78. Johnson was injured by the loss of past income of \$875,000 and loss of other employment benefits including group medical insurance, 401(k) contributions, and future earnings.

THIRD CAUSE OF ACTION

NEGLECT TO PREVENT CONSPIRACY TO INTERFERE (42 U.S.C. § 1986)

Against All Defendants Except Storix

79. Johnson re-alleges and incorporates by reference all prior paragraphs as though fully set forth herein.

1 80. Defendants had knowledge of the wrongs conspired to be done or about to be
 2 committed, and each had power to prevent or aid in preventing the commission of the
 3 wrongful acts but neglected to do so. Any person in the same circumstances with
 4 reasonable diligence could have prevented the wrongful acts.

5 **FOURTH CAUSE OF ACTION**

6 COMMON COUNTS (California State Law)

7 **Count 1: Against Storix (Failure to Compensate for Goods Provided)**

8 81. Johnson re-alleges and incorporates by reference paragraphs 1 through 66 as
 9 though fully set forth herein.

10 82. Defendant requested, by words or conduct, that Johnson provide it copyrights
 11 to the SBAdmin software. An implied promise existed between Johnson and defendant,
 12 wherein defendant derived income from its use of the copyrights in exchange for future
 13 payment to Johnson when his participation in Storix terminated.

14 83. Johnson provided defendant the copyrights requested, expected and intended
 15 that the copyrights benefit defendant, and Johnson expected to be compensated for the
 16 copyrights. Defendant was obligated to compensate Johnson for the copyrights when
 17 Johnson's participation in Storix terminated. Johnson demanded payment and defendant
 18 expressly refused to pay for the copyrights.

19 84. Storix derived about \$12 million of income from the copyrights since cutting
 20 off all Johnson's income from Storix in 2015. Defendant benefitted and continues to
 21 benefit, from its use of the copyrights in such a manner and under such circumstances that
 22 the law imposes a duty of compensation to Johnson therefore on the basis of *quantum*
 23 *valebant*.

24 85. Johnson was harmed by defendant's refusal to compensate him \$2.75 million
 25 for the reasonable value of his copyrights.

26 **Count 2: Against Storix (Money Had and Received)**

27 86. Johnson re-alleges and incorporates by reference paragraphs 1 through 66 as
 28 though fully set forth herein.

1 87. Storix's profits earned while Johnson was the company's sole shareholder were
 2 Johnson's personal property to which he was fully entitled. Defendant took possession and
 3 retained substantial money owned to Johnson and misrepresented and concealed the
 4 amount owed to Johnson.

5 88. Johnson was unable to reasonably discover the money owed until 2018 because
 6 Management directed Storix's attorneys to substantially interfere with his rights to
 7 financial records as a major shareholder and company director. Johnson demanded the
 8 amount owed and was refused payment.

9 89. Defendant wrongfully received and is withholding money which rightfully
 10 belongs to Johnson. Johnson did not give informed consent or otherwise approve of
 11 defendant's retention or use of money owed to him.

12 90. Johnson was harmed by defendant's unlawful retention of \$475,560 owed to
 13 him.

14 **PRAYER FOR RELIEF**

15 91. For general and special damages against defendants, jointly or severally,
 16 according to proof at trial;

17 92. For a declaration that Judges Huff, Trapp, Enright and Bacal exhibited clear
 18 bias against Johnson, violated his constitutional rights, and otherwise treated Johnson
 19 unfairly as a *pro se* litigant;

20 93. For injunctive relief under Fed.R.Civ.P. § 60(b) vacating Judge Huff's order to
 21 stay proceedings in Case No. 3:19-cv-1185 and all orders therein dismissing Johnson's
 22 claims with prejudice, and for an order transferring the case to this court or to the judge
 23 originally assigned to the case.

24 94. For consideration of the fair value of Plaintiff's copyrights;

25 95. For an accounting of Storix, Inc's financials records;

26 96. For punitive damages according to proof at trial;

27 97. For pre-judgment interest and costs of suit;

28 98. For such other and further relief as the Court may deem proper.

CERTIFICATION

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Dated: July 21, 2020

By:

