SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN		
BARGER-GREAT SOUTH VENTURES, LLC.	DATE FILED:	9/8/2004
PLAINTIFF(s)	CASE TYPE:	COMPLAINT
VS.	CASE SUBTYPE:	FRAUD
EQUILIBRIUM TECHNOLOGIES, INC., ET AL.	DATE OF LAST ACTIVITY:	5/7/2007
DEFENDANT(s)	DATE/TIME RUN:	06/07/2022 04:02 PM
REGISTER OF ACTIONS	CASE NUMBER:	CIV 043997

INVOLVED PERSON/PARTY AND ATTORNEY SUMMARY:

AUTOMATED MEDIA PROCESSING SOLUTIONS, INC. is the PLAINTIFF and is represented by: THOMPSON, RODERICK M.

SCENE7 INC., A CALIFORINA CORPORATION is the DEFENDANT and is represented by: BURTT, DAVID R.

MACK, DOUGLAS is the DEFENDANT and is represented by: BURTT, DAVID R.

SAMANIEGO, CHRIS is the DEFENDANT and is represented by: BURTT, DAVID R.

BIGONESS, TIM is the DEFENDANT and is represented by: BURTT, DAVID R.; KOO, JONMI N.

ROULSTEN, KIRK is the DEFENDANT and is represented by: BURTT, DAVID R.

NOEL, PETER is the DEFENDANT and is represented by: BURTT, DAVID R.

REGISTER OF ACTIONS:

09/08/2004	CASE OPEN / ACTIVE STATUS HON. LYNN O'MALLEY TAYLOR
09/08/2004	FILING FEE PROCESSED: PLTF, BARGER-GREAT SOUTH VENTURES, LLC. - 293.00
09/08/2004	COMPLAINT/FIRST PAPER COMPLAINT FOR FRAUD, DECEIT, FRAUDULENT TRANSFER, FORECLOSURE ON SECURITY, CONSTRUCTIVE TRUST, BREACH OF FIDUCIARY DUTY, AND CIVIL CONSPIRACY
09/08/2004	SUMMONS ISSUED
09/08/2004	HEARING CONFIRMED FOR: 11/17/2004 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 03
09/08/2004	HEARING CONFIRMED FOR: 12/17/2004 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 03
09/08/2004	HEARING CONFIRMED FOR: 01/26/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 03
11/17/2004	HEARING CONTINUED TO: 01/26/2005 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 03 FROM DATE: 11/17/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: OSCH FROM DEPARTMENT: 03
11/17/2004	APPEARANCE DROPPED FOR 12/17/2004 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 03 DROP REASON: AT THE REQUEST OF J. ERLICH 11-16-04. CASE MAY SETTLE
12/28/2004	CASE REASSIGNED TO JUDGE HON. VERNON F. SMITH
12/28/2004	APPEARANCE MOVED TO: 01/26/2005 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 06 MOVE REASON: JUDICIAL REASSIGNMENT FROM DATE: 01/26/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: OSCH FROM DEPARTMENT: 03
12/28/2004	APPEARANCE MOVED TO: 01/26/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 MOVE REASON: JUDICIAL REASSIGNMENT FROM DATE: 01/26/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 03
12/29/2004	NOTICE OF CASE REASSIGNMENT AND NOTICE OF HEARING MAILED TO THE PARTIES
01/20/2005	APPEARANCE MOVED TO: 04/21/2005 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 06 MOVE REASON: PER EHRLICH'S LETTER OF 1/10/05 FROM DATE: 01/26/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: OSCH FROM DEPARTMENT: 06
01/20/2005	APPEARANCE MOVED TO: 04/21/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 MOVE REASON: PER EHRLICH'S LETTER OF 1/10/05 FROM DATE: 01/26/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06
02/07/2005	AMENDED COMPLAINT FILED (1ST) BY ATTY. EHRLICH FOR PLTF.; ADDING DEFENDANTS: CHRIS SAMANIEGO; TIM BIGONESS; NIGEL WARREN; KIRK ROULSTEN; PETER NOEL AND DOES
02/22/2005	SUMMONS ISSUED 1ST AMENDED COMPLAINT
04/15/2005	PROOF OF SERVICE FILED, AS TO: DEFT, SCENE7 INC., A CALIFORINA CORPORATION NOTICE AND ACKNOWLEDGMENT OF RECIPT 03/31/05
04/15/2005	PROOF OF SERVICE FILED, AS TO: DEFT, KIRK ROULSTEN NOTICE AND ACKNOWLEDGMENT 03/31/05
04/15/2005	PROOF OF SERVICE FILED, AS TO: DEFT, TIM BIGONESS NOTICE AND ACKNOWLEDGMENT 03/31/05

Disclaimer: This Register of Actions is not an official court record. For an official and/or certified record, visitors must obtain it from the Court.

Akamai Ex. 1020
Akamai Techs. v. Equil IP Holdings
IPR2023-00330
Page 00001

04/15/2005	PROOF OF SERVICE FILED, AS TO: DEFT, CHRIS SAMANIEGO NOTICE AND ACKNOWLEDGMENT OF RECEIPT 03/31/05
04/15/2005	PROOF OF SERVICE FILED, AS TO: DEFT, DOUGLAS MACK NOTICE AND ACKNOWLEDMENT OF REEIPT 03/31/05
04/21/2005	MINUTE ORDER POSTED
	JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER TERESA THOMAS , DEP CLK LOUISE MORRIS
	ATTORNEY JOSEPH EHRLICH APPEARED FOR PLAINTIFF
	NO APPEARANCE BY OR FOR THE DEFENDANTS
	COUNSEL REPORTS THAT ALL DEFENDANTS HAVE BEEN SERVED EXCEPT NIGEL WARREN. MEDIATION IS UNDERWAY. THE COURT CONTINUES THIS HEARING FOR FILING OF ALL PROOFS OF SERVICE, ANSWERS OR DISMISSALS TO 7/20/05 AT 9AM IN DEPT. F.
	PLAINTIFF MUST PROVIDE NOTICE OF THIS ORDER TO DEFENDANTS
	HEARING CONTINUED TO: 07/20/2005 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 06 FROM DATE: 04/21/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: OSCH FROM DEPARTMENT: 06
	HEARING CONTINUED TO: 07/20/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 FROM DATE: 04/21/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06
	ENTERED BY: LMM
05/04/2005	PROOF OF SERVICE FILED, AS TO: DEFT, PETER NOEL; BY NOTICE AND ACKNOWLEDGMENT OF RECEIPT SIGNED ON 3-31-05
05/13/2005	FILING FEE PROCESSED: DEFT, SCENE7 INC., A CALIFORINA CORPORATION - 293.00 (1ST APPEARANCE)
05/13/2005	FILING FEE PROCESSED: DEFT, DOUGLAS MACK - 293.00 (1ST APPEARANCE)
05/13/2005	FILING FEE PROCESSED: DEFT, CHRIS SAMANIEGO - 293.00 (1ST APPEARANCE)
05/13/2005	FILING FEE PROCESSED: DEFT, TIM BIGONESS - 293.00 (1ST APPEARANCE)
05/13/2005	FILING FEE PROCESSED: DEFT, KIRK ROULSTEN - 293.00 (1ST APPEARANCE)
05/13/2005	FILING FEE PROCESSED: DEFT, PETER NOEL - 293.00 (1ST APPEARANCE)
06/15/2005	AMENDED COMPLAINT FILED (2ND) AMENDED COMPLAINT AGAINST SCENE7, DOUGLAS MACK, CHRIS SAMANIEGO, TIM BIGONESS, NIGEL WARREN, KIRK ROULSTEN, PETER NOEL FILED BY EHRLICH FOR PLTF.
07/18/2005	HEARING CONFIRMED FOR: 09/07/2005 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06
07/20/2005	MINUTE ORDER POSTED
	JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER ELAINE NINKOVICH , DEP CLK LOUISE MORRIS
	COURT CALL APPEARANCE BY JOSEPH EHRLICH FOR PLAINTIFF
	COURT CALL APPEARANCE BY DAVID BURTT FOR ALL DEFENDANTS EXCEPT EQUILBRIUM TECHNOLOGIES
	COUNSEL'S REQUEST TO REQUEST A 90 DAY CONTINUANCE IS DENIED. COUNSEL EHRLICH INDICATES THAT DEFENDANT NIGEL WARREN WILL BE DISMISSED. PER COUNSEL BURTT INDICATES THAT EQUILIBRIUM TECHNOLOGIES WILL BE DISMISSED. THE COURT CONTINUES OSC RE: PROOF OF SERVICE TO 9/7/05. THE OSC RE; ANSWER TRAILS THE DEMURRER HEARING SET ON 9/7/05 THIS HEARING IS CONTINUED TO 9/7/05 AT 9AM IN DEPT.F
	HEARING CONTINUED TO: 09/07/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 FROM DATE: 07/20/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06
	HEARING CONTINUED TO: 09/07/2005 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 06 FROM DATE: 07/20/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: OSCH FROM DEPARTMENT: 06
	ENTERED BY: LMM
08/26/2005	APPEARANCE MOVED TO: 10/12/2005 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06 MOVE REASON: STIPULATION SIGNED 8/26/05 FROM DATE: 09/07/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: LMCV FROM DEPARTMENT: 06

Disclaimer: This Register of Actions is not an official court record. For an official and/or certified record, visitors must obtain it from the Court.

09/07/2005 PARTIAL DISMISSAL AS TO: DEFT, NIGEL WARREN WITH PREJUDICE

09/07/2005 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON F. SMITH , REPORTER ELAINE NINKOVICH , DEP CLK TERESA RAMIREZ

ATTORNEY JOSEPH EHRLICH APPEARED FOR PLAINTIFF

ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANT'S

COUNSEL STATES DEFENDANT WARREN IS DISMISSED.

THE LAW AND MOTION MATTER IS SET FOR 10/12/05.

CASE MANAGEMENT CONT. TO 10/12/05 @ 9:00AM.

HEARING CONTINUED TO: 10/12/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 FROM DATE: 09/07/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06

HEARING CONTINUED TO: 10/12/2005 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 06 FROM DATE: 09/07/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: OSCH FROM DEPARTMENT: 06

NO ADDITIONAL STATEMENTS ARE NEEDED.

ENTERED BY: T. RAMIREZ

10/12/2005 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON F. SMITH , REPORTER ELAINE NINKOVICH , DEP CLK TERESA RAMIREZ

ATTORNEY DAVID ONGRO APPEARED FOR DEFENDANTS

ATTORNEY JOSEPH BRUBAKER-APPEARED LATE APPEARED FOR PLAINTIFF

PLAINTIFF'S COUNSEL CAME LATE- MATTER REHEARD.

SANCTIONS PREVIOUSLEY ORDERED TODAY IS STRICKEN.

CASE MANAGEMENT CONT. TO 12/01/05 @ 9:00AM.

MR. ONGRO MUST PROVIDE NOTICE OF THIS ORDER TO ALL PARTIES

HEARING CONTINUED TO: 12/01/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 FROM DATE: 10/12/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06

ENTERED BY: T. RAMIREZ

10/12/2005 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON F. SMITH , REPORTER ELAINE NINKOVICH (NOT REPORTED) , DEP CLK TERESA RAMIREZ

NO APPEARANCE BY OR FOR THE PARTIES

THE COURT MAKES THE FOLLOWING TENTATIVE RULING AS FOLLOWS:

DEFENDANTS' DEMURRER TO THE SECOND AMENDED COMPLAINT IS SUSTAINED IN PART AND OVERRULED IN PART. INITIALLY, THE COURT FINDS THAT PLAINTIFF'S ALTER EGO ALLEGATIONS ARE DEFICIENT. AS TO THE EQUILIBRIUM INDIVIDUALS, PLAINTIFF ALLEGES IN CONCLUSORY FASHION THAT THEY "TREATED EQUILIBRIUM AS THEIR ALTER EGO" AND "IGNORED THE CORPORATE FORM OF EQUILIBRIUM." THESE ARE CONCLUSIONS, NOT FACTS. THE ONLY FACTUAL ALLEGATION IS THAT "THEIR ACTIONS RESULTED IN AN UNDERCAPITALIZATION OF EQUILIBRIUM, AND THE DIVERSION OF EQUILIBRIUM TANGIBLE AND INTANGIBLE ASSETS OF EQUILIBRIUM TO THEIR OWN USES." HOWEVER, PLAINITFF'S ALLEGATIONS SHOW THAT EQUILIBRIUM BECAME UNDERCAPITALIZED AND LOST ASSETS AS A RESULT OF THE TRANSFER OF ASSETS TO SCENE7. THIS IS NOT A SITUATION WHERE THE INDIVIDUALS TREATED THE ASSETS OF EQUILIBRIUM AS THEIR OWN. EVEN IF IT WERE, SEVERAL FACTORS MUST BE PRESENT IN ORDER TO FIND THAT THE CORPORATION IS AN ALTER EGO OF THE INDIVIDUALS. (SEE UNITED COMMUNITY CHURCH V. GARCIN (1991) 231 CAL. APP.3 D 327, 342-343, CONCURRING OPINION.)

Disclaimer: This Register of Actions is not an official court record. For an official and/or certified record, visitors must obtain it from the Court.

PLAINTIFF'S ALLEGATIONS ARE SIMILARLY DEFICIENT AS TO SCENE7 AND THE INDIVIDUALS ASSOCIATED WITH IT. PLAINTIFF'S ALLEGATIONS THAT THEY "TREATED EQUILIBRIUM AS SCENE7'S ALTER EGO" AND "IGNORED THE CORPORATION FORM OF EQUILIBRIUM" ARE CONCLUSIONS. FURTHER THE FACT THAT EQUILIBRIUM'S ASSETS WERE TRANSFERRED TO SCENE7 DOES NOT SHOW THAT THERE WAS "SUCH UNITY OF INTEREST AND OWNERSHIP THAT THE SEPARATE PERSONALITIES OF THE CORPORATION(S) NO LONGER EXIST(ED)." (IBID.) DEFENDANTS' DEMURRER TO THE SECOND CAUSE OF ACTION FOR CONSPIRACY TO DEFRAUD IS SUSTAINED. PLAINTIFF FAILS TO ALLEGE THAT DEFENDANTS CONSPIRED WITH CMGI OR EQUILIBRIUM, THE PARTIES WHO ALLEGEDLY MADE THE REPRESENTATIONS, TO DEFRAUD PLAINTIFF. INSTEAD, PLAINTIFF ALLEGES THAT DEFENDANTS "CONSPIRED AND AGREED WITH MONKS AND OTHERS AT EQUILIBRIUM TO EFFECTIVELY TRANSFER ALL OF EQUILIBRIUM'S ASSETS TO SCENE 7..." ALTHOUGH PLAINTIFF ALLEGES THAT THE REPRESENTATIONS WERE MADE IN ORDER TO PRODUCE THE DISMISSAL OF PLAINTIFF'S LAWSUIT AGAINST CMGI, THE EARLIER ALLEGATIONS SHOW THAT IT WAS BARGER WHO DISMISSED HIS LAWSUIT (E.G., RELIED). BARGER IS NOT THE PLAINTIFF.

PLAINTIFF MUST SHOW THAT CMGI AND EQUILIBRIUM INTENDED TO DECEIVE PLAINTIFF AND THAT PLAINTIFF RELIED UPON THE REPRESENTATIONS. FINALLY, PLAINTIFF FAILS TO ALLEGE WHO MADE THE REPRESENTATIONS. (SEE TARMANN V. STATE FARM MUT. AUTO. INS. CO. (1991) 2 CAL. APP.4TH 153, 157.)

DEFENDANTS' DEMURRER TO THE FOURTH CAUSE OF ACTION FOR INTERFERENCE WITH CONTRACT IS SUSTAINED AS FOLLOWS: A) PROMISSORY NOTE AND NON-DILUTABLE STOCK WARRANTS (56): EVEN IF THE COURT ASSUMES THAT THE EQUILIBRIUM INDIVIDUALS KNEW OF THESE AGREEMENTS BY VIRTUE OF THEIR STATUS AS OFFICERS AND MEMBERS OF THE BOARD OF DIRECTORS, PLAINTIFF ALLEGES NO FACTS SHOWING THAT SCENE7 AND THE INDIVIDUALS ASSOCIATED WITH IT HAD KNOWLEDGE OF THE STOCK WARRANTS. FURTHER, PLAINTIFF ALLEGES NO FACTS SHOWING THAT ANY OF THE DEFENDANTS HAD KNOWLEDGE THAT CMGI ASSIGNED THE PROMISSORY NOTE AND NON-DILUTABLE STOCK WARRANTS TO PLAINTIFF. B) TRANSACTION AGREEMENT AND OTHER SECURITY DOCUMENTS (57):

AGAIN, EVEN IF THE COURT ASSUMES THAT THE EQUILIBRIUM INDIVIDUALS KNEW OF THESE AGREEMENTS, PLAINTIFF FAILS TO SHOW THAT SCENE7 AND THE INDIVIDUALS ASSOCIATED WITH IT HAD KNOWLEDGE OF THESE AGREEMENTS OR THAT ANY OF THE DEFENDANTS HAD KNOWLEDGE THAT THESE AGREEMENTS WERE ASSIGNED BY CMGI TO PLAINTIFF. ADDITIONALLY, THERE ARE NO FACTS SHOWING HOW DEFENDANTS DISRUPTED THESE CONTRACTS. FINALLY, THERE ARE NO FACTS SHOWING HOW PLAINTIFF WAS DAMAGED AS A RESULT OF THESE BREACHES.

C) EMPLOYEE AGREEMENTS (58): THERE ARE NO FACTS SHOWING THAT SCENE7 OR THE INDIVIDUALS ASSOCIATED WITH IT HAD KNOWLEDGE OF THESE AGREEMENTS. AS TO THE INDIVIDUALS ASSOCIATED WITH EQUILIBRIUM, IT IS NOT CLEAR WHETHER PLAINTIFF IS REFERRING TO THEIR CONTRACTS WITH EQUILIBRIUM OR THE CONTRACTS OF OTHER UNIDENTIFIED EMPLOYEES WHO WENT TO WORK FOR SCENE7. IN EITHER EVENT, THE CAUSE OF ACTION IS IMPROPER."...(A) PARTY TO A CONTRACT OWES NO TORT DUTY TO REFRAIN FROM INTERFERENCE WITH ITS PERFORMANCE..." (APPLIED EQUIPMENT CORP. V. LITTON SAUDI ARABIA, LTD. (1994) 7CAL. 4TH 503, 514.)"...(I)T IS WELL ESTABLISHED THAT CORPORATE AGENTS AND EMPLOYEES ACTING FOR AND ON BEHALF OF A CORPORATION CANNOT BE HELD LIABLE FOR INDUCING A BREATH OF THE CORPORATION'S CONTRACT.'..." (REYNOLDS V. BEMENT (2005) 36 CAL. 4TH 1075, 1087.) AS TO ALL OF THE DEFENDANTS, PLAINTIFF HAS NOT ALLEGED THAT DEFENDANTS INTENTIONALLY INTERFERED WITH THESE CONTRACTS AND THERE ARE NO FACTS SHOWING HOW EQUILIBRIUM WAS INJURED BY THE INTERFERENCE.

D) CUSTOMER MAINTENANCE AGREEMENTS (59): THERE ARE NO FACTS SHOWING THAT ANY OF THE DEFENDANTS HAD KNOWLEDGE OF THESE AGREEMENTS. PLAINTIFF DOES NOT ALLEGE THAT DEFENDANTS INTENTED TO INTERFERE WITH THE CONTRACTS. PLAINITFF HAS NOT CLEARLY ALLEGED HOW EQUILIBRIUM WAS DAMAGED BY THE INTERFERENCE. BECAUSE PLAINTIFF HAS IDENTIFIED THE NATURE OF THE CONTRACTS, IT DOES NOT NEED TO IDENTIFY EVERY CUSTOMER. (SEE ACCUIMAGE DIAGNOSTICS CORP. V. TERARECON, INC. (N.D.CAL. 2003) 260 F. SUPP. 2D 941,956.)

DEFENDANTS' DEMURRER TO THE FIFTH CAUSE OF ACTION FOR BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING IS SUSTAINED AS TO THE INDIVIDUAL DEFENDANTS AND OVERRULED AS TO SCENE7. AS TO THE INDIVIDUALS, THOSE WHO ARE NOT PARTIES TO THE AGREEMENT ARE NOT SUBJECT TO AN IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING. (GRUENBERG V. AETNA INS. CO. (1973) 9 CAL. 3D 566, 576.) AS TO SCENE7, DEFENDANTS DO NOT ARGUE THAT PLAINTIFF HAS NOT STATED A CAUSE OF ACTION BASED UPON THE SCENE7-EQUILIBRIUM LICENSE AGREEMENT AND EXCLUSIVITY AGREEMENT. "ORDINARILY, A GENERAL DEMURRER DOES NOT LIE AS TO A PORTION OF A CAUSE OF ACTION, AND IF ANY PART OF A CAUSE OF ACTION IS PROPERLY PLEADED, THE DEMURRER WILL BE OVERRULED." (FIRE INS. EXCHANGE V. SUPERIOR COURT (2004) 116 CAL. APP. 4TH 446, 452.)

NO OPPOSITION AND GOOD CAUSE APPEARING THEREFOR, DEFENDANTS' DEMURRER TO THE SIXTH CAUSE OF ACTION FOR CONVERSION-MISAPPROPRIATION OF TRADE SECRETS IS SUSTAINED.

DEFENDANTS' DEMURRER TO THE SEVENTH CAUSE OF ACTION FOR MISAPPROPRIATION OF CORPORATE OPPORTUNITIES IS SUSTAINED. PLAINTIFF ARGUES THAT EQUILIBRIUM OWES PLAINTIFF A FIDUCIARY DUTY (SEE OPPOSING BRIEF AT 9:1-16), BUT THE CAUSE OF ACTION IS BASED UPON WRONGS COMMITTED AGAINST EQUILIBRIUM.

DEFENDANTS' DEMURRER TO THE EIGHTH CAUSE OF ACTION FOR CONSPIRACY TO MISAPPROPRIATE CORPORATE OPPORTUNITIES IS SUSTAINED. ALTHOUGH THE COMPLAINT CONTAINS A GENERIC BOILERPLATE AGENCY ALLEGATION, THE FACTS DO NOT SUPPORT A CONCLUSION THAT SCENE7, MACK AND NOEL WERE ACTING AS AGENTS OF MONKS WHEN MONKS BREACHED HIS FIDUCIARY DUTY TO EQUILIBRIUM, (SEE EVEREST INVESTORS 8 V. WHITEHALL REAL ESTATE LIMITED PARTNERSHIP XI (2002) 100 CAL. APP.4TH 1102, 1104.) EVEN IF THE COURT WERE TO ACCEPT THE GENERAL AGENCY ALLEGATION, PLAINTIFF HAS ALLEGED NO FACTS SHOWING THAT SCENE7, MACK AND NOEL WERE ACTING FOR THEIR OWN BENEFIT IN ORDER TO AVOID THE AGENT'S IMMUNITY RULE. (IBID.)

DEFENDANTS' DEMURRER TO THE NINTH CAUSE OF ACTION FOR INTERFERENCE WITH PROSPECTIVE BUSINESS ADVANTAGE IS SUSTAINED. PLAINTIFF ALLEGES NO FACTS SHOWING THAT ANY RELATIONSHIPS WERE DISRUPTED. DEFENDANTS' REMAINING ARGUMENTS HAVE NO MERIT. AMID V. HAWTHORNE COMMUNITY MEDICAL GROUP, INC. (1989) 212 CAL. APP.3D 1383 DOES NOT STAND FOR THE PROPOSITION THAT PLAINTIFF IS REQUIRED TO IDENTIFY EVERY CUSTOMER. THE FACTS SHOW THAT SCENE7, MACK AND NOEL INTENDED TO INTERFERE WITH THE RELATIONSHIP BETWEEN EQUILIBRIUM AND ITS CUSTOMERS. (SEE 31)

DEFENDANTS' DEMURRER TO THE ELEVENTH CAUSE OF ACTION FOR VIOLATION OF STATUTORY DUTY/NEGLIGENCE PER SE/PRIMA FACIE TORT IS OVERRULED. DEFENDANTS AGREE PLAINTIFF HAS PROPERLY ALLEGED NEGLIGENCE PERE SE. "IF THE COMPLAINT STATES A CAUSE OF ACTION UNDER ANY THEORY, REGARDLESS OF THE TITLE UNDER WHICH THE FACTUAL BASIS FOR RELIEF IS STATED, THAT ASPECT OF THE COMPLAINT IS GOOD AGAINST A DEMURRER..." (QUELIMANE CO. V. STEWART TITLE GUARANTY CO. (1998) 19 CAL 4TH 26, 38.)

DEFENDANTS' DEMURRER TO THE TWELFTH CAUSE OF ACTION FOR LIBEL IS OVERRULED. PLAINITFF ALLEGES THAT "DEFENDANTS" PUBLISHED THE PRESS RELEASE. THE FACT THAT PARAGRAPH 26 IDENTIFIES THE PRESS RELEASE AS "SCENE7('S)...PRESS RELEASE" DOES NOT MEAN THAT IT WAS NOT PUBLISHED BY "DEFENDANTS," THE CAUSE OF ACTION IS NOT UNCERTAIN SINCE DEFENDANTS CAN EASILY ADMIT OR DENY THE ALLEGATIONS, (WEIL AND BROWN, CAL. PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL (TRG 2005) 7:85.)

DEFENDANTS' DEMURRER TO THE THIRTEENTH CAUSE OF ACTION FOR CONSPIRACY IS OVERRULED. ALTHOUGH IT IS IN CETAIN RESPECTS DUPLICATIVE OF OTHER CAUSES OF ACTION OR IS RENDERED MERITLESS BY VIRTUE OF THE COURT'S ORDER SUSTAINING DEMURRERS TO THE UNDERLYING CAUSES OF ACTION, THE CAUSE OF ACTION IS NOT DUPLICATIVE TO THE EXTENT IT ALLEGES CONSPIRACY TO CONVERT. AS NOTED EARLIER, "(O)RDINARILY, A GENERAL DEMURRER DOES NOT LIE AS TO A PORTION OF A CAUSE OF ACTION, AND IF ANY PART OF A CAUSE OF ACTION IS PROPERLY PLEADED, THE DEMURRER WILL BE OVERRULED." (FIRE INS. EXCHANGE, SUPRA, 116 CAL. APP.4TH AT 452.)

THE MATTER IS NOT HEARD OR REPORTED. THE TENTATIVE RULING IS FINAL.

ENTERED BY: T. RAMIREZ

HEARING CONTINUED TO: 12/01/2005 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 06 FROM DATE: 10/12/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: OSCH FROM DEPARTMENT: 06

10/21/2005 STIPULATION AND ORDER TO EXTEND TIME TO FILE THIRD AMENDED COMPLAINT HON. VERNON F. SMITH

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN		
BARGER-GREAT SOUTH VENTURES, LLC.	DATE FILED:	9/8/2004
PLAINTIFF(s)	CASE TYPE:	COMPLAINT
VS.	CASE SUBTYPE:	FRAUD
EQUILIBRIUM TECHNOLOGIES, INC., ET AL.	DATE OF LAST ACTIVITY:	5/7/2007
DEFENDANT(s)	DATE/TIME RUN:	06/07/2022 04:02 PM
REGISTER OF ACTIONS	CASE NUMBER:	CIV 043997

11/04/2005	AMENDED COMPLAINT FILED (3RD) BY ATTY., JOSEPH EHRLICH
12/01/2005	MINUTE ORDER POSTED
	JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER ELAINE NINKOVICH , DEP CLK LOUISE MORRIS
	ATTORNEY JOHN EHRLICH APPEARED FOR PLAINTIFF
	ATTORNEY DAVID BURETT APPEARED FOR DEFENDANTS
	A THIRD AMENDED COMPLAINT HAS BEEN FILED. THERE IS A POSSIBLE DEMURRER HEARING
	HEARING CONTINUED TO: 12/22/2005 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 06 FROM DATE: 12/01/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: OSCH FROM DEPARTMENT: 06
	HEARING CONTINUED TO: 12/27/2006 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 FROM DATE: 12/01/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06
	ENTERED BY: LMM
	APPEARANCE MOVED TO: 02/27/2006 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 MOVE REASON: CLERICAL ERROR FROM DATE: 12/27/2006 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06
12/06/2005	PARTIAL DISMISSAL AS TO: DEFT, DAVID MONKS, WITH PREJUDICE
12/06/2005	PARTIAL DISMISSAL AS TO: DEFT, EQUILIBRIUM TECHNOLOGIES, INC., A CA CORPORATION, WITH PREJUDICE
12/08/2005	ANSWER DEFT, SCENE7 INC., A CALIFORINA CORPORATION (TO 3RD AMENDED COMPLAINT)
12/08/2005	ANSWER DEFT, DOUGLAS MACK (TO 3RD AMENDED COMPLAINT)
12/08/2005	ANSWER DEFT, CHRIS SAMANIEGO (TO 3RD AMENDED COMPLAINT)
12/08/2005	ANSWER DEFT, TIM BIGONESS (TO 3RD AMENDED COMPLAINT)
12/08/2005	ANSWER DEFT, KIRK ROULSTEN (TO 3RD AMENDED COMPLAINT)
12/08/2005	ANSWER DEFT, PETER NOEL (TO 3RD AMENDED COMPLAINT)
12/08/2005	APPEARANCE DROPPED FOR 12/22/2005 AT: 09:00 AM FOR APPEARANCE TYPE: OSCH IN DEPARTMENT: 06 DROP REASON: ANSWERS FILED
02/10/2006	SUBSTITUTION OF ATTORNEY FILED, AS TO: PLTF., BARGER-GREAT SOUTH VENTURES, LLC; FORMER ATTY. JOSEPH EHRLICH; PRESENT ATTY. KELLY A. WOODRUFF
02/27/2006	MINUTE ORDER POSTED
	JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER ELAINE NINKOVICH , DEP CLK LOUISE MORRIS
	ATTORNEY KELLY WOODRUFF APPEARED FOR PLAINTIFF
	ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANTS
	COUNSEL REPORT THAT MEDIATION OCCURRED. PLAINTIFF MIGHT BE FILING ANOTHER AMENDED COMPLAINT SUBSTITUTING A NEW PLAINTIFF. MATTER IS CONTINUE TO FILE AN AMENDED COMPLAINT AND COMPLETE ANY MOTION HEARING BY 4/27/06.
	HEARING CONTINUED TO: 04/27/2006 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 FROM DATE: 02/27/2006 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06
	ENTERED BY: LMM
03/15/2006	AUTOMATED MEDIA PROCESSING SOLUTIONS, INC., A DELAWARE CORPORATION, DBA EQUILIBRIUM, DBA SUCCESSOR IN INTEREST TO BARGER-GREAT SOUTH VENTURES LLC
03/15/2006	AMENDED COMPLAINT FILED (4TH) BY ATTY. KELLY A. WOODRUFF ON BEHALF OF PLAINTIFF. (ADDING PLAINTIFF AND DELETING PLAINTIFF)
03/15/2006	STIPULATION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT AND ORDER HON. VERNON F. SMITH
04/10/2006	STIPULATION PROTECTIVE ORDER REGARDING CONFIDENTIAL INFORMATION HON. VERNON F. SMITH

Disclaimer: This Register of Actions is not an official court record. For an official and/or certified record, visitors must obtain it from the Court.

04/17/2006	DEFTS. SCENE 7, INC., DOUGLAS MACK, CHRIS SAMANIEGO, TIM BIGONESS, KIRK ROULSTEN, AND PETER NOEL ANSWER PLTFS. (4TH) AMENDED COMPLAINT.
04/17/2006	CROSS-COMPLAINT FILED (1) BY ATTY. JONMI N. KOO FOR CRCO SCENE 7, INC., A CALIFORNIA CORPORATION (AGAINST AUTOMATED MEDIA PROCESSING SOLUTIONS, INC., A DELAWARE CORPORATION DBA EQUILIBRIUM; SEAN BARGER; RON WOOD; EQUILIBRIUM TECHNOLOGIES, INC., A DELAWARE CORPORATION)
04/17/2006	SUMMONS ISSUED FOR (1) CROSS-COMPLAINT
04/18/2006	MINUTE ORDER POSTED
	JUDGE/PROTEM/REFEREE VERNON F. SMITH , REPORTER ELAINE NINKOVICH , DEP CLK TERESA RAMIREZ
	ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANT
	EX PARTE MINUTE ORDER
	MATTER COMES BEFORE THE COURT ON DEFENDANT'S EXPARTE APPLICATION REGARDING LETTERS ROGATORY FOR THE DEPOSITION OF CMGI INC. IN THE COMMONWEALTH OF MASSACHUSETTS;
	MOTION(S) HEARD AND ARGUED.
	MOTION GRANTED
	COURT SIGNS THE FOLLOWING ORDERS IN OPEN COURT. GRANTING SCENE 7, INC'S EXPARTE APPLICATION FOR ISSUANCE OF COMMISSION AND LETTERS ROGATORY FOR OUT-OF-STATE DEPOSITION; LETTERS ROGATORY FOR THE DEPOSITION OF CMGI INC. IN THE COMMONWEALTH OF MASSACHUSETTS AND COMMISSION FOR THE DEPOSITION OF CMGI, INC IN THE COMMONWEALTH OF MASSACHUSETTS.
	ENTERED BY: T. RAMIREZ
04/18/2006	IT IS ORDERED: GRANTING SCENE 7, INC'S EX PARTE APPLICATION FOR ISSUANCE OF COMMISSION AND LETTERS ROGATORY FOR OUT-OF-STATE DEPOSITION HON. VERNON F. SMITH
04/18/2006	IT IS ORDERED: LETTERS ROGATORY FOR THE DEPOSITION OF CMGI, INC. IN THE COMMONWEALTH OF MASSACHUSETTS HON. VERNON F. SMITH
04/18/2006	IT IS ORDERED: COMMISSION FOR THE DEPOSITION OF CMGI, INC. IN THE COMMONWEALTH OF MASSACHUSETTS HON. VERNON F. SMITH
04/27/2006	MINUTE ORDER POSTED
	JUDGE/PROTEM/REFEREE VERNON F. SMITH , REPORTER ELAINE NINKOVICH , DEP CLK TERESA RAMIREZ
	ATTORNEY RUTH ANN CASTRO APPEARED FOR PLAINTIFF & CRDF'S
	ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANT'S & CRCO
	COUNSEL STATES THAT CROSS-DEFENDANT'S TO BE SERVED.
	CASE MANAGEMENT CONT. TO 6/28/06 @ 9:00AM.
	HEARING CONTINUED TO: 06/28/2006 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 FROM DATE: 04/27/2006 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06
	ENTERED BY: T. RAMIREZ
05/26/2006	ANSWER CRDF, AUTOMATED MEDIA PROCESSING SOLUTIONS, INC. TO (1) CROSS-COMPLAINT
05/26/2006	ANSWER CRDF, SEAN BARGER TO (1) CROSS-COMPLAINT
05/26/2006	ANSWER CRDF, RON WOOD TO (1) CROSS-COMPLAINT
06/14/2006	MINUTE ORDER POSTED
	ATTORNEY KELLY WOODRUFF APPEARED FOR PLAINTIFFS & CROSS-DEFENDANTS
	ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANTS & CROSS-COMPLAINENTS
	EX PARTE MINUTE ORDER APPLICATION TO SHORTEN TIME TO HEAR CROSS-DEFENDANTS' MOTION FOR SANCTIONS

Disclaimer: This Register of Actions is not an official court record. For an official and/or certified record, visitors must obtain it from the Court.

AFTER HEARING FROM BOTH SIDES AND READING THE PLEADINGS, THE COURT OFFERS TO HEAR THE MOTION ON JULY 12TH. COUNSEL WOODRUFF IS NOT AVAILABLE ON THAT DAY. COURT DENIES APPLICATION TO SHORTEN TIME SINCE THE COURT ALREADY OFFERED 7/12/06. THE COURT COULD HEAR IT ON JULY 19, 2006 AT 9AM IN COURTROOM F. COUNSEL SHOULD RESERVE THAT DATE AT THE LAW/MOTION DESK.

ENTERED BY: LMM

06/15/2006 HEARING CONFIRMED FOR: 07/19/2006 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06

06/21/2006 FILING FEE PROCESSED: CRDF, SEAN BARGER - 320.00

06/21/2006 FILING FEE PROCESSED: CRDF, RON WOOD - 320.00

06/28/2006 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER ELAINE NINKOVICH , DEP CLK LOUISE MORRIS

COURT CALL APPEARANCE BY RUTH CASTRO FOR PLAINTIFFS AND CROSS-DEFENDANTS

ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANTS

COUNSEL REPORT THAT SECOND ROUND OF MEDIATION HAS NOT OCCURRED.

THERE IS A MOTION HEARING SCHEDULED FOR 7/19/06. THIS HEARING IS CONTINUED TO SAME DATE AND TIME AS MOTION HEARING.

HEARING CONTINUED TO: 07/19/2006 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 FROM DATE: 06/28/2006 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06

ENTERED BY: LMM

07/11/2006 HEARING CONFIRMED FOR: 08/09/2006 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06

07/19/2006 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER ELAINE NINKOVICH , DEP CLK LOUISE MORRIS

ATTORNEY RODERICK THOMPSON APPEARED FOR PLAINTIFF

ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANT

THE COURT WILL NOT SET TRIAL DATE BECAUSE OF THE PENDING CROSS-COMPLAINT ISSUES. MATTER IS CONTINUED TO 9/7/06 TO SET TRIAL DATE

HEARING CONTINUED TO: 09/07/2006 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 06 FROM DATE: 07/19/2006 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CMGT FROM DEPARTMENT: 06

ENTERED BY: LMM

07/19/2006 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER ELAINE NINKOVICH , DEP CLK LOUISE MORRIS

ATTORNEY RODERICK THOMPSON APPEARED FOR PLAINTIFF

ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANTS

THE TENTATIVE RULING IS HEARD, ARGUED AND TAKEN UNDER SUBMISSION FOR THE COURT TO READ THE "HART" CASE AND REVIEW THE DECLARATION. THE COURT'S FINAL RULING WILL BE AVAILABLE ON JULY 26, 2006 AT 9AM IN DEPT. F. NO FURTHER ARGUMENT WILL BE PERMITTED.

APPEARANCE ADDED ON FOR: 07/26/2006 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06

ENTERED BY: LMM

CASE UNDER SUBMISSION

07/26/2006 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON F. SMITH , REPORTER NOT REPORTED , DEP CLK TERESA RAMIREZ

NO APPEARANCE BY OR FOR THE PARTIES

THE COURT MAKES THE FOLLOWING TENTATIVE RULING AS FOLLOWS:

PLAINTIFF AND CROSS-DEFENDANTS' MOTION FOR SANCTIONS UNDER CODE CIV. PROC. 1287, AGAINST CROSS-COMPLAINANT ON THE GROUND CROSS-COMPLAINANT FILED THE ORIGINAL CROSS-COMPLAINT KNOWING THE ALTER EGO ALLEGATIONS CONTAINED THERE HAD NO FACTUAL OR LEGAL BASIS, IS DENIED.

THE SANCTIONS MOTION IS PROCEDURALLY DEFICIENT. THE MOTION SERVED ON CROSS-COMPLAINT DID NOT CONTAIN ALL THE SAME DOCUMENTS THAT WERE FILED WITH THIS COURT. (CODE CIV. PROC. 128.7 (C)(1).) THE NOTICE OF MOTION SERVED ON CROSS-COMPLAINANT MUST BE IDENTICAL TO THE NOTICE OF MOTION FILED WITH THE COURT. (SEE HART V. AVETOOM (2002) 95 CAL. APP. 4TH 414.) CROSS-DEFENDANTS SERVED A DRAFT MEMORANDUM OF POINTS AND AUTHORITIES. THEY DID NOT SERVE A NOTICE OF MOTION PURSUANT TO CODE CIV. PROC. 1010, AS STATUTORILY REQUIRED, NOR DID THEY SERVE THE DECLARATION OF KELLY WOODRUFF, WHICH WAS ALSO FILED IN SUPPORT OF THEIR MOTION.

ON THE FACTS OF THIS MATTER, CROSS-COMPLAINANT IS AWARDED REASONABLE ATTORNEY FEES IN THE AMOUNT OF $1145.00 AS SANCTIONS AGAINST CROSS-DEFENDANTS AND THEIR COUNSEL (CODE CIV. PROC. 128.7(C).).

CROSS-COMPLAINT'S MOTION FOR LEAVE TO FILE A FIRST AMENDED CROSS-COMPLAINT, IS GRANTED. (CODE CIV. PROC. 473(A)(1), 576.) WHERE THE MOTION IS TIMELY MADE AND THE AMENDMENT WILL NOT PREJUDICE THE OPPOSING PARTY, IT IS ERROR TO REFUSE PERMISSION TO AMEND. (BERMAN V. BROMBERG (1997) 56 CAL. APP. 4TH 936, 945 ("THUS UNDER THE STATE'S LIBERAL RULES OF PLEADING, "THE RIGHT OF A PARTY TO AMEND TO CORRECT INADVERTENT MISSTATEMENTS OF FACTS OR ERRONEOUS ALLEGATIONS OF TERMS CANNOT BE DENIED." (CITATION.)")

THERE IS NO CONTENTION OF PREJUDICE TO CROSS-DEFENDANT. IN FACT, CROSS-DEFENDANTS' COUNSEL OFFERED TO STIPULATE THAT IF THIS COURT DENIED IT'S SANCTION MOTION, SCENE 7'S PROPOSED AMENDED COMPLAINT MAY BE FILED.

ALSO, CROSS-DEFENDANTS HAVE FAILED TO SUSTAIN THEIR BURDEN TO SHOW THE AMENDED PLEADING FAILS TO STATE A CAUSE OF ACTION FOR ALTER EGO LIABILITY. (SEE CALIFORNIA CAS GEN. INS. CO. V. SUPERIOR COURT (1985) 173 CAL.APP.3D 274, 280-281, DIS. ON OTHER GROUNDS, DRANSCO V. AMERICAN EMPIRE SURPLUS LINES INS. CO. (2000) 23 CAL. 4TH 390, 407.) THEIR OPPOSITION CONTAINS NO CITATION TO AUTHORITY OR LEGAL DISCUSSION SHOWING THE PROPOSED AMENDMENTS FAIL TO SUPPORT A CLAIM OF ALTER EGO LIABILITY.

AFTER REVIEW, THE COURT ADOPTS ITS TENTATIVE AS FINAL. (SEE HART V. AVETOOM 95 CAL. APP. 4TH 410, 414.)

ENTERED BY: T. RAMIREZ

07/26/2006 CASE NO LONGER UNDER SUBMISSION

08/02/2006 AMENDED COMPLAINT FILED (1ST) CROSS-COMPLAINT BY ATTY. DAVID R. ONGARO FOR CRCO., SCENE1, INC., A CALIFORNIA CORP.

08/04/2006 APPEARANCE DROPPED FOR 08/09/2006 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06 DROP REASON: R/O EXPIRES 8/4/07. PER ATTY BURTT'S OFC, & AGREEMENT

08/09/2006 CRDF.'S AUTOMATED MEDIA PROCESSING SOLUTIONS, INC., SEAN BARGER, AND RON WOOD ANSWER PLTF.'S (1ST) AMENDED COMPLAINT

08/17/2006 DISMISSAL FILED DISMISSING FOLLOWING ACTIONS WITHOUT PREJUDICE FROM THE FOURTH AMENDED COMPLAINT: 2ND CAUSE OF ACTION (CONSPIRACY TO DEFRAUD); 6TH CAUSE OF ACTION (BREACH OF THE COVENANT OF GOOD FAITHA& FAIR DEALING) 9TH CAUSE OF ACTION (CONSPIRACY TO MISAPROPRIATE CORPORATE OPPORTUNITIES) 12TH CAUSE OF ACTION (VIOLATION OF STATUTORY DUTY/NEGLIGENCE PER SE/PRIMA) 13TH CAUSE OF ACTION (LIBEL)

09/07/2006 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON F. SMITH , REPORTER ELAINE NINKOVICH , DEP CLK TERESA RAMIREZ

ATTORNEY ROBERT THOMPSON APPEARED FOR PLAINTIFF

ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANT'S & CRCO'S

COURT NOTES: SOME PARTIES HAVE BEEN RESOLVED/DISMISSED

JURY TRIAL DATE SET FOR 3/27/07 @ 9:00AM. ESTIMATE 5-7 DAYS, ISSUE CONFERENCE IS SAME DATE AS TRIAL AND SETTLEMENT CONFERENCE DATE SET FOR 03/05/07 @ 1:30PM.

Disclaimer: This Register of Actions is not an official court record. For an official and/or certified record, visitors must obtain it from the Court.

HEARING CONFIRMED FOR: 03/05/2007 AT: 01:30 PM FOR APPEARANCE TYPE: STLC IN DEPARTMENT: 06

HEARING CONFIRMED FOR: 03/27/2007 AT: 09:00 AM FOR APPEARANCE TYPE: TRCL IN DEPARTMENT: 06

ENTERED BY: T. RAMIREZ

10/20/2006 HEARING CONFIRMED FOR: 11/08/2006 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06

11/08/2006 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER ELAINE NINKOVICH , DEP CLK LOUISE MORRIS

ATTORNEY KELLY WOODRUFF APPEARED FOR PLAINTIFF

ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANTS

TENTATIVE RULING IS HEARD, ARGUED AND ADOPTED.

SUMMARY OF RULING: DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS AS TO THE 4TH AMENDED COMPLAINT IS DENIED.

ENTERED BY: LMM

12/04/2006 IT IS ORDERED: DENYING DEFENDANT SCENE7, INC.'S MOTION FOR JUDGMENT ON THE PLEADINGS. HON. VERNON F. SMITH

12/08/2006 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER ELAINE NINKOVICH , DEP CLK LOUISE MORRIS

ATTORNEY RODERICK THOMPSON APPEARED FOR CROSS-DEFENDANTS

NO APPEARANCE BY OR FOR THE PLAINTIFF AND OTHER DEFENDANTS

EX PARTE MINUTE ORDER TO SET MOTION FOR SUMMARY ADJUDICATION

COUNSEL THOMPSON INDICATES THAT THERE IS NO OPPOSITION TO THIS REQUEST. THE COURT GRANTS THE MOTION AND RESERVES THE DATE OF 2/28/07 FOR HEARING.

ENTERED BY: LMM

12/11/2006 HEARING CONFIRMED FOR: 02/28/2007 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06

12/18/2006 CASE REASSIGNED TO JUDGE HON. TERRENCE R. BOREN

12/18/2006 APPEARANCE MOVED TO: 02/28/2007 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 02 MOVE REASON: JUDICIAL REASSIGNMENT FROM DATE: 02/28/2007 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: LMCV FROM DEPARTMENT: 06

12/18/2006 APPEARANCE MOVED TO: 03/05/2007 AT: 01:30 PM FOR APPEARANCE TYPE: STLC IN DEPARTMENT: 02 MOVE REASON: JUDICIAL REASSIGNMENT FROM DATE: 03/05/2007 FROM TIME: 01:30 PM FROM APPEARANCE TYPE: STLC FROM DEPARTMENT: 06

12/18/2006 APPEARANCE MOVED TO: 03/27/2007 AT: 09:00 AM FOR APPEARANCE TYPE: TRCL IN DEPARTMENT: 02 MOVE REASON: JUDICIAL REASSIGNMENT FROM DATE: 03/27/2007 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRCL FROM DEPARTMENT: 06

12/19/2006 NOTICE OF CASE REASSIGNMENT AND NOTICE OF HEARING MAILED TO THE PARTIES

12/21/2006 MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE VERNON SMITH , REPORTER BRANDY CARRIER , DEP CLK LOUISE MORRIS

EX PARTE MINUTE ORDER PLAINTIFF'S REQUEST TO PLACE DOCUMENTS UNDER SEAL

ATTORNEY GABRIELA RUIZ APPEARED FOR PLAINTIFF

AFTER READING THE STIPULATION TO PLACE DOCUMENTS UNDER SEAL, THE COURT DOES NOT SIGN THE STIPULATION. THE COURT INDICATES THAT A MOTION HEARING ON THIS ISSUE NEEDS TO BE SET.. COUNSEL INDICATES THAT A MOTION HEARING RE; MOTION TO COMPEL HAS ALREADY BEEN SET. . THE MOTION FOR SEALING WILL BE SET AT THE SAME DATE AND TIME. NO ORDER IS SIGNED.

ENTERED BY: LMM

Disclaimer: This Register of Actions is not an official court record. For an official and/or certified record, visitors must obtain it from the Court.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN		
BARGER-GREAT SOUTH VENTURES, LLC.	DATE FILED:	9/8/2004
PLAINTIFF(s)	CASE TYPE:	COMPLAINT
VS.	CASE SUBTYPE:	FRAUD
EQUILIBRIUM TECHNOLOGIES, INC., ET AL.	DATE OF LAST ACTIVITY:	5/7/2007
DEFENDANT(s)	DATE/TIME RUN:	06/07/2022 04:02 PM
REGISTER OF ACTIONS	CASE NUMBER:	CIV 043997

12/26/2006	HEARING CONFIRMED FOR: 01/17/2007 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06
12/26/2006	APPEARANCE DROPPED FOR 01/17/2007 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 06 DROP REASON: PER MOVING PARTY KATHY SMALL AND AGREEMENT
01/05/2007	HEARING CONFIRMED FOR: 01/31/2007 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 02
01/23/2007	HEARING CONFIRMED FOR: 03/07/2007 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 02
01/31/2007	MINUTE ORDER POSTED
	JUDGE/PROTEM/REFEREE TERRENCE BOREN , REPORTER SUSAN KLOTZ , DEP CLK LOUISE MORRIS
	ATTORNEY KELLY WOODRUFF APPEARED FOR PLAINTIFF
	ATTORNEY DAVID ONGARO APPEARED FOR SCENE 7
	THE TENTATIVE RULING IS HEARD, ARGUED AND ADOPTED.
	SUMMARY OF RULING: PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS IS DENIED. PLAINTIFF HAS NOT SHOWN THAT THE "CRIME-FRAUD" EXCEPTION TO THE ATTORNEY-CLIENT PRIVILEGE APPLIES. PLAINTIFF CITES NO AUTHORITY TO THE EFFECT THAT THE CONTRADICTORY EVIDENCE NEED BE CONCLUSIVE. NO MONETARY SANCTIONS ARE AWARDED.
	ENTERED BY: LMM
02/13/2007	IT IS ORDERED: ORDER GRANTING SCENE7, INC.'S EX PARTE APPLICATION TO SET MOTION HEARING DATE PRIOR TO NON=EXPERT DISCOVERY MOTION DEADLINE, JUDGE TERRENCE R. BOREN
02/13/2007	IT IS ORDERED: ORDER GRANTING SCENE7, INC.'S MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL; JUDGE TERRENCE R. BOREN
02/13/2007	MINUTE ORDER POSTED
	JUDGE/PROTEM/REFEREE TERRENCE BOREN , REPORTER SUSAN KLOTZ , DEP CLK LOUISE MORRIS
	EX PARTE MINUTE ORDER 1) DEFENDANTS' REQUEST FOR ALTERNATE BRIEFING SCHEDULE 2)DEFENDANT'S REQUEST TO SET A MOTION TO COMPEL GLOSTER'S DEPOSITION 3)DEFENDANTS' REQUEST TO FILE DOCUMENTS UNDER SEAL
	ATTORNEY DAVID ONGARO APPEARED FOR DEFENDANTS
	NO APPEARANCE BY OR FOR THE PLAINTIFF
	AFTER READING THE EXPARTE PAPERS AND SPEAKING WITH COUNSEL, THE COURT SIGNS ORDER TO ALTERNATE BRIEFING SCHEDULED. THE COURT SETS HEARING ON 3/14/07 AT 9AM IN DEPT.B FOR DEFENDANT'S MOTION TO COMPEL GLOSTER'S DEPOSITION THE COURT SIGNS ORDER TO FILE DOCUMENTS UNDER SEAL.
	ENTERED BY: LMM
02/14/2007	HEARING CONFIRMED FOR: 03/14/2007 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 02
02/27/2007	APPEARANCE DROPPED FOR 03/07/2007 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 02 DROP REASON: NOTICE OF SETTLEMENT FILED 2/22/07 MOTIONS MOVED TO 3/14/07 BASED ON CT.ORDER OF 2/27/07
02/28/2007	MINUTE ORDER POSTED
	JUDGE/PROTEM/REFEREE TERRENCE BOREN , REPORTER NOT REPORTED , DEP CLK LOUISE MORRIS
	NO APPEARANCE BY OR FOR THE PARTIES
	BASED ON AN EXPARTE HEARING YESTERDAY, THIS HEARING IS CONTINUED TO 3/14/07 AT 9AM IN DEPT.B.
	ENTERED BY: LMM
03/05/2007	APPEARANCE DROPPED FOR 03/27/2007 AT: 09:00 AM FOR APPEARANCE TYPE: TRCL IN DEPARTMENT: 02 DROP REASON: CASE SETTLED PER BURTT'S LETTER OF 3/5/07
03/05/2007	APPEARANCE DROPPED FOR 03/14/2007 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 02 DROP REASON: CASE SETTLED PER BURTT'S LETTER OF 3/5/07
03/05/2007	APPEARANCE DROPPED FOR 03/05/2007 AT: 01:30 PM FOR APPEARANCE TYPE: STLC IN DEPARTMENT: 02 DROP REASON: CASE SETTLED PER FAX ON 3/5/07 FROM DAVID BURTT

Disclaimer: This Register of Actions is not an official court record. For an official and/or certified record, visitors must obtain it from the Court.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN		
BARGER-GREAT SOUTH VENTURES, LLC.	DATE FILED:	9/8/2004
PLAINTIFF(s)	CASE TYPE:	COMPLAINT
VS.	CASE SUBTYPE:	FRAUD
EQUILIBRIUM TECHNOLOGIES, INC., ET AL.	DATE OF LAST ACTIVITY:	5/7/2007
DEFENDANT(s)	DATE/TIME RUN:	06/07/2022 04:02 PM
REGISTER OF ACTIONS	CASE NUMBER:	CIV 043997

03/09/2007	HEARING CONFIRMED FOR: 05/23/2007 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 02
05/04/2007	PARTIAL DISMISSAL AS TO: CRCO, SCENE 7, INC., A CALIFORNIA CORPORATION (1); WITH PREJUDICE
05/04/2007	PROOF OF SERVICE FILING REMOVED , AS TO: CRCO, SCENE 7, INC., A CALIFORNIA CORPORATION (1); (CLERK ERROR)
05/04/2007	PARTIAL DISMISSAL AS TO: CRDF, AUTOMATED MEDIA PROCESSING SOLUTIONS, INC. (1); WITH PREJUDICE
05/04/2007	PARTIAL DISMISSAL AS TO: CRDF, SEAN BARGER (1); WITH PREJUDICE
05/04/2007	PARTIAL DISMISSAL AS TO: CRDF, EQUILIBRIUM TECHNOLOGIES, INC., A DELAWARE CORP. (1); WITH PREJUDICE
05/04/2007	PARTIAL DISMISSAL AS TO: CRDF, RON WOOD (1); WITH PREJUDICE
05/07/2007	CASE DISPOSED BEFORE TRIAL; DISMISSED - OTHER REASONS WITH PREJUDICE
05/07/2007	CASE DISPOSED IN ENTIRETY
05/07/2007	APPEARANCE DROPPED FOR 05/23/2007 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 02 DROP REASON: DISMISSAL FILED

Disclaimer: This Register of Actions is not an official court record. For an official and/or certified record, visitors must obtain it from the Court.