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2 [attorney info redacted]  
3 [redacted]  
4 [redacted]  
5 [redacted]  
6 [redacted]

7 Attorneys for Defendants PQRS Corporation,  
8 Tom Adams and Kenny Adams, and for self,  
9 *in pro per*

10 **The FAC contained 11 causes of action against which I wrote 23 demurrers, which are**  
11 **stated below, with the judge's rulings inserted in red. 19 demurrers were sustained**  
12 **(one of these was sustained with NO leave to amend, thereby eliminating the seventh**  
13 **cause of action for BPC § 17200). Four demurrers were overruled, but two of these**  
14 **were as to causes of action against which other demurrers were sustained. Only two**  
15 **causes of action survived intact (the tenth and eleventh), and I had advised the attorney**  
16 **that those two were the well pleaded and likely to survive our demurrers and motion to**  
17 **strike.**

18 **SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES**  
19 **CENTRAL DISTRICT**

20 JOHN SMITH,  
21 Plaintiff

22 vs.

23 PQRS CORPORATION, a California  
24 Corporation dba PQRS APPAREL;  
25 TOM ADAMS, an individual;  
26 KENNY ADAMS, an individual;  
27 PAUL ROBERTS, an individual; and  
28 DOEs 1 to 20, inclusive,

Defendants

Case Number: [redacted]  
Assigned to: [redacted]

**DEFENDANTS PQRS CORPORATION,  
TOM ADAMS, KENNY ADAMS AND PAUL  
ROBERTS'S NOTICE OF HEARING AND  
DEMURRER TO PLAINTIFF'S FIRST  
AMENDED COMPLAINT**

Filed concurrently with Request for Judicial  
Notice and Motion to Strike.

Complaint filed: [redacted]

Hearing Date: \_\_\_\_\_  
Hearing Time: \_\_\_\_\_  
Hearing Dept.: [redacted]

1  
2 TO THE COURT, ALL INTERESTED PARTIES HEREIN, AND THEIR ATTORNEYS  
3 OF RECORD:

4 **PLEASE TAKE NOTICE THAT** a hearing will be held on \_\_\_\_\_ at  
5 \_\_\_\_\_, or as soon thereafter as the matter can be heard, in Department [redacted of the  
6 above-entitled Court, located at 111 North Hill Street, Los Angeles, California 90012, on the  
7 within Demurrer of Defendants PQRS Corporation (hereinafter the “**PQRS CORP**”), Tom  
8 Adams (hereinafter “**TOM**”), Kenny Adams (hereinafter “**KENNY**”) and Paul Roberts  
9 (hereinafter “**ROBERTS**”) to the First Amended Complaint (hereinafter “**FAC**”) filed by  
10 Plaintiff John Smith. ROBERTS is the attorney for PQRS CORP, TOM, and KENNY and is  
11 also appearing in his own behalf, *in pro per*.

12 Hereinafter “**ADAMS DEFENDANTS**” refers collectively to Defendants TOM and  
13 KENNY.

14 Hereinafter “**INDIVIDUAL DEFENDANTS**” refers collectively to Defendants  
15 TOM, KENNY and ROBERTS.

16 Hereinafter “**DEMURRING DEFENDANTS**” refers collectively to Defendants  
17 PQRS CORP, TOM, KENNY and ROBERTS.

18 Hereinafter “**CCP**” refers to the Code of Civil Procedure.

19 The Demurrer will be based on this Notice of Hearing, the accompanying Demurrer  
20 and Memorandum of Points and Authorities, the Request for Judicial Notice filed  
21 concurrently herewith, the proposed order lodged herewith, and all pleadings and papers on  
22 file in the above-captioned action.

23 Dated: \_\_\_\_\_

[redacted]

24 \_\_\_\_\_  
25 By: [redacted], Attorneys for Defendants  
26 [redacted]

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## Demurrers

The definitions set forth *ante* in the Notice of Hearing are incorporated herein to avoid repetition.

DEMURRING DEFENDANTS, for themselves and for no other Defendant, hereby demur the FAC on the following grounds:

1. The entire FAC, and all the causes of action therein, are uncertain, ambiguous and unintelligible because the distinction between partnership and corporation is blurred.

CCP § 430.10(f). **Sustained with 30 days leave to amend.**

2. The FAC fails to state facts sufficient to constitute a cause of action against PQRS CORP because none of the eleven causes of action is alleged against PQRS CORP.

CCP § 430.10(e). **Sustained with 30 days leave to amend.**

3. The First Cause of Action for Conversion fails to state facts sufficient to constitute a cause of action for conversion against the ADAMS DEFENDANTS because it fails to allege Plaintiff's ownership or right to possession of any allegedly converted property. Code of Civil Procedure CCP § 430.10(e).

**Sustained with 30 days leave to amend.**

4. The First Cause of Action for Conversion is uncertain, ambiguous and unintelligible because it makes allegations that indicate diametrically inconsistent business results for PQRS CORP. CCP § 430.10(f).

**Overruled.**

5. The Second Cause of Action for Fraud and Deceit (Intentional Misrepresentation) fails to state facts sufficient to constitute a cause of action for fraud or deceit or intentional misrepresentation against the ADAMS DEFENDANTS because its allegation of damages is conclusory, is wholly unsupported by any factual allegations of damages, and contradicts other allegations in the FAC. CCP § 430.10(e).

**Sustained with 30 days leave to amend.**

6. The Second Cause of Action for Fraud and Deceit (Intentional Misrepresentation) fails to state facts sufficient to constitute a cause of action for fraud or deceit or intentional misrepresentation against the ADAMS DEFENDANTS because the alleged causal connection between the ADAMS DEFENDANTS'S alleged intentional

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2 misrepresentation and Plaintiff's alleged damages makes no reasonable sense on its face.  
3 CCP § 430.10(e). **Sustained with 30 days leave to amend.**

4 7. The Second Cause of Action for Fraud and Deceit (Intentional  
5 Misrepresentation) fails to state facts sufficient to constitute a cause of action for fraud or  
6 deceit or intentional misrepresentation against the ADAMS DEFENDANTS because  
7 Plaintiff's reliance on the alleged misrepresentation was not justifiable because the alleged  
8 contract induced thereby would have been void for lack of consideration from Plaintiff. CCP  
9 § 430.10(e). **Sustained with 30 days leave to amend.**

10 8. The Third Cause of Action for Fraud and Deceit (Fraudulent Concealment) is  
11 uncertain, ambiguous and unintelligible because FAC ¶ 46 is rambling and  
12 incomprehensible. CCP § 430.10(f). **Overruled.**

13 9. The Third Cause of Action for Fraud and Deceit (Fraudulent Concealment)  
14 fails to state facts sufficient to constitute a cause of action for fraud or deceit or fraudulent  
15 concealment against the ADAMS DEFENDANTS because its allegation of damages is  
16 conclusory, is wholly unsupported by any factual allegations of damages, and contradicts  
17 other allegations in the FAC. CCP § 430.10(e). **Sustained with 30 days leave to amend.**

18 10. The Third Cause of Action for Fraud and Deceit (Fraudulent Concealment)  
19 fails to state facts sufficient to constitute a cause of action for fraud or deceit or fraudulent  
20 concealment against the ADAMS DEFENDANTS because justifiable reliance is not alleged.  
21 CCP § 430.10(e). **Sustained with 30 days leave to amend.**

22 11. The Fourth Cause of Action for Breach of Fiduciary Duty fails to state facts  
23 sufficient to constitute a cause of action for breach of fiduciary duty against the ADAMS  
24 DEFENDANTS because its allegation of damages is conclusory, is wholly unsupported by  
25 any factual allegations of damages, and contradicts other allegations in the FAC. CCP §  
26 430.10(e). **Sustained with 30 days leave to amend.**

27 12. The Fourth Cause of Action for Breach of Fiduciary Duty fails to state facts  
28 sufficient to constitute a cause of action for breach of fiduciary duty against the ADAMS  
DEFENDANTS because proximate cause is not alleged. CCP § 430.10(e). **Sustained with  
30 days leave to amend.**

13. The Fifth Cause of Action for Breach of Contract fails to state facts sufficient  
to constitute a cause of action for breach of contract against the ADAMS DEFENDANTS

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2 because the “contract” alleged cannot exist as a matter of law. CCP § 430.10(e). **Sustained**  
3 **with 30 days leave to amend.**

4 14. The Fifth Cause of Action for Breach of Contract fails to state facts sufficient  
5 to constitute a cause of action for breach of contract against the ADAMS DEFENDANTS  
6 because its allegation of damages is conclusory, is wholly unsupported by any factual  
7 allegations of damages, and contradicts other allegations in the FAC. CCP § 430.10(e).  
8 **Sustained with 30 days leave to amend.**

9 15. The Sixth Cause of Action for Declaratory Relief (Dissolution and  
10 Liquidation of Corporation) is uncertain, ambiguous and unintelligible because it is uncertain  
11 whether it is referring to a corporation or to a partnership. CCP § 430.10(f). **Sustained with**  
12 **30 days leave to amend.**

13 16. The Sixth Cause of Action for Declaratory Relief (Dissolution and  
14 Liquidation of Corporation) fails to state facts sufficient to constitute a cause of action for  
15 declaratory relief or dissolution of corporation or liquidation of corporation against the  
16 ADAMS DEFENDANTS. CCP § 430.10(e). **Sustained with 30 days leave to amend.**

17 17. The Seventh Cause of Action for Unfair Business Practice (CA Business Code  
18 § 17200) fails to state facts sufficient to constitute a cause of action for unfair business  
19 practice against the ADAMS DEFENDANTS. CCP § 430.10(e). **Sustained with NO leave**  
20 **to amend.**

21 18. The Eighth Cause of Action for Common Counts (Money Had and Received)  
22 fails to state facts sufficient to constitute a cause of action for common counts against the  
23 ADAMS DEFENDANTS because it fails to allege any statement of indebtedness in a certain  
24 sum. CCP § 430.10(e). **Sustained with 30 days leave to amend.**

25 19. The Eighth Cause of Action for Common Counts (Money Had and Received)  
26 fails to state facts sufficient to constitute a cause of action for common counts against the  
27 ADAMS DEFENDANTS because it fails to allege nonpayment. CCP § 430.10(e).  
28 **Sustained with 30 days leave to amend.**

20. The Eighth Cause of Action for Common Counts (Money Had and Received)  
is uncertain, ambiguous and unintelligible. CCP § 430.10(f). **Sustained with 30 days leave**  
**to amend.**

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3 21. The Ninth Cause of Action for Constructive Trust fails to state facts sufficient  
4 to constitute a cause of action for constructive trust against the ADAMS DEFENDANTS  
5 because it fails to adequately allege that anything owned by plaintiff was wrongfully  
6 detained. CCP § 430.10(e). **Sustained with 30 days leave to amend.**

7 22. The Tenth Cause of Action for Assault and Battery fails to state facts  
8 sufficient to constitute a cause of action for assault or battery against the INDIVIDUAL  
9 DEFENDANTS. CCP § 430.10(e). **Overruled.**

10 23. The Eleventh Cause of Action for Intentional Infliction of Emotional Distress  
11 fails to state facts sufficient to constitute a cause of action for intentional infliction of  
12 emotional distress against the INDIVIDUAL DEFENDANTS. CCP § 430.10(e).

**Overruled.**

13 WHEREFORE, the DEMURRING DEFENDANTS pray judgment as follows:

- 14 A. That the Demurrer to the Complaint be sustained in its entirety, and/or as to each  
15 of the ten causes of action therein, without leave to amend;  
16 B. That the Plaintiff take nothing by his Complaint;  
17 C. For reasonable attorney fees and costs incurred herein; and  
18 D. For such other relief that this Court deems necessary and proper.

19 Dated: \_\_\_\_\_

[redacted]

20 \_\_\_\_\_  
21 By: [redacted], Attorneys for Defendants  
22 [redacted]

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## Memorandum of Points and Authorities

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4 The definitions set forth *ante* in the Notice of Hearing and Demurrers are  
5 incorporated herein to avoid repetition.

6 State Bar members are required to pass a tough Bar Exam as well as an investigation  
7 into their moral character. But sometimes the system fails, and unworthy individuals become  
8 attorneys. Such appears to be the case with Plaintiff's counsel.

9 The FAC is extremely poorly written. So was the original Complaint. Indeed, the  
10 FAC was filed in response to a prior demurrer that pointed out numerous problems with the  
11 original Complaint. Plaintiff's counsel failed to grasp, *much less fix*, those problems, and the  
12 Defendants must therefore now repeat most of the content of the prior demurrer. Rather than  
13 heeding the guidance in the prior demurrer, Plaintiff's counsel has instead added Defendants'  
14 counsel ROBERTS as a defendant with an outrageous, unethical, and blatantly false  
15 allegation that ROBERTS assaulted and battered Plaintiff.

16 The FAC purports to state a case against the DEMURRING DEFENDANTS when no  
17 such case exists. Therefore, the Court should sustain the Demurrer and dismiss the FAC  
18 without leave to amend.

### 1. Factual Summary

19

20 Plaintiff, TOM and KENNY launched a garment business, incorporating as PQRS  
21 CORP. They agreed to the shareholder percentages and investment amounts stated in FAC  
22 ¶¶ 16-17, which gave Plaintiff a 35% shareholder interest and required him to invest  
23 \$245,000 (hereinafter the "**STOCK AGREEMENT**"). However, Plaintiff only invested  
24 \$100,000 of that into PQRS CORP, and, pursuant to a loan to Plaintiff from TOM, TOM paid  
25 the remaining \$145,000 into PQRS CORP (FAC ¶ 16(2)(C)). TOM and KENNY each  
26 invested the full amounts required into PQRS CORP: \$385,000 and \$70,000, respectively.  
27 The total capital investment was \$700,000.

28 There was talk about substantial additional investment by TOM, but such additional  
investment would be contingent upon a showing of progress and also upon the issuance of  
additional stock to TOM (which would dilute the stock held by the others).

TOM and KENNY entrusted Plaintiff with the day-to-day management of PQRS  
CORP. Their trust was misplaced. After a period of time, it became clear that Plaintiff did

1  
2 not really know what he was doing. Plaintiff expended an inordinate amount of time and  
3 corporate funds with extremely disappointing results. Deadlines passed and were delayed.  
4 Plaintiff caused PQRS CORP to incur debts. Plaintiff hired employees but mismanaged  
5 them. The business descended into mayhem.

6 In February 2008, TOM and KENNY caused a CPA to audit PQRS CORP'S financial  
7 records to determine what was going on. They learned that the mismanagement was far more  
8 serious than they had previously imagined. On March 13, 2008 a board of directors meeting  
9 was held and was attended by Plaintiff, TOM, KENNY and ROBERTS. Pursuant to a  
10 resolution of the directors thereat, Plaintiff was fired both as Secretary of PQRS CORP and  
11 as an employee of PQRS CORP. Plaintiff became extremely angry and belligerent. TOM,  
12 KENNY and ROBERTS became concerned about security and the possibility of retaliatory  
acts by Plaintiff against the business. Consequently, they changed the locks on the PQRS  
CORP premises.

13 The next day, March 14, 2008, Plaintiff returned to the premises and began harassing  
14 customers and employees. He was asked to leave, but refused. Consequently, TOM called  
the police, who removed Plaintiff from the premises.

15 Personal videos taken, as well as security camera tapes, show that there was no  
16 assault, battery or other violence at any of these incidents, except for the fact that (as shown  
17 in the tapes) Plaintiff initially refused to comply with the police officers, whereupon the  
officers had to become more assertive.

18 TOM and KENNY are now faced with repairing the damage done to the business by  
19 Plaintiff. If they succeed at turning things around and making the business profitable, then  
20 Plaintiff will benefit to the extent of his 35% shareholder interest.

21 **2. Objections to Pleading May Be Taken by Demurrer, Which May Rely**  
22 **on Matters Judicially Noticed, Including PQRS CORP'S Articles of**  
23 **Incorporation.**

24 Objections to a pleading may be taken by demurrer. CCP §430.10 states:

25 "The party against whom a complaint ... has been filed may object, by  
demurrer ... to the pleading on any one or more of the following  
26 grounds:

...

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2 (e) The pleading does not state facts sufficient to constitute a cause  
3 of action.

4 (f) The pleading is uncertain. As used in this subdivision,  
‘uncertain’ includes ambiguous and unintelligible.”

5 A demurrer may rely on matters judicially noticed. CCP §430.30(a) states:

6 430.30. (a) When any ground for objection to a complaint, cross-  
7 complaint, or answer appears on the face thereof, or from any matter  
8 of which the court is required to or may take judicial notice, the  
objection on that ground may be taken by a demurrer to the pleading.

9 In their Request for Judicial Notice filed concurrently herewith, the DEMURRING  
10 DEFENDANTS have requested that the Court take judicial notice of the PQRS CORP’S  
11 Articles of Incorporation (hereinafter the “ARTICLES”). “[D]ocuments that were relied  
12 on... were properly the subject of judicial notice in the trial court include recorded grant  
deeds, articles of incorporation of the RTA filed with the secretary of state,...” Cody F. v.  
Falletti (1 Dist.,2001) 92 Cal.App.4th 1232 @ 1236.

13 **3. The Court Should Sustain Each of the Demurrers Because (a) the**  
14 **FAC Fails to State Facts Sufficient to Constitute a Cause of Action**  
15 **against Demurring Defendants on Which Relief Can Be Granted, and**  
16 **(b) the FAC Is Uncertain, Ambiguous and Unintelligible.**

17 **3.1 The Entire FAC Is Uncertain, Ambiguous and Unintelligible Because It Blurs**  
18 **the Distinction Between Partnership and Corporation.**

19 It is hornbook law that partnerships and corporations are fundamentally distinct types  
20 of legal entities. In its caption, the FAC names PQRS CORP as a “California Corporation,”  
21 and in ¶ 6 the FAC alleges that PQRS CORP is a “California Corporation.” The ARTICLES  
22 state that PQRS CORP was incorporated on May 3, 2007. Therefore, as a matter of law,  
23 PQRS CORP is not a partnership. Yet, in its caption on page 1, the FAC states that its 6th  
cause of action is for “Dissolution of Partnership.”

24 Incorporation of a partnership extinguishes a pre-existing partnership. “Upon the  
25 incorporation of a partnership and its merger in the corporate entity, the partners cease to be  
26 such, and have only the rights, duties and obligations of shareholders. There no longer exist  
any rights or obligations which the partners as such can enforce, the one against the other.”

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2 Persson v. Smart Inventions, Inc. (2005) 125 CA4th 1141 @ 1156–1159. The same is true of  
3 a “joint venture” which is, in essence, a form of partnership. “[T]he fact that the entity  
4 created by Miles and Scripps was a corporation, not a joint venture, precludes liability for  
5 breach of fiduciary duty. By selecting the corporate form as a manner of achieving their  
6 goals, Miles and Scripps, both sophisticated parties, elected the benefits granted under that  
7 form and rejected the option and the benefits of continuing with a joint venture.” Miles, Inc.  
8 v. Scripps Clinic & Research Found (S.D.Cal.1993) 810 F.Supp.1091 @ 1099.

9 The FAC alleges in ¶¶ 11-13 that the parties entered a partnership, and twice  
10 references a “Partnership Agreement” in ¶¶ 12-13. But then in ¶¶ 14-18 the FAC alleges that  
11 the partnership was incorporated. As a matter of law, whatever partnership and/or  
12 “partnership agreement” might have initially existed was extinguished on May 3, 2007, the  
13 date of incorporation.

14 Yet, the FAC alleges in ¶¶ 14-18 that the “Partnership Agreement” evolved into an  
15 “Amended Agreement” that somehow governs the corporate business. FAC ¶ 40 alleges that  
16 Plaintiff agreed to an “amendment of the agreement” because TOM allegedly promised to  
17 invest an additional one million dollars—pursuant to the STOCK AGREEMENT as alleged  
18 in FAC ¶ 16(1)(C)—but then FAC ¶ 40 goes on to refer to that same STOCK AGREEMENT  
19 as a “partnership agreement.” FAC ¶ 41 again refers to the STOCK AGREEMENT as a  
20 “partnership agreement.” FAC ¶ 59 alleges that the corporation’s assets should be distributed  
21 to the “partners.”

22 This chaotic form of pleading—blurring the distinction between partnership and  
23 corporation—renders the entire FAC and all of its causes of action as uncertain, ambiguous  
24 and unintelligible. Therefore, the Demurrer should be sustained in its entirety pursuant to  
25 CCP § 430.10(f).

26 **3.2. The FAC Fails to a Cause of Action Against PQRS CORP Because None of the  
27 Eleven Causes of Action Is Alleged Against PQRS CORP.**

28 The First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Causes of  
Action are expressly alleged against the ADAMS DEFENDANTS and Does 1 through 20,  
inclusive, and not against PQRS CORP. The Tenth and Eleventh Causes of Action are  
expressly alleged against INDIVIDUAL DEFENDANTS and Does 1 through 20, inclusive,

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2 and not against PQRS CORP. Therefore The FAC Fails to a Cause of Action Against PQRS  
3 CORP.

4 **3.3. The First Cause of Action Fails to State a Cause of Action for Conversion**  
5 **Because It Fails to Allege Plaintiff's Ownership or Right to Possession of Any**  
6 **Allegedly Converted Property.**

7 To plead a cause of action for conversion, three elements are required: (1) the  
8 plaintiff's ownership or right to possession of the property; (2) the defendant's conversion by  
9 a wrongful act or disposition of property rights; and (3) damages resulting from the  
10 conversion. Burlesci v. Petersen (1998) 68 Cal. App. 4th 1062 @ 1065; Oakdale Village  
Group v. Fong (1996) 43 Cal. App. 4th 539 @543-545.

11 Here, the FAC fails to plead the first element. What property of Plaintiff's was  
12 converted or stolen by the ADAMS DEFENDANTS? Plaintiff agreed to invest \$245,000 in  
13 PQRS CORP (FAC ¶ 16), of which \$145,000 was paid by TOM (FAC ¶ 17). In exchange  
14 therefore, Plaintiff received 35% of the stock in PQRS CORP (FAC ¶¶ 1, 16(2)(A), 17),  
15 which is his property that he still owns today. The FAC nowhere alleges that any of the  
16 Defendants have converted or stolen Plaintiff's stock in PQRS CORP.

17 **3.4. The First Cause of Action Is Uncertain, Ambiguous and Unintelligible Because**  
18 **It Makes Allegations Indicating Inconsistent Business Results for PQRS CORP.**

19 On the one hand, the FAC alleges (a) that PQRS CORP'S total capital investment  
20 was \$700,000 (FAC ¶¶ 16-17), and (b) that in less than one year after the start of its business,  
21 \$1,027,498.85<sup>1</sup> was converted from the PQRS CORP (FAC ¶ 32), which amount exceeds the  
22 \$700,000 total capital investment by \$327,498.85 and comprises approximately 147% of the  
23 total capital investment. Such a conversion within the first year of operation would be  
24 disastrous for *any* new business, including PQRS CORP. On the other hand, the FAC alleges  
25 that in that same first year of operation PQRS CORP not only became *profitable* (FAC ¶ 20),  
26 but developed a *net worth of at least \$2.4 million* as of March 13, 2008 (FAC ¶ 59), which  
27 amounts to approximately 342% of the \$700,000 invested capital. Such an astoundingly  
28 excellent first-year result for *any* new business and, as a matter of law, is diametrically  
inconsistent with the alleged massive conversion of PQRS CORP'S assets.

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<sup>1</sup> This is the sum of the \$179,744.85, \$40,527.00, \$7,227.00, and \$800,000.00 allegedly converted (FAC ¶ 32).



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3 **3.5. The Second Cause of Action for Fraud and Deceit (Intentional**  
4 **Misrepresentation) Fails to State Facts Sufficient to Constitute a Cause of Action**  
5 **Against the ADAMS DEFENDANTS for Fraud or Deceit or Intentional**  
6 **Misrepresentation.**

7 “[A]ctions for damage for fraud and deceit involves three distinct elements: (1) actual  
8 reliance, (2) damage resulting from such reliance, and (3) right to rely or justifiable reliance.”  
9 Panoutsopoulos v. Chambliss (1 Dist.,2007) 157 Cal.App.4th 297 @ 308.

10 **3.5.1. The Allegation of Damages Is Conclusory, Is Wholly Unsupported by Any**  
11 **Factual Allegations of Damages, and Contradicts Other Allegations in the FAC.**

12 Here, Plaintiff alleges damages exceeding \$2 million (FAC ¶ 42), but this is nothing  
13 more than a legal conclusion. Such damages are wholly unsupported by the facts alleged in  
14 the FAC. On the contrary, the FAC alleges that Plaintiff acquired 35% of PQRS CORP’S  
15 stock in exchange for a cash investment by Plaintiff of \$100,000<sup>2</sup>, and that in its first year of  
16 operation PQRS CORP not only became *profitable* ( FAC ¶ 20), but developed a *net worth of*  
17 *at least \$2.4 million* as of March 13, 2008 (FAC ¶ 59), which means Plaintiff’s stock is worth  
18 at least \$840,000 (35% of \$2.4 million)—*more than an eightfold multiple of his cash*  
19 *outlay*—and which contradicts the allegation of damages exceeding \$2 million. Thus, as a  
20 matter of law, the FAC fails to plead the required element of damages.

21 **3.5.2. The Alleged Causal Connection Between the Intentional Misrepresentation**  
22 **and Plaintiff’s Alleged Damages Makes No Reasonable Sense on Its Face.**

23 Even if damages exist, “[i]n fraud, the pleading must show a cause and effect  
24 relationship between the fraud and damages sought; otherwise no cause of action is stated.  
25 General pleading of the legal conclusion of fraud is insufficient; the facts constituting the  
26 fraud must be alleged, and the policy of liberal construction of pleadings will not ordinarily  
27 be invoked to sustain a pleading defective in any material respect. The pleading should be  
28 sufficient to enable the court to determine whether, on the facts pleaded, there is any  
foundation, prima facie at least, for the charge of fraud.” Commonwealth Mortgage

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<sup>2</sup> FAC ¶ 17 alleges that Plaintiff’s total investment was \$245,000, of which FAC ¶ 16(2)(C) alleges \$145,000 was loaned to Plaintiff by TOM, which means Plaintiff’s cash outlay was the difference of \$100,000.

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2 Assurance Co. v. Superior Court (2nd Dist., 1989) 211 Cal.App.3d 508 @ 518, citations  
3 omitted, emphasis added.

4 Here, the FAC alleges, in effect, that TOM’S failure to invest an “unlimited capital  
5 asset” of at least \$2 million (FAC ¶ 38), plus an additional \$1 million (FAC ¶ 40),  
6 proximately resulted in damages to plaintiff exceeding \$2 million (FAC ¶ 42). How can that  
7 be? Plaintiff only invested \$100,000 and was paid a salary of \$10,000 per month for many  
8 months! This alleged “causal connection” makes no reasonable sense on its face.

9 Indeed, as discussed above, the FAC alleges that PQRS CORP is profitable today and  
10 worth over \$2.4 million. If that is the case, then what is the compelling reason that additional  
11 investments exceeding \$3 million were (or are) urgently needed? Certainly, if a profitable  
12 business wishes to expand, additional investment might be needed, but that is no basis for  
13 pleading fraud or deceit.

14 **3.5.3. Plaintiff’s Reliance on the Alleged Misrepresentation Was Not Justifiable**  
15 **Because the Alleged Contract Induced Thereby Would Have Been Void for Lack of**  
16 **Consideration from Plaintiff.**

17 The FAC alleges Plaintiff was induced to enter a “Partnership Agreement” wherein  
18 TOM agreed to invest “unlimited capital assets” (potentially billions of dollars) but alleges  
19 no corresponding “unlimited” consideration by the Plaintiff (whose investment was limited  
20 to a mere \$100,000). Such a “contract” would be void for lack of consideration under Civil  
21 Code § 1550(4).

22 **3.6. The Third Cause of Action for Fraud and Deceit (Fraudulent Concealment) Is**  
23 **Uncertain, Ambiguous and Unintelligible because FAC ¶ 46 Is Rambling and**  
24 **Incomprehensible.**

25 FAC ¶ 46 is rambling and incomprehensible. It appears to allege something or other  
26 about the Defendants having knowledge about something, failing to disclose something, and  
27 misappropriating corporate money. However, its single run-on sentence is so poorly written  
28 that the Defendants cannot comprehend what it is alleging with sufficient certainty to answer  
the charge. The allegations in FAC ¶¶ 47-49 appear to be somehow related to those in ¶ 46  
but cannot be comprehended due to the uncertainty of ¶ 46.

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3 **3.7. The Third Cause of Action Fails to State a Cause of Action for Fraudulent**  
4 **Concealment Against the ADAMS DEFENDANTS**

5 “The elements of ordinary causes of action for [fraudulent concealment are] (1) a  
6 false representation, concealment or nondisclosure, (2) knowledge of its falsity, (3) intent to  
7 induce reliance, (4) justifiable reliance, and (5) damage...” Masters v. San Bernardino County  
8 Employees Retirement Assn. (4 Dist.,1995) 32 Cal.App.4th 30 @ 40, emphasis added.

9 **3.7.1. The Allegation of Damages Is Conclusory, Is Wholly Unsupported by Any**  
10 **Factual Allegations of Damages, and Contradicts Other Allegations in the FAC.**

11 As discussed above, Plaintiffs allegation of “damages” exceeding \$2 million (FAC ¶  
12 48) is merely a legal conclusion, is wholly unsupported by any factual allegations of  
13 damages, and contradicts other allegations in the FAC.

14 **3.7.2. Justifiable Reliance Is Not Alleged.**

15 Even if damages exist, the FAC fails to allege any justifiable reliance by Plaintiff on  
16 anything that, had the ADAMS DEFENDANTS not concealed anything, would have caused  
17 Plaintiff to act differently. What decision did Plaintiff make to his detriment that he would  
18 not have made if he had known all the facts? This is simply not alleged.

19 **3.8. The Fourth Cause of Action Fails to State a Cause of Action for Breach of**  
20 **Fiduciary Duty Against the ADAMS DEFENDANTS.**

21 “The elements of a cause of action for breach of fiduciary duty are the existence of a  
22 fiduciary relationship, its breach, and damage proximately caused by that breach.” Amtower  
23 v. Photon Dynamics, Inc. (6th Dist., 2008) 158 Cal.App.4th 1582 @ 1599, emphasis added.

24 **3.8.1. The Allegation of Damages Is Conclusory, Is Wholly Unsupported by Any**  
25 **Factual Allegations of Damages, and Contradicts Other Allegations in the FAC.**

26 As discussed above, Plaintiffs allegation of “damages” exceeding \$2 million (FAC ¶  
27 54) is merely a legal conclusion, is wholly unsupported by any factual allegations of  
28 damages, and contradicts other allegations in the FAC.

**3.8.2. Proximate Cause Is Not Alleged.**

Even if damages exist, the FAC fails to allege that any breach of fiduciary duty by the  
ADAMS DEFENDANTS proximately caused such damages. Even if the ADAMS

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2 DEFENDANTS “breached their duties by failing to disclose ... information and documents,  
3 and by misappropriating the corporate assets” as alleged in FAC ¶ 53, what harm did it cause  
4 to Plaintiff? On the contrary, the FAC alleges that PQRS CORP is profitable today and  
5 worth over \$2.4 million and that Plaintiff holds a 35% shareholder interest therein.

6 **3.9. The Fifth Cause of Action Fails to State a Cause of Action for Breach of**  
7 **Contract Against the ADAMS DEFENDANTS.**

8 “[T]he essential elements to be pleaded in an action for breach of contract are: (1) the  
9 contract; (2) plaintiff’s performance of the contract or excuse for nonperformance; (3)  
10 defendants’ breach; and (4) the resulting damage to plaintiff. Lortz v. Connell (1.Dist, 1969)  
273 Cal.App.2d 286 @ 290.

11 **3.9.1. The “Contract” Alleged Cannot Exist As a Matter of Law.**

12 FAC ¶ 56 alleges the “defendants breached the agreement with Plaintiff...” (emphasis  
13 added). As discussed above, only “agreement” alleged anywhere in the FAC is a  
14 “partnership agreement.” Indeed the same ¶ 56 refers to “sharing the profits” which is  
15 partnership terminology (the appropriate corporate terminology would be the distribution of  
16 dividends). However, as discussed above, no partnership exists. Therefore, no “partnership  
17 agreement” exists and no contract is alleged as a matter of law. Without any contract, the  
18 Fifth Cause of Action for breach of contract must fail.

19 **3.9.2. The Allegation of Damages Is Conclusory, Is Wholly Unsupported by Any**  
20 **Factual Allegations of Damages, and Contradicts Other Allegations in the FAC.**

21 As discussed above, Plaintiffs allegation of “damages” exceeding \$2 million (FAC ¶  
22 57) is merely a legal conclusion, is wholly unsupported by any factual allegations of  
23 damages, and contradicts other allegations in the FAC. (Paradoxically, FAC ¶ 56 alleges that  
24 the defendants failed to invest \$100,000, which is twenty-fold less than the \$2 million FAC ¶  
25 38 alleges the defendants failed to invest.) Without any damages, the Fifth Cause of Action  
26 for breach of contract must fail.

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3 **3.10. The Sixth Cause of Action for Declaratory Relief (Dissolution and Liquidation**  
4 **of Corporation) Is Uncertain, Ambiguous and Unintelligible Because It Is Uncertain**  
5 **Whether It Is Referring to a Corporation or to a Partnership.**

6 FAC ¶ 59 refers on the one hand to a corporation, the dissolution of the corporation  
7 and the distribution of the assets of the corporation. On the other hand, it refers to a  
8 partnership, alleging an “irreconcilable difference and dispute” between the parties, which is  
9 grounds for dissolving a partnership but not a corporation, and to the “pro-rata share of the  
10 partners.” Thus, the Sixth Cause of Action is uncertain because it is uncertain whether it is  
11 referring to a corporation or to a partnership.

12 **3.11. The Sixth Cause of Action for Declaratory Relief (Dissolution and Liquidation**  
13 **of Corporation) Fails to State Facts Sufficient to Constitute a Cause of Action for**  
14 **Declaratory Relief or Dissolution of Corporation or Liquidation of Corporation.**

15 **3.11.1. PQRS CORP Cannot Be Declared Dissolved or Liquidated Because It Is Not**  
16 **Named as a Defendant to This Cause of Action.**

17 The Sixth Cause of Action is alleged “Against TOM ADAMS and KENNY ADAMS  
18 and Does 1 to 20, inclusive” (FAC p. 13, line 9). PQRS CORP is not named as a defendant  
19 to this cause of action (or to any other cause of action in the FAC). It is elementary that a  
20 corporation cannot be declared dissolved or liquidated unless it is named as a defendant.

21 **3.11.2. Irreconcilable Differences and Dispute Between Shareholders Is Not Lawful**  
22 **Grounds for Dissolution or Liquidation of a Corporation.**

23 Plaintiff demands in FAC ¶ 59 the dissolution and liquidation of PQRS CORP on the  
24 basis of “irreconcilable differences and dispute between shareholders” and distribution to  
25 him of “no less than \$875,000.” As explained above, if Plaintiff’s shares are worth that  
26 much after less than a year or operations, then the corporation has been very well managed  
27 and its board of directors should be commended. The fact that Plaintiff, who is not only a  
28 shareholder but also a director, disagrees with the other shareholders and directors about how  
the corporation should be managed is no grounds for dissolution or liquidation. The  
controlling shareholders' failure to meet the minority shareholders' reasonable expectations in  
managing the company is not grounds for involuntary dissolution. Bauer v. Bauer (1996) 46  
Cal.App.4th 1106 @ 1113-1115. Involuntary liquidation is a drastic remedy and will not be

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2 ordered on the grounds of shareholder disagreements over business judgments or even  
3 extreme hostility among the shareholders ... especially where the complaining shareholders  
4 are represented on the board. Stuparich v. Harbor Furniture Mfg., Inc. (2000) 83  
5 Cal.App.4th 1268 @ 1277–1280.

6 **3.12. The Seventh Cause of Action Fails to State Facts Sufficient to Constitute a**  
7 **Cause of Action for Unfair Business Practice (CA Business Code § 17200) Against**  
8 **the ADAMS DEFENDANTS.**

9 FAC ¶ 63 makes the sweeping statement that the “conduct of the Defendants  
10 described above herein... constitutes unlawful, unfair and/or fraudulent business practices in  
11 violation of Section 17200...” This is a legal conclusion that is wholly unsupported by any  
12 factual allegations in the FAC. As discussed above, Plaintiff has no factual basis to support  
13 his allegations of a “secret transaction” and “misappropriation” of corporate funds.

14 Furthermore, as discussed above, Plaintiff has not been damaged—*except for his ego*. He got  
15 fired as corporate Secretary for his mismanagement of the corporation, and now seeks to  
16 retaliate by means of his frivolous and very badly written FAC.

17 Plaintiff still owns 35% of the stock in PQRS CORP that he alleges has a net worth of  
18 at least \$2.4 million, which was attained in less than a year after he invested just \$100,000  
19 and got paid \$10,000 per month for his services! What is unfair, unlawful or fraudulent  
20 about that? Nothing.

21 In Khoury v. Maly's of Calif., Inc. (1993) 14 Cal.App.4th 612, the Court of Appeal  
22 upheld the sustaining of a demurrer to an unfair business practice cause of action because the  
23 Plaintiff failed to articulate why the defendant’s conduct was unlawful. Here, the FAC  
24 descends into hopeless ambiguity, confusing corporation law with partnership law, failing as  
25 a matter of law to allege damages, and failing to allege any specific act by the defendants that  
26 constituted unfair business practice. This cause of action must therefore be dismissed.

27 **3.13. The Eighth Cause of Action Fails to State a Cause of Action for Common**  
28 **Counts Against the ADAMS DEFENDANTS.**

The essential allegations of a common count are “(1) the statement of indebtedness in  
a certain sum, (2) the consideration, i.e., goods sold, work done, etc., and (3) nonpayment.” 4  
Witkin Cal. Procedure (3d ed. 1985) Pleading § 508, p. 543, emphasis added. “A cause of

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3 action is stated for money had and received if the defendant is indebted to the plaintiff in a  
4 certain sum for money had and received by the defendant for the use of the plaintiff” Schultz  
v. Harney (2.Dist, 1994) 27 Cal.App.4th 1611 @ 1623.

5 **3.13.1. No Statement of Indebtedness in a Certain Sum Is Alleged.**

6 The FAC alleges that Plaintiff invested his funds in PQRS CORP stock, which stock  
7 he still owns (FAC ¶ 16(2)(A)). The FAC nowhere alleges that Plaintiff invested in any note,  
8 loan, bond, debenture or other form of indebtedness.

9 In ¶¶ 66-68 the FAC makes allegations of various transfers of funds in the amounts of  
10 \$179,744.85, \$40,527.00, \$7,227.00, and \$800,000.00, but it fails to allege that any of these  
11 amounts comprises a debt payable to Plaintiff. Indeed, if such funds were improperly  
12 transferred from PQRS CORP (which they were not) then they would be owed *to PQRS*  
13 *CORP, not to Plaintiff*. The FAC makes no allegation of any “statement of indebtedness in a  
14 certain sum”—*at least not in favor of Plaintiff*. Astonishingly, the FAC makes allegations  
15 that would support a cause of action for common counts against Plaintiff—specifically, the  
16 FAC alleges that Plaintiff owes TOM \$145,000 that was loaned to Plaintiff for the purchase  
17 of his stock (FAC ¶ 16(2)(C)).

18 **3.13.1. Nonpayment Is Not Alleged.**

19 Even if a debt exists in favor of Plaintiff, the FAC makes no allegation that the  
20 ADAMS DEFENDANTS failed to repay it. Instead, the FAC alleges that TOM paid  
21 \$145,000 on Plaintiff’s behalf (FAC ¶ 16(2)(C)) and that Plaintiff was paid \$10,000 per  
22 month (FAC ¶ 16(2)(B)).

23 **3.14. The Eighth Cause of Action for Common Counts (Money Had and Received)**  
24 **Is Uncertain, Ambiguous and Unintelligible.**

25 On its face, The Eighth Cause of Action (FAC ¶¶ 65-69) rambles about various  
26 things, but it is uncertain how any of this rambling is describing any common counts payable  
27 from the ADAMS DEFENDANTS to Plaintiff.

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3 **3.15. The Ninth Cause of Action Fails to State a Cause of Action for Constructive**  
4 **Trust Against the ADAMS DEFENDANTS Because It Fails to Adequately Allege**  
5 **That Anything Owned By Plaintiff Was Wrongfully Detained.**

6 Constructive trust is governed by Civil Code § 22233, which provides, “One who  
7 wrongfully detains a thing is an involuntary trustee thereof, for the benefit of the owner.”  
8 Throughout the FAC, numerous allegations are made that the ADAMS DEFENDANTS  
9 misappropriated and/or secreted funds from PQRS CORP. Then, in the Ninth Cause of  
10 Action, Plaintiff changes his tune and instead nebulously alleges that the they “illegally  
11 transferred and converted the funds from Plaintiff” (FAC ¶ 71) and that “funds [were]  
12 converted, diverted and stolen from Plaintiff” (FAC ¶72) and that “money and assets [were]  
13 converted, looted and diverted from Plaintiff” (FAC ¶ 72). What funds? What money and  
14 assets? No specific allegations are made as to anything owned by Plaintiff that was  
15 wrongfully detained by the ADAMS DEFENDANTS. Title to those assets was clearly  
16 owned by PQRS CORP, thereby precluding constructive trust action by Plaintiff. Communist  
17 Party v. 522 Valencia, Inc. (1st Dist.,1995) 35 Cal.App.4th 980 @ 993). The only relevant  
18 asset owned by Plaintiff is his stock in PQRS CORP, and the FAC contains no allegation that  
19 Plaintiff’s stock was wrongfully detained. Therefore, no constructive trust exists, and this  
20 cause of action must therefore be dismissed.

21 **3.16. The Tenth Cause of Action Fails to State a Cause of Action for Assault and**  
22 **Battery Against the INDIVIDUAL DEFENDANTS.**

23 It is clear from the face of the FAC that the incidents alleged to have occurred on  
24 March 13 and 14, 2008 comprised attempts by the INDIVIDUAL DEFENDANTS to compel  
25 Plaintiff to vacate the premises of PQRS CORP. FAC ¶ 16(2)(B) alleges that Plaintiff  
26 worked full time as Secretary of PQRS CORP. FAC ¶ 17 alleges that the ADAMS  
27 DEFENDANTS hold a controlling interest in PQRS CORP’S stock, and, as a matter of law,  
28 they therefore occupy a majority of the seats on its board of directors and hold the power to  
fire Plaintiff as Secretary. When a corporation fires a corporate officer under adverse  
circumstances, *it is common business practice to escort out and lock out the former officer*  
*out to prevent him or her from retaliating by taking action that damages the business.* FAC  
¶¶ 26, 27 and 78 alleges just that—that the INDIVIDUAL DEFENDANTS changed the



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3 locks, locked Plaintiff out of PQRS CORP’S premises, and called the police who forcibly  
4 removed Plaintiff from the premises. Such acts are not only lawful, they are proper. Indeed,  
5 “One may use necessary force to prevent injury to his property.” Frickstad v. Medcraft (App.  
6 1 Dist. 1929) 100 Cal.App. 188 @ 193.

### 3.16.1. Assault Is Not Adequately Alleged.

7 The civil definition of assault is given by Restatement (Second) of Torts § 21 (1965),  
8 cited by Judicial Council of California Civil Jury Instruction 1301, which provides:

9 An actor is subject to liability to another for assault if

10 (a) he acts intending to cause a harmful or offensive contact with the  
11 person of the other or a third person, or an imminent  
12 apprehension of such a contact, and

13 (b) the other is thereby put in such imminent apprehension.

14 FAC ¶ 86 alleges on information and belief in that the acts to remove Plaintiff from  
15 the premises were done “with intent to cause injury to Plaintiff.” But nothing is alleged that  
16 remotely supports that absurd allegation. On the contrary, the FAC clearly alleges that the  
17 ADAMS DEFENDANTS (acting with their attorney ROBERTS) had the power to fire  
18 Plaintiff and cause him to be removed from the premises. Thus, it is clear from the face of  
19 the FAC that the only reasonable “intent” of the INDIVIDUAL DEFENDANTS was to  
20 protect the business from retaliatory acts by Plaintiff. Therefore, as a matter of law, the first  
21 element of assault (acting with intent to cause harmful or offensive contact...) has not been  
22 alleged. This cause of action must therefore be dismissed.

### 3.16.1. Battery Is Not Adequately Alleged.

23 The elements of a civil battery are: “1. Defendant intentionally did an act which  
24 resulted in a harmful or offensive contact with the plaintiff’s person; [¶] 2. Plaintiff did not  
25 consent to the contact; [and][¶] 3. The harmful or offensive contact caused injury, damage,  
26 loss or harm to the plaintiff.” Piedra v. Dugan (4th Dist., 2004) 123 Cal.App.4th 1483 @  
27 1495. Contact can be either “harmful” or “offensive.”

28 Regarding “harmful” contact, FAC ¶ 84 makes the conclusory allegation that Plaintiff  
“suffered severe and serious injury to their [sic] person” but offers no supporting details.  
What injury? Clearly his ego was injured, but that will not suffice for alleging battery.

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3 And if the alleged contact is merely “offensive” (but not “harmful”), then it must be  
4 *unreasonable*. Restatement (Second) of Torts § 19 provides: “A bodily contact is offensive  
5 if it offends a reasonable sense of personal dignity” (cited by Judicial Council of California  
6 Civil Jury Instruction 1300. No reasonable person would conclude that the INDIVIDUAL  
7 DEFENDANTS taking action to protect PQRS CORP’S business property by “pushing” or  
8 “pulling” Plaintiff away from the business premises is unreasonable. Furthermore, as alleged  
9 in FAC ¶ 27, the police came and removed Plaintiff from the premises.

10 Therefore, as a matter of law, the first element of battery (harmful or offensive  
11 contact) has not been alleged. This cause of action must therefore be dismissed.

12 **3.17. The Eleventh Cause of Action Fails to State a Cause of Action for Intentional**  
13 **Infliction of Emotional Distress Against the INDIVIDUAL DEFENDANTS.**

14 “The tort of intentional infliction of emotional distress is comprised of three elements:  
15 (1) extreme and outrageous conduct by the defendant with the intention of causing, or  
16 reckless disregard of the probability of causing, emotional distress; (2) the plaintiff suffered  
17 severe or extreme emotional distress; and (3) the plaintiff’s injuries were actually and  
18 proximately caused by the defendant’s outrageous conduct.” *Berkley v. Dowds* (2nd Dist.,  
19 2007) 152 Cal.App.4th 518 @ 533.

20 The first element is missing from the FAC. Aside from its conclusory statements, the  
21 FAC alleges no extreme or outrageous conduct by the INDIVIDUAL DEFENDANTS with  
22 the intention of causing, or reckless disregard of the probability of causing, emotional  
23 distress to the Plaintiff. The INDIVIDUAL DEFENDANTS took action to protect PQRS  
24 CORP’S business property from Plaintiff. His emotional distress was caused by the damage  
25 to his ego from being fired. Firing a corporate officer is a normal and lawful act for any  
26 board of directors and certainly does not rise to the level of “extreme” or “outrageous” or  
27 “reckless” or “intending” to cause emotional distress. This cause of action must therefore be  
28 dismissed.

Dated: \_\_\_\_\_

Roberts & Associates  
[redacted]

\_\_\_\_\_  
By: [redacted], Attorneys for Defendants

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3 **Proof of Service**

4 I, the undersigned, declare:

5 I am a citizen of the United States of America, am over the age of eighteen (18) years, and  
6 am not a party to the within action. My address is [redacted].

7 On \_\_\_\_\_, I caused to be served the following document(s): **DEFENDANTS PQRS**  
8 **CORPORATION, TOM ADAMS, KENNY ADAMS AND PAUL ROBERTS'S**  
9 **NOTICE OF HEARING AND DEMURRER TO PLAINTIFF'S FIRST AMENDED**  
10 **COMPLAINT**, on the parties involved, enclosed in one or more envelopes addressed as  
11 follows:

12 [redacted]  
13 [redacted]  
14 [redacted]  
15 [redacted]

16 XX BY MAIL: I caused each envelope, with postage fully prepaid, to be placed in the  
17 United States mail at Los Angeles, California.

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

20 Executed on \_\_\_\_\_, at Los Angeles, California,  
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\_\_\_\_\_

[attorney info redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]

Attorneys for Defendants PQRS Corporation,  
Tom Adams and Kenny Adams, and for self,  
*in pro per*

**SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES**  
**CENTRAL DISTRICT**

JOHN SMITH,  
Plaintiff

vs.

PQRS CORPORATION, a California  
Corporation dba PQRS APPAREL;  
TOM ADAMS, an individual;  
KENNY ADAMS, an individual;  
PAUL ROBERTS, an individual; and  
DOEs 1 to 20, inclusive,

Defendants

Case Number: [redacted]  
Assigned to: [redacted]

**[PROPOSED] ORDER SUSTAINING  
DEMURRER**

Complaint filed: [redacted]  
Hearing Date: \_\_\_\_\_  
Hearing Time: \_\_\_\_\_  
Hearing Dept.: [redacted]

The Demurrer by Defendants PQRS Corporation, Tom Adams, Kenny Adams and Paul Roberts to Plaintiff John Smith’s First Amended Complaint, came on regularly for noticed hearing on \_\_\_\_\_ in Department \_\_\_\_ of this Court. Said Defendants appeared by counsel Paul Roberts, who also appeared in his own behalf *in pro per*. Plaintiff John Smith  appeared *in pro per*  appeared by counsel \_\_\_\_\_  did not appear.

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On proof made to the satisfaction of the Court that the demurrer ought to be sustained,

**IT IS ORDERED** that the demurrer is SUSTAINED in its entirety  with  without leave to amend.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of the Superior Court