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16 **UNITED STATES DISTRICT COURT**  
 17 **CENTRAL DISTRICT OF CALIFORNIA**

18 SOUTHERN CALIFORNIA  
 19 INSTITUTE OF LAW, a California  
 20 corporation,

21 Plaintiff,

22 vs.

23 TCS EDUCATION SYSTEM, an  
 24 Illinois corporation; DAVID J.  
 25 FIGULI, an individual; and GLOBAL  
 26 EQUITIES, LLC d/b/a HIGHER  
 27 EDUCATION GROUP, a Colorado  
 28 limited liability company,

Defendants.

CASE NO.: CV10-8026 JAK (AJWx)  
 [Assigned to Hon. John A. Kronstadt]

**FIRST AMENDED COMPLAINT  
 FOR INJUNCTIVE RELIEF AND  
 DAMAGES**

Action Filed: Oct. 25, 2010

**JURY TRIAL DEMANDED**

1 Plaintiff, by and through its attorneys, based on its experiences, the  
2 investigation of counsel, and its information and belief, alleges as follows:

3 **NATURE OF THE CASE**

4 1. This action arises out of the blatantly anticompetitive conduct of TCS  
5 Education System, a multi-million dollar corporation engaged in the rapid  
6 acquisition of schools and colleges in California and elsewhere. Plaintiff is a small,  
7 State-Bar accredited, evening law school with a twenty-five year history of serving  
8 working class adults in the tri-county area of San Luis Obispo, Santa Barbara and  
9 Ventura Counties. Lured by the prospect of increasing its outreach to an  
10 underserved population of future law students, the plaintiff provided defendants  
11 with unfettered access to its Dean, faculty and confidential files in an effort to  
12 complete an acquisition transaction with the defendants. Instead, the defendants  
13 misappropriated plaintiff's most guarded secrets and information in violation of a  
14 binding confidentiality agreement and secretly used the information to affiliate with  
15 the plaintiff's sole competitor in the region. Armed with the stolen information, the  
16 defendants recently announced their "deal" which is calculated to kill off  
17 competition in the region, destroy the plaintiff's business and increase the cost of  
18 tuition. Plaintiff seeks as its primary remedy injunctive relief prohibiting defendants  
19 from taking further steps to complete their unlawful scheme.

20 **JURISDICTION AND VENUE**

21 2. This Court has subject matter jurisdiction over plaintiff's state law  
22 claims under 28 U.S.C. § 1332(a) because the parties are diverse and the amount in  
23 controversy exceeds \$75,000, exclusive of interest and costs. Venue is proper in  
24 this District under 28 U.S.C. § 1391 because defendants conduct business in this  
25 district and transacted with plaintiff in this District. In addition, wrongful conduct  
26 by defendants took place in this District, and that conduct was intended to and did  
27 cause injury to plaintiff.

1 **THE PARTIES**

2 3. Southern California Institute of Law (the "Law School") is a California  
3 corporation founded in 1986 with campuses in Santa Barbara and Ventura Counties.  
4 The Law School operates evening programs for the benefit of working adults who  
5 seek a rigorous academic environment that is affordable, flexible and offers small  
6 class sizes. Because of its dedicated administration and faculty, who receive very  
7 modest compensation, perhaps the lowest of any State Bar accredited school in  
8 California, the Law School maintains one of the lowest tuition rates among law  
9 schools in the state. Tuition rates are currently \$350 per unit whereas many  
10 comparable law schools charge in the range of \$800 or more per unit. Santa Barbara  
11 & Ventura Colleges of Law ("COL"), the only other law school in the tri-county  
12 area of San Luis Obispo, Santa Barbara and Ventura Counties, charges \$450 per  
13 unit. In 1996, after a decade of tremendous effort, the Law School was accredited  
14 by the Committee of Bar Examiners for the State of California. To put this  
15 accomplishment into perspective, there has been only one other California law  
16 school that received State Bar accreditation in the past 25 years. That school was  
17 founded in 1927 and only received its accreditation this year. Currently, students  
18 may earn Juris Doctor ("J.D.") and Bachelor of Science in Laws degrees. The Law  
19 School is also accredited by the California Bureau of Private Postsecondary  
20 Education ("Bureau") and was approved by the Bureau to commence a paralegal  
21 program and Bachelor of Arts programs in Law Enforcement and Criminal Justice.  
22 In evening law schools, nearly all of the academic experience takes place in the  
23 classroom. Recognizing this fact, the Law School continuously re-evaluates and  
24 tests its teaching methodologies.

25 4. There are approximately one hundred students between the two  
26 campuses, thirty-one distinguished faculty members and an administrative staff  
27 consisting of a Dean, Vice-Dean and Registrar. The Law School's seven-person  
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1 Board of Directors has four members with Ph.D.s, three with J.D.s, two with  
2 M.B.A.s and five members hold multiple post-graduate degrees. Dean Stanislaus  
3 Pulle has a Ph.D. from King's College, University of London and was a post-  
4 doctoral Visiting Scholar at Yale Law School. He has taught for over forty years,  
5 including serving on the faculty of San Fernando Valley College of Law, COL,  
6 where he also served as Academic Dean, and at the Law School where he still  
7 teaches Constitutional Law. Dean Pulle founded the Law School with Dr. Carroll  
8 Gambrell, Board Chair, a former Dean of the School of Engineering at Mercer  
9 University, and Desmond O'Neill, Vice Dean, who holds an M.A. from the  
10 University of California, Santa Barbara, a J.D. from Boalt Hall School of Law and  
11 was twice president of the Santa Barbara County Bar Association. Members of the  
12 Law School's faculty have been rated as "superior" to "excellent" by State Bar  
13 Accreditation Consultants. Its faculty is drawn from top drawer law schools  
14 accredited by the American Bar Association ("ABA") who themselves excelled  
15 while in law school and from valedictorian law graduates of California accredited  
16 law schools. Over the past twenty-five years, the Law School has fostered a  
17 community among current students, alumni, faculty and staff. Leaders in the field  
18 of law have taken note of the high quality academics provided, the educational  
19 opportunities created for the working class and the overall positive community  
20 impact the Law School makes. Past keynote speakers at the Law School's  
21 commencement ceremonies include California Supreme Court Justice Ming Chin,  
22 presiding Justices of various divisions of the California Court of Appeal, including  
23 Justice Norman L. Epstein and Justice Paul Turner, former State Attorney General  
24 Bill Lockyer , Kenneth A. Starr, former United States Solicitor General, past  
25 Pepperdine University Law School Dean and current President of Baylor University,  
26 the governing president of the International Criminal Court, presiding judges of the  
27 local Superior Courts in Santa Barbara and Ventura, a President of the State Bar of  
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1 California and members of the California legislature. The Law School is honored to  
2 have as its keynote speaker at the June 2011 graduation ceremony California  
3 Supreme Court Chief Justice designee Tani Cantil-Sakauye.

4 5. Defendant TCS Education System ("TCS") is a private, not-for-profit,  
5 corporation organized under the laws of the State of Illinois with its corporate  
6 headquarters in Chicago. Rather than being a comprehensive university, TCS  
7 acquires or affiliates with specialized colleges with discrete professional disciplines.  
8 For non-profit schools and colleges, TCS creates *affiliations* because these  
9 institutions do not have an ownership structure like proprietary entities. Prior to its  
10 affiliation with COL, the TCS "system" included schools with disciplines in  
11 psychology, health and human services, and education; a foundation that provides  
12 support for the schools and colleges; an online services affiliate that assists the  
13 schools with developing and offering online coursework; and two preschool through  
14 eighth grade laboratory schools. According to its 2010 Annual Report, TCS  
15 affiliates had revenues of approximately \$71.8 million and net assets in excess of  
16 \$30 million. It has a corporate staff of approximately 175 people and hundreds  
17 more faculty and staff at its various schools and colleges. One of its institutions,  
18 The Chicago School of Professional Psychology, has 500 employees alone. There  
19 are over 4,000 students at TCS-affiliated campuses in Chicago, Washington, D.C.,  
20 Los Angeles, Irvine, Pasadena, Santa Barbara and elsewhere. Although TCS is a  
21 non-profit, it prides itself on its innovative business structure and financial success.  
22 In many respects it operates more like a "for profit" business with a focus on  
23 market-oriented activity and sees itself as well poised to fill the void created by the  
24 cutbacks and lower enrollment in public higher education. TCS's "business model"  
25 is "built on the premise that business success and social impact need not be mutually  
26 exclusive" and it seeks to "[o]perat[e] as an effective, financially-sound, and fast-  
27 growing business," with a goal of "deliver[ing] truly significant returns for donors,  
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1 investors, students, communities, and the world at large." The 2010 TCS Annual  
2 Report proclaims: "A rapidly changing and increasingly complex external  
3 environment—fueled by economic uncertainties, changing student demographics,  
4 and mounting competition—has created new challenges for traditional higher  
5 education. Institutions have met with varying success in confronting these  
6 obstacles, some closing their doors, reducing services, or trimming programs and  
7 faculty ranks. Meanwhile, TCS Education System has crafted a business model that  
8 is intrinsically adaptive and that responds to today's realities, relying for growth and  
9 viability on a formula based on size, focus, diversification, and impact." TCS woos  
10 the colleges and schools it targets with the promise of business acumen, financial  
11 support and other tempting resources. Its dual "bottom-line" is "social impact" and  
12 "sophisticated business practices." TCS CEO Michael Horowitz recently elaborated  
13 on TCS's business strategy, stating in an interview:

14           Smaller institutions cannot get the technology, or fundraising, or  
15           administrative infrastructure that's required to be effective today. They  
16           may have to affiliate with a system like ours, or they are going to be  
17           acquired, bought by for-profits, or even go out of business....

18           [B]ecause the model is small, focused institutions, we can share  
19           resources more effectively. So even with respect to traditional  
20           fundraising, we have a foundation for grants, and philanthropy. We are  
21           sharing that among a number of colleges and schools because it is more  
22           efficient than duplicating that for each small college. So part of the  
23           model is to think creatively about resources and deploy them more  
24           effectively across institutions, so that we can direct more resources  
25           toward the core educational activity. Similarly, we've set up structures  
26           that in the future will allow investors to invest in projects that we  
27           couldn't do on our own, but require capital to expand and make the  
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1 educational experience more excellent. That should allow us to take on  
2 new projects, and also not just to rely on tuition dollars. So between  
3 philanthropy, the potential for investor dollars, and tuition, we create a  
4 much more energetic and dynamic base for funding.

5 (For the complete interview: [www.tcsedsystem.org/?page=AnnualReport](http://www.tcsedsystem.org/?page=AnnualReport)).

6 6. Defendant David J. Figuli ("Figuli") is a Colorado-based attorney with  
7 his principal place of residence in Evergreen, Colorado, which is a part of Jefferson  
8 County. On his law firm's Website, Figuli portrays himself as a leading lawyer in  
9 the "American higher education industry." *See* [www.figulilawgroup.com](http://www.figulilawgroup.com). He  
10 claims to have worked with hundreds of colleges, universities, educational  
11 associations, and education investment and management companies in his 33-year  
12 career. He previously served as General Counsel for the South Dakota Board of  
13 Regents and Chief Legal Counsel for the Montana University System. He also  
14 served as general counsel to several major universities and as a trustee for three  
15 colleges. He claims to be an expert in accreditation, licensing and regulatory  
16 matters, including those relating to federal financial aid programs, and a recognized  
17 writer and lecturer on higher education management and faculty employment  
18 matters. In his biography, he states that he has conducted seminars and keynote  
19 addresses for most of the major associations in American higher education including  
20 the American Council on Education, the American Association of State Colleges  
21 and Universities, the National Association of College and University Business  
22 Officers and the National Association of Student Financial Aid Administrators.  
23 Like TCS, Figuli sees himself as an innovator in the development of new business  
24 models for higher education, including strategic alliances, sponsorship  
25 arrangements, public/private and nonprofit/for profit ventures, international  
26 partnerships, mergers and acquisitions and investment relations. He offers his  
27 clients the following array of services, among others:  
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1 (i) transactional services that include assistance in negotiating and drafting  
2 conceptual documents, facilitating changes in corporate structure to achieve growth,  
3 raising capital, selling assets, divisions or equity, compliance with regulatory  
4 requirements, formation of systems, conversions of a legal entity from one type to  
5 another, and redistribution of assets among various entities;

6 (ii) preparation and presenting applications for substantive change to  
7 institutional accrediting agencies and presenting changes of control to state licensing  
8 bodies and the U.S Department of Education ("DOE");

9 (iii) conceptualizing, forming and executing affiliations between tax-exempt  
10 entities, public and -private entities and non-profit and for profit enterprises with the  
11 goal of ensuring that tax-exempt status is not compromised and the appropriate level  
12 of control is created to satisfy institutional accrediting agencies;

13 (iv) providing legal and business advice to educational institutions and  
14 investors desirous of forming domestic and international ventures that combine core  
15 competencies, educational assets, investment capital, expertise and/or specialized  
16 services to achieve common goals with an emphasis on deal structuring, regulatory  
17 compliance and risk management; and

18 (v) conducting due diligence investigations in a wide range of transaction  
19 settings, ranging from the simple to complex and involving for-profit and nonprofit  
20 institutions and organizations engaged in all aspects of the post-secondary sector.  
21 Such services include "comprehensive investigation of corporate structures,  
22 litigation, contractual relationships, Title IV compliance [i.e., federally funded  
23 student financial aid programs], accreditation compliance, employment practices,  
24 faculty related issues, intellectual property, and owned and leased property. We  
25 investigate all potentially relevant and material aspects of a transacting party's  
26 business, compel all necessary disclosure, and recommend third-party investigations  
27 and reports as well as further action based upon our findings."  
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1 WASC accreditation, while more feasible in theory, is still out of reach because the  
2 process consumes too many scarce resources. That is why no non-ABA accredited  
3 law school has WASC accreditation in Southern California.

4 10. WASC's Accrediting Commission for Senior Colleges and Universities  
5 (the "Commission") is responsible for the evaluation of the quality and effectiveness  
6 of colleges and universities offering the baccalaureate degree and above in  
7 California, Hawaii, Guam and the Pacific Basin. Voluntary, non-governmental,  
8 institutional accreditation, as practiced by WASC and other regional commissions,  
9 is a unique characteristic of American education. Accreditation is granted at the  
10 completion of a peer review process, and assures the educational community, the  
11 general public, and other organizations that an accredited institution has met high  
12 standards of quality and effectiveness. While no institution in the United States is  
13 required to seek accreditation, it is highly coveted both in terms of institutional  
14 stature and the ability to qualify students for federally funded student loans under  
15 Title IV of the Higher Education Act. WASC is reviewed periodically by the DOE  
16 and the Commission is also periodically reviewed by the Council for Higher  
17 Education Accreditation.

18 11. Achieving WASC accreditation requires an applicant to endure a  
19 three-phase process costing tens of thousands of dollars or more and spanning as  
20 much as four years. WASC requires that any institution that it considers meet  
21 twenty-three eligibility criteria to achieve preliminary consideration for  
22 accreditation. The applicant must satisfy requirements such as showing that it has  
23 core faculty whose primary responsibility is to the institution, an adequate funding  
24 base and financial resources to ensure sustainability, and annual audits by a certified  
25 public accounting firm with two years of audited financial statements readily  
26 available. The next phase of WASC accreditation requires the institution to pay  
27 fees to cover WASC's site inspections, including travel, hotel and meal expenses of  
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1 its visiting team members, any legal fees WASC incurs, and other expenses during  
2 this evaluative process. This second phase could cost a school the size of the Law  
3 School \$20,000 or more. The last phase occurs when the institution is granted the  
4 status of being a candidate and seeks initial accreditation. This phase can take two  
5 or three years according to WASC's Procedures Manual and the cost could easily  
6 exceed another \$20,000 for a school like the Law School. The applicant must  
7 demonstrate compliance with WASC's formal Standards of Accreditation  
8 ("Standards"). The Standards cover all financial, organizational, and operational  
9 aspects of an institution and require the institution to show that it has or will meet  
10 numerous criteria and guidelines. Prior to initial accreditation, a multi-level review  
11 process ensues with the candidate institution preparing detailed written reports,  
12 receiving feedback from WASC committees and team members, responding to any  
13 evaluative concerns, undergoing several more site visits, and demonstrating that it  
14 meets both capacity and educational effectiveness standards. Like other aspiring  
15 institutions, the Law School contemplates a day when it might marshal sufficient  
16 resources to seek accreditation from WASC.

17 12. Over the past twenty-five years, the Law School and COL have  
18 competed for students and faculty. COL is much larger than the Law School and  
19 has approximately 250 students, thirty-seven faculty members and an administrative  
20 staff of nine. In spite of the fact that COL is larger and has more resources, the Law  
21 School established a strong presence in the tri-county region because of its  
22 willingness to keep tuition costs low while maintaining a strong faculty and  
23 academic program. This commitment has allowed many current and past students to  
24 afford to earn a law degree. The Law School has had a number of students who  
25 transferred in good academic standing from COL, citing the lower cost of tuition as  
26 a key factor. In the past three years, the few commercial banks like Wells Fargo and  
27 Bank of America that were willing to provide loans to students have ceased doing  
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1 so. As a result, the Law School's commitment to maintaining low tuition costs is  
2 more important than ever.

3 13. In mid-September 2009, Dean Pulle was approached by Figuli and  
4 George R. Haynes ("Haynes"), the former Vice President of Academic Affairs for  
5 the Santa Barbara Graduate Institute of Psychology (the "Institute"), regarding a  
6 potential acquisition by TCS. The Institute had just become affiliated with TCS on  
7 or about July 15, 2009, and Haynes, as a local educator and school administrator,  
8 made the introduction. The Institute was motivated in part to engage in the  
9 affiliation due to the prospect of achieving WASC accreditation and gaining access  
10 to federal student loans. Figuli and Haynes explained that TCS was interested in  
11 acquiring a California law school. Dean Pulle and his colleagues at the Law School  
12 were told by Figuli and Haynes that they and HEG were authorized to act on behalf  
13 of TCS as its agents and advisors. Figuli stated that he had extensive background in  
14 strategic acquisitions in the education sector and that, through defendant HEG, he  
15 had been assisting TCS with identifying suitable acquisition candidates and  
16 structuring transactions. Figuli represented to Dean Pulle that he had facilitated the  
17 recent TCS affiliation with the Institute.

18 14. Dean Pulle shared with Figuli and Haynes that the Law School was  
19 approached in 2007 by a large university about a potential acquisition, but during  
20 the course of those discussions, the university experienced certain financial  
21 challenges and the discussions ended. Dean Pulle told Figuli and Haynes that he  
22 was encouraged by the prospect of an acquisition with TCS because it would allow  
23 the Law School to seek regional WASC accreditation, increase enrollment, establish  
24 new programs, extend educational opportunities to foreign students and leverage  
25 existing resources, such as using one or both of the school's campuses for daytime  
26 programs. From the outset, Figuli, Haynes and TCS knew that there were two State-

1 Bar accredited law schools in the tri-county area, but Figuli stated that TCS was  
2 very interested in pursuing an acquisition of the Law School.

3 15. Dean Pulle represented to Figuli and Haynes that an integral part of the  
4 school's mission was to serve low and moderate income working adults and keep  
5 the total cost of the J.D. program in the range of \$30,000.00 over the course of the  
6 typical four year term. Further, Dean Pulle emphasized the commitment by his  
7 Board and faculty to reduce law school earnings if necessary to ensure that the  
8 program would remain affordable and accessible. Dean Pulle made it clear to Figuli  
9 and Haynes that the Law School was not interested in an affiliation if that would  
10 change the school's core mission or values, which included a focus on rigorous  
11 academic standards. As proof of the success of its approach, Dean Pulle  
12 emphasized the Law School's increasing profile in the community as a high quality  
13 law degree program, its outstanding faculty and Board members and the many  
14 notable keynote speakers at its graduation ceremonies. Figuli agreed to the  
15 parameters set by the Law School.

16 16. On September 24, 2009, the Law School and TCS entered into a  
17 Confidentiality and Non-Disclosure Agreement ("NDA"). The NDA was drafted by  
18 Figuli and is a form he uses in connection with transactions involving TCS. Dean  
19 Pulle executed the NDA on behalf of the Law School. Jeff Keith ("Keith"), Senior  
20 Vice President of Finance and Administration and Chief Financial Officer for TCS,  
21 executed the NDA on behalf of TCS. Keith previously served as the vice president  
22 of finance and the chief financial officer for The Chicago School of Professional  
23 Psychology, which with more than 3,000 students is TCS's largest higher education  
24 affiliate. At TCS, Keith is responsible for finance and accounting, technology,  
25 human resources, real estate, online operations, mergers and acquisitions, legal  
26 affairs, and strategy. A copy of the NDA is attached hereto as Exhibit 1.

1           17. The preamble to the NDA states that the Law School was to provide  
2 "access to proprietary, trade secret and confidential information..., which may  
3 include, without limiting the generality of the foregoing, strategies and strategic  
4 plans, business opportunities, business plans, financial reports, statements and  
5 projections, trade names and marks, documents, programs, techniques, know-how,  
6 and specifications...." The NDA referred to the collective of the confidential and  
7 proprietary information, both orally conveyed and in documentary form, as  
8 "Information". The Information was to remain the property of the Law School and  
9 used solely for the purpose of "facilitating a transaction" between TCS and the Law  
10 School which the NDA referred to as "the 'Relationship'". NDA, preamble and ¶1.  
11 TCS, its employees and agents were commanded "not to use, reproduce, or directly  
12 or indirectly disclose or allow access to the [I]nformation except as required to  
13 facilitate the *Relationship*." *Id.* (emphasis added). To alleviate any lingering  
14 concerns the Law School might have regarding the release of its Information to  
15 TCS, the NDA took the extraordinary step of mandating that:

16           "[TCS] shall protect the confidentiality of the Information from the date of its  
17 receipt hereunder with *at least the same diligence and care as would be*  
18 *required of [TCS] if it were a fiduciary of the [Law School], that is the*  
19 *utmost good faith and care for the interests of the [Law School]."* *Id.* ¶2  
20 (emphasis added).

21           18. TCS faithfully promised that it would not use the Information the Law  
22 School provided to "pursu[e] business opportunities or other arrangements or  
23 endeavors of any kind" in violation of the NDA. *Id.* ¶10. This non-competition  
24 covenant is proper because, *inter alia*, it is intended to prevent TCS from competing  
25 with the Law School after receiving the school's confidential Information. The  
26 NDA is governed by California law and "continue[s] until such time as any  
27  
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1 Information received by [TCS] hereunder is returned to the [Law School] or  
2 destroyed." *Id.* ¶7.

3 19. Figuli and TCS led the Law School to believe that TCS would be its  
4 strong ally and enable the Law School to compete against the larger, and better  
5 funded, COL. The manner in which an alliance with TCS would enable the Law  
6 School to grow and successfully compete with COL was discussed in great detail  
7 during September, October and November 2009. At no point during any of these  
8 discussions did Figuli or TCS suggest that the price the Law School had proposed  
9 was unreasonable or unacceptable. Instead, the discussions focused on marketing  
10 strategies, addition of new degree programs, initiation of internet based instruction,  
11 the use of TCS's WASC-accreditation and the corresponding ability to offer  
12 federally funded tuition loans to attract new students and other plans. In addition,  
13 issues of governance, structures of control, methods of securing expanded  
14 accreditation, and curriculum expansion were addressed.

15 20. Confident that it was working toward an acquisition, in early October  
16 2009, the Law School released its most guarded Information to Figuli, HEG and  
17 TCS. Among the documents that Dean Pulle and the Law School's Board of  
18 Directors prepared and released was a document entitled "Acquisition Profile and  
19 Initial Strategy For Regional Accreditation" dated October 1, 2009 ("Acquisition  
20 Profile"). The Acquisition Profile set forth intimate details about the Law School's  
21 plans and strategy, competitive challenges, financial affairs, cash flows, debts,  
22 faculty matters, contractual obligations, capital stock structure and its proposed  
23 terms for the sale of the Law School, including what the Dean and the Law School's  
24 Board of Directors perceived as a fair price for the shares of common stock held by  
25 the Law School's shareholders. On October 8, 2010, pursuant to TCS's due  
26 diligence requests, the Law School mailed the following documents to Figuli and  
27 HEG:

1 (a) The Law School's Articles of Incorporation, By-Laws, and accreditation  
2 license from the California Bureau for Private Postsecondary and Vocational  
3 Education;

4 (b) Stockholder ledgers;

5 (c) Minutes of the Law School's Board of Director meetings;

6 (d) President's Annual Report dated June 12, 2009 to the Law School's Board  
7 of Directors with detailed enrollment data for three years;

8 (e) An analysis of the Law School's financial condition with reference to the  
9 school's rent payments, cash on hand, ownership interests, and structure of  
10 administrative and faculty compensation (including actual dollar amounts);

11 (f) The Law School's Balance Sheet, including beginning and ending balances  
12 for 2006, 2007 and 2008, and the taxes paid on the school's revenues;

13 (g) Budgets and Profit & Loss Statements for 2009;

14 (h) Independent CPA Compilation Reports for fiscal years 2005, 2006, 2007  
15 and 2008;

16 (i) U.S. corporate tax returns for three years for 2005, 2006, 2007 and 2008;

17 (j) A report of cash balances as of September 30, 2009;

18 (k) A marketing plan, including a pricing and competition analysis;

19 (l) A detailed description of the Dean's Compensation Package, including his  
20 retirement plan;

21 (m) Wage and salary information for staff and faculty;

22 (n) Employee contracts, including sample faculty contracts;

23 (o) Personnel files, personal academic biographies on faculty and  
24 administrative staff and an organizational chart;

25 (p) Faculty and Student Policy Manuals;

26 (q) The Law School's real estate leases;



1 (r) State Bar Inspection Reports, including the Law School's responses to the  
2 comments made by the inspectors and follow-up correspondence with the  
3 State Bar;

4 (s) Comprehensive State Bar annual registration filings that covered academic  
5 standing of all students, a report on drop-out rates, a budget for a library  
6 acquisition, faculty grading charts, a self-study completed by the Law School;  
7 and

8 (t) The Law School's General Bar Exam pass rates for the previous five years  
9 with the Dean's analysis.

10 21. Although the confidential nature of the foregoing documents is  
11 apparent, the importance of Dean Pulle's imprimatur on the materials and his frank  
12 discussion of everything he, the Board and faculty had considered -- past, present  
13 and future -- cannot be overstated. For example, the documents related to the  
14 school's most recent State Bar inspection report are perhaps a law school's most  
15 sensitive and guarded information. While somewhat less detailed, the Law School's  
16 annual registration filing with the State Bar also covers many of the same topics.  
17 These documents lay out, line by line, in elaborate detail, all the strengths and  
18 weaknesses (both real and perceived) of the Law School's operation, and give  
19 insight into an accrediting body's opinion on all facets of the school from basic  
20 curriculum to the governing Board's discharge of its solemn duties to the school's  
21 various constituencies. The materials include the Law School's responses to those  
22 inquiries, addressing all of the State Bar's compliments, criticisms and  
23 recommendations.

24 22. Dean Pulle candidly discussed with Figuli, Haynes and Keith, the Law  
25 School's strengths, weaknesses and strategic plans with an emphasis on how its  
26 partnership with TCS could be used to increase the Law School's competitive  
27 advantage in the tri-county area. As the NDA demands, TCS and Figuli were  
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1 charged with maintaining and using all of the foregoing Information with "at least"  
2 the same care as the Law School's most trusted fiduciary. The purpose of opening  
3 the Law School's books and granting unlimited access to TCS was to facilitate an  
4 acquisition of the Law School as the NDA expressly states. The Law School had  
5 no reason to supply the Information for the purpose of facilitating TCS's affiliation  
6 with the Law School's sole competitor. Had defendants even hinted at that  
7 possibility, the Law School would not have supplied the Information or candidly  
8 discussed its plans and strategy with TCS's representatives.

9 23. On November 17, 2009, Dean Pulle met with Figuli, Haynes and Keith  
10 at the Law School's Ventura campus. As part of meeting, the group toured the Santa  
11 Barbara campus, met with Vice Dean O'Neill and even a local Santa Barbara realtor  
12 regarding the potential purchase of the campus building. During those discussions,  
13 the parties addressed the reconfiguration of the Law School's Board of Directors,  
14 the establishment of Joint Advisory Boards, and the hiring of additional faculty and  
15 new law deans, among other topics. The gist of those discussions indicated that an  
16 acquisition of the Law School by TCS was imminent. Near the conclusion of the  
17 meeting, Haynes asked Keith, "What next..?" Keith replied, "We make an offer."  
18 Dean Pulle then asked Keith when he thought TCS would make an offer. Keith and  
19 Figuli responded that it would be sent to the Law School no later than mid-  
20 December 2009. Dean Pulle reported the results of the meeting, including the  
21 anticipated offer, to Vice Dean O'Neill and the Law School's Board of Directors.

22 24. Later in the evening on November 17, 2009, Dean Pulle e-mailed Figuli  
23 and Haynes suggesting that TCS and the Law School engage in a follow-up  
24 discussion to address a few specific topics related to the acquisition, including such  
25 issues as changing the Law School's name, the composition of the new board of  
26 directors, the role of the current Board, and whether or not Figuli should serve on  
27 the newly reconstituted board. On November 18, 2009, Figuli e-mailed Dean Pulle  
28

1 thanking him for his thoughts and confirmed these suggestions would be taken into  
2 account.

3 25. The Law School did not receive any communication from TCS or  
4 Figuli in December 2009. On January 21, 2010, Dean Pulle sent an e-mail to Figuli,  
5 with copies to Haynes and Keith, requesting a “status report” on the process toward  
6 an acquisition. On January 22, 2010, Figuli e-mailed Dean Pulle, with copies to  
7 Haynes and Keith, stating as follows:

8 "Stan, we appreciate you keeping us in mind.

9 We were truly impressed with the remarkable accomplishments that  
10 you and your board have achieved in a very competitive environment.

11 We believe that the reality of the situation at SCIL is that the  
12 achievements have been largely fueled by some rather extraordinary  
13 sacrifices on your part. That has, in our opinion, and based on a very  
14 limited review, created a financial model that would be difficult to  
15 perpetuate.

16 If we were to recast the financial results of SCIL to reflect a sustainable  
17 administrative and operational model, the results would not provide a  
18 basis for the type of 'ask' that your board has made. Accordingly, it is  
19 our perception that an arrangement that would be acceptable to us  
20 would be very disappointing to your board.

21 As a result of that analysis, we think it would be best for TCS to take a  
22 pass on the SCIL opportunity *at this time.*”

23 (italics omitted; emphasis added).

24 26. TCS made no counter offer even though it received not only the price  
25 proposed by the Law School on or about October 1, 2009, but a written indication  
26 from Dean Pulle in that same communication and subsequently in the parties'  
27 discussions, that his Board would consider a lower amount and negotiate. Prior to  
28

1 Figuli's January 22, 2010 e-mail, no one from TCS, including Figuli, Haynes or  
2 Keith, suggested that the Law School's proposed price was unacceptable or  
3 unreasonable. The last phrase in Figuli's e-mail that TCS would "pass on the SCIL  
4 opportunity at this time" left open the possibility that it was still considering a  
5 pending offer. Dean Pulle conveyed that impression to his Board and certain faculty  
6 who had been involved in the negotiations. This inference is further bolstered by  
7 the fact that paragraph 5 of the NDA obligates TCS upon termination of the  
8 "Relationship" to "promptly destroy" the Information and "certify" its destruction to  
9 the Law School. Paragraph 7 of the NDA, further provides that: "Unless otherwise  
10 agreed, the Agreement shall continue until such time as any Information received by  
11 TCS hereunder is returned to the [Law School] or destroyed." The Law School's  
12 documentary Information was neither destroyed nor returned and no certification of  
13 its destruction has been provided. The Law School had no idea of defendants'  
14 intentions to misuse the Information and abuse the "Relationship" of trust and  
15 confidence created by the NDA and the parties' course of dealing.

16 27. In violation of the NDA and applicable law, the defendants made a  
17 calculated decision to misuse the Law School's Information, conveyed both in  
18 documents and orally by Dean Pulle and Vice Dean O'Neill, as a means for  
19 acquiring the Law School's longtime rival, COL. TCS, through its affiliation with  
20 COL, has now become the Law School's sole competitor with full knowledge of the  
21 Law School's most intimate and confidential information and trade secrets. In  
22 September 2010, Haynes spoke to Dean Pulle by telephone confirming that Figuli is  
23 still in possession of the Law School's documentary Information. Haynes further  
24 confirmed that Figuli actively participated in negotiating TCS's affiliation with  
25 COL.

26 28. It may reasonably be inferred that defendants approached COL during  
27 the time they were engaged in discussions with the Law School or soon thereafter,  
28

1 but concealed their wrongful intent from the plaintiff. This inference is supported  
2 by the large gap in time between the November 17, 2009 meeting and Figuli's  
3 January 22, 2010 e-mail sent only hours after Dean Pulle inquired about why he had  
4 not heard anything further from TCS. COL's Website confirms that TCS  
5 approached COL regarding the possible affiliation. The defendants further admit in  
6 documents on their Websites that COL and TCS obtained approval from the State  
7 Bar's Committee of Bar Examiners for their affiliation in July 2010. It takes a  
8 month or more to obtain such approval. When one considers the time needed to  
9 conduct due diligence and negotiate their affiliation, it is reasonable to infer that  
10 defendants' initial contact with COL occurred contemporaneously with or soon after  
11 their discussions with the Law School.

12 29. Having gained access to plaintiff's confidential Information, the NDA  
13 restricted the defendants from using the Information other than to "facilitat[e] a  
14 transaction" with the plaintiff and effectively barred defendants from becoming the  
15 Law School's competitor because to do so would violate their contractual and  
16 fiduciary-like obligations. See NDA ¶10 (TCS shall not "pursu[e] business  
17 opportunities or other arrangements or endeavors of any kind" in violation of the  
18 NDA). . The *sine qua non* of the Law School's release of its Information was TCS's  
19 promise that it would use and safeguard the Information as if it were plaintiff's  
20 fiduciary. The essence of fiduciary responsibility is *candor, loyalty* and  
21 *safeguarding trust*. Otherwise, deception and self-interest are likely outcomes -- the  
22 antithesis of fiduciary law. In the legendary words of the Honorable Benjamin N.  
23 Cardozo: "Many forms of conduct permissible in a workaday world for those acting  
24 at arm's length, are forbidden to those bound by fiduciary ties. A trustee is held to  
25 something stricter than the morals of the market place. Not honesty alone, but the  
26 punctilio of an honor the most sensitive, is then the standard of behavior." *Meinhard*  
27 *v. Salmon*, 249 N.Y. 458, 464 (1928).

1           30. The Law School first learned of defendants' wrongful conduct through  
2 news reports on or about September 22, 2010. The press release, dated September  
3 21, 2010, jointly published by TCS and COL and carried on their respective  
4 Websites and by various news services, including *Reuters* and the *Pacific Coast*  
5 *Business Times*, confirmed that TCS and COL entered into an affiliation agreement  
6 effective October 1, 2010. Referring to COL as "the Central Coast's preeminent law  
7 school," the press release confirms that under its new leadership, COL, using TCS's  
8 expertise in regulatory affairs, plans to seek WASC accreditation which will bring  
9 access to federal student financial aid programs. In the September 21, 2010, press  
10 release, COL Dean Heather Georgakis, is quoted as saying, "This affiliation will  
11 strengthen the law school and its long-term growth potential by adding new  
12 resources, generating economies of scale and creating new opportunities for law-  
13 related education." Among the "new opportunities" planned by TCS and COL are  
14 adding online courses, additional law programs (as may be allowed by the State  
15 Bar), multi-disciplinary and joint programs in other disciplines within the expertise  
16 of TCS's affiliates, and access to advanced educational technology and academic  
17 support. As part of the agreement, TCS will also provide administrative and  
18 student support services, marketing assistance, accounting and human resources.  
19 COL will continue to be governed by a board of trustees, but as COL's supporting  
20 entity, TCS will join with the trustees to create a "fiduciary council" that will meet  
21 annually to decide on major budget and strategic issues, including plans for COL's  
22 expansion.

23           31. In spite of defendants' betrayal and the harm inflicted on the Law  
24 School, plaintiff is primarily seeking injunctive relief to prevent TCS from taking  
25 further steps to pursue the affiliation with COL rather than monetary damages. The  
26 plaintiff's greatest concern is preserving the opportunity for an underserved  
27 population of current and future students to attend the Law School. Nearly twenty-  
28

1 five years of tireless efforts and sacrifice, as defendants themselves acknowledge,  
2 have yielded a wonderful community resource with an outstanding faculty, grateful  
3 and accomplished alumni, and a reputation of integrity and scholarship. All of this  
4 is now placed in jeopardy by making it unlikely that the Law School will survive  
5 due to the defendants' misuse of the confidential Information, unlawful competition  
6 and other wrongdoing. Until now, the Law School has successfully competed with  
7 rival COL by keeping its tuition low and offering what many view as the superior  
8 legal education. With TCS's vast resources, including its marketing savvy, the Law  
9 School has no chance of continuing to differentiate itself successfully. The  
10 defendants and COL have already begun marketing the affiliation as major  
11 advantage on their Websites and at Open Houses being held at COL's campuses  
12 during October and November of 2010. On COL's Website under a heading  
13 entitled, "Frequently Asked Questions About Affiliation Between the Colleges of  
14 Law and TCS ES," COL states:

15 "What will TCS ES bring to the Law School and its students?"

16 TCS ES will provide administrative support and services that are  
17 otherwise cost-prohibitive to a stand-alone institution the size of the  
18 Colleges. The Colleges will be able to update and streamline operations  
19 in a variety of areas, including student services, academic support,  
20 marketing, accounting and human resources. Students will benefit  
21 from the kind of improvements in campus technology that will allow  
22 them to mix onsite and online courses, learn in "smart" classrooms, use  
23 robust online course support software, and interact more easily with the  
24 Administration Office. TCS ES will also provide dedicated expertise in  
25 regulatory affairs, regional accreditation, and Title IV Federal financial  
26 aid. And, through this affiliation the Colleges of Law will be better  
27 positioned to take our mission, expertise, and access to the study of law  
28

1 to new students as we expand our horizons and chart a course of growth  
2 and continued development."

3 32. All of these advantages were ones that the Law School proposed and/or  
4 discussed with Figuli, Haynes and Keith in confidence during the parties' meetings  
5 and correspondence. The defendants and Haynes have taken the Information the  
6 Law School provided, some of which constitutes trade secrets, and is using it to  
7 compete against the Law School. COL's rivalry with the Law School is both long-  
8 lived and often intense. At an Open House held on October 19, 2010, COL's  
9 Assistant Dean Barbara Doyle emphatically discouraged prospective law students  
10 from attending the Law School exclaiming, "Oh no, no, no, that's our competitor,  
11 don't go there!" Assistant Dean Doyle's presentation focused on the "advantages" of  
12 attending COL from the perspective of cost and the relative value of the anticipated  
13 education, based in part on TCS's affiliation, and argued that COL compared  
14 favorably to several other California law schools. Notably absent from her  
15 presentation was any comparison to the Law School.

16 33. On or about December 14, 2010, Haynes, who worked with Figuli in  
17 conducting due diligence on the Law School, became a member of the COL Board  
18 of Trustees. In the COL press release announcing Haynes' Board membership,  
19 Haynes is identified as an "organizational consultant." As alleged above, Haynes  
20 participated in the parties' meetings where the Law School's strategies and other  
21 confidences were candidly discussed. During the meetings, Haynes was shown the  
22 Law School's Board Minutes, President's Annual Report to the Board, the Law  
23 School's strategy for WASC accreditation, recent bank statements and cash  
24 projections, compensation structure of the Dean, Registrar and faculty, CPA-  
25 prepared projected earnings and the stock ledger, faculty files, financial obligations  
26 of the school, recent profit and loss statements, State Bar accreditation and self-  
27 evaluative reports, enrollment data, and other confidential Information.



1           34. Not only is TCS-COL wealthy and resource rich, they are armed with  
2 the Law School's misappropriated Information and best strategic thinking of its  
3 deans, faculty and Board placing the Law School at a distinct competitive  
4 disadvantage. To the extent the Law School's confidences reveal strengths, TCS  
5 and COL can now use the information to emulate the Law School's strengths. To  
6 the extent the misappropriated Information reveals the Law School's weaknesses,  
7 they can direct their efforts at exploiting those weaknesses.

8           35. With its present resources, the Law School cannot offer the services  
9 promised by COL to current and prospective students or match TCS's likely  
10 administrative and technological innovations. TCS's affiliation with COL has  
11 reduced the likelihood that the Law School might be perceived as an attractive  
12 acquisition candidate to another large education organization. In addition, TCS is in  
13 a position to poach on current and future students of the Law School through the  
14 promise of federally funded tuition loans. This is even more of a threat in light of  
15 the current tight credit market.

16           36. By contrast, had TCS sought to compete fairly, even with its wealth  
17 and resources, it would be a relatively weak competitor if it were to try and start a  
18 law school on its own. The barriers to entry in California for new law schools are  
19 considerable, including the likelihood of a decade or more of effort to achieve State  
20 Bar accreditation. In addition to the lesser status accorded unaccredited schools,  
21 first year students are required to take and pass the "Baby Bar" (formally, the "First  
22 Year Law Students' Examination-FYLSX") before they can move ahead in school.  
23 The pass rate on this exam is usually only 10 to 15 percent which can be devastating  
24 financially to a new law school given the high attrition rate. This is the main reason  
25 why TCS sought to acquire an existing school -- a key point Figuli and other TCS  
26 representatives discussed with Dean Pulle.

1           37. The Law School has competed successfully with COL for many years  
2 and welcomes increased opportunities for all students, particularly those who might  
3 benefit from access to student loans and improvements in the educational process.  
4 These are all good things in the abstract. But the law should not condone  
5 wrongdoing even if the wrongdoing may create social good for some. To do  
6 otherwise is Machiavellian. Without injunctive relief, the Law School will lose the  
7 ability to compete, suffer a downturn in its enrollment and may go out of business.  
8 Working class students and the Law School's dedicated faculty and administrative  
9 staff will all fall victim to defendants' wrongdoing masquerading as "social impact"  
10 and progress. Injunctive relief levels the playing field allowing TCS and COL to  
11 continue to do business as they did before TCS misappropriated all of the plaintiff's  
12 most closely guarded secrets to gain an unfair competitive advantage.  
13

#### 14   **AGENCY ALLEGATIONS**

15           38. Each of the defendants was the agent of the other defendants in regard  
16 to all events and actions described herein and acted within the course and scope of  
17 such agency at all relevant times.  
18

#### 19   **CONSPIRACY ALLEGATIONS**

20           39. Defendants, and each of them, agreed and knowingly and willfully  
21 conspired to facilitate and enter into the COL affiliation.  
22

23           40. In order to further and effectuate this conspiracy, defendants, and each  
24 of them, misused and misappropriated plaintiff's Information and trade secrets,  
25 concealed and misrepresented material facts, engaged in unfair competition and  
26 committed other unlawful acts. Defendants' wrongdoing is continuing as they move  
27 forward with the COL affiliation.  
28

1           41. Defendants' acts were done with the full knowledge and consent of  
2 each of them and caused injury to the plaintiff, including, the imminent threat of  
3 irreparable harm.

4                                 **FIRST CLAIM FOR RELIEF**  
5                                 **(Breach Of Contract Against TCS)**

6           42. Plaintiff hereby repeats, realleges and incorporates by reference the  
7 allegations which are contained in paragraphs 1 through 41, above. This first claim  
8 for relief is alleged against defendant TCS.

9           43. The NDA is a valid and enforceable contract. The fiduciary obligations,  
10 confidentiality covenants and other provisions contained therein were and are  
11 reasonably necessary to protect plaintiff's legitimate interests in safeguarding its  
12 trade secrets, confidential information, financial data, faculty and employee  
13 relationships and competitive standing.

14           44. Plaintiff fully performed all of its obligations under the NDA except for  
15 those that have been discharged or excused by defendant's prior breaches or other  
16 wrongful acts.

17           45. TCS is breaching or threatens to breach the NDA in at least the  
18 following ways:

- 19                   (a) Keeping the Information, as defined in the NDA, in its possession;  
20                   (b) Misusing the Information, documentary and otherwise, to compare  
21 the Law School to COL, facilitate its affiliation transaction with COL  
22 and obtain an unfair competitive advantage over the plaintiff;  
23                   (c) Refusing to certify the destruction of the Information;  
24                   (d) Failing to protect the confidentiality of the Information in at least  
25 the same manner as a fiduciary of the Law School would do;

1 (e) Violating its covenant not to compete against the Law School by  
2 using the Information it obtained pursuant to the NDA to pursue an  
3 affiliation with COL.

4 46. As a direct and proximate result of any one or all of these breaches,  
5 plaintiff has been injured and faces irreparable harm. Plaintiff is threatened with  
6 losing students, its competitive advantage, trade secrets and goodwill in amounts  
7 which may be impossible to determine, unless TCS is enjoined and restrained by  
8 order of this Court.

9 47. Alternatively, plaintiff has suffered actual damages in an amount that  
10 exceeds \$75,000, which plaintiff will prove at the time of trial. In addition,  
11 defendants have been unjustly enriched to the extent that they are profiting unfairly  
12 from their use of plaintiff's confidential Information and trade secrets and their  
13 violation of the non-competition covenant.

14 **SECOND CLAIM FOR RELIEF**

15 **(Negligent Misrepresentation Against TCS)**

16 48. Plaintiff hereby repeats, realleges and incorporates by reference the  
17 allegations which are contained in paragraphs 1 through 47, above. This second  
18 claim for relief is alleged against TCS.

19 49. By entering into the NDA, TCS represented to the plaintiff that it  
20 would not pursue a transaction in violation of the agreement. In reliance on that  
21 representation, the plaintiff granted TCS access to its confidential Information. The  
22 parties then engaged in a series of discussions which focused on strategies for  
23 competing against COL. The Law School shared its plans for achieving WASC  
24 accreditation, increasing enrollment, marketing the Law School, expanding  
25 curriculum and offering other educational opportunities and services. TCS created a  
26 climate whereby the Law School reasonably believed that the resources of TCS and  
27 the Law School would be combined to achieve these goals.

1           50. Once TCS gained access to the Law School's confidential Information,  
2 TCS was under an affirmative duty to use and maintain the Information in a  
3 fiduciary-like manner. The parties' discussions and TCS's contractual obligation  
4 created an affirmative duty on TCS's part to disclose that it intended to negotiate  
5 with COL toward an affiliation. In making the representation that it would not  
6 pursue a transaction in violation of the NDA, TCS acted without reasonable grounds  
7 for believing the representation to be true.

8           51. Plaintiff was unaware of the material misrepresentation and justifiably  
9 relied on TCS's promise that it would not pursue a transaction in violation of the  
10 NDA. Had plaintiff known the true facts, it would not have agreed to provide its  
11 confidential Information to the defendants. TCS's non-disclosure amounts to a  
12 failure to act in good faith and in accordance with reasonable standards of  
13 fair dealing. Because TCS did not disclose its intention to affiliate with COL, the  
14 Law School was unable to safeguard its rights by seeking injunctive and declaratory  
15 relief to prevent the affiliation.

16           52. As a direct and proximate result of TCS's misrepresentation, plaintiff  
17 suffered injury and substantial damage. Alternatively, plaintiff does not have an  
18 adequate remedy at law to protect its interests and seeks injunctive relief.

### 19                           **THIRD CLAIM FOR RELIEF**

#### 20                   **(Misappropriation Of Trade Secrets Against All Defendants)**

21           53. Plaintiff hereby repeats, realleges and incorporates by reference the  
22 allegations which are contained in paragraphs 1 through 52, above. This third claim  
23 for relief is alleged against all defendants.

24           54. At all relevant times, plaintiff was in possession of confidential and  
25 trade secret information as defined by California Civil Code §3426.1(d). The  
26 documents the Law School provided to TCS, Figuli, HEG and Haynes as set forth in  
27 paragraphs 20 and 21, above, are carefully guarded by the Law School to avoid  
28

1 disclosure. In the regular course of business, the only persons who have unlimited  
2 access to the information and documents supplied are the Law School's Board of  
3 Directors, Dean Pulle, Vice Dean O'Neill, and the Law School's Registrar. CBE  
4 inspectors, tax authorities, government regulators and the Law School's accountants  
5 may also on occasion gain access to certain of the Information the Law School  
6 provided. Even the Law School's faculty members are not privy to the Information  
7 the Law School turned over, except certain discrete documents such as their own  
8 employment contracts. Plaintiff's confidential and proprietary trade secret  
9 information is not and was not generally known to TCS, COL or any other actual or  
10 potential competitors before defendants wrongfully induced plaintiff to release the  
11 information to them.

12 55. Paragraph 20, above, identifies items such as the (i) Minutes of the Law  
13 School's Board of Director meetings; (ii) President's Annual Report to the Law  
14 School's Board of Directors; (iii) Comprehensive State Bar annual registration  
15 filings covering academic standing of all students, drop-out rates, library  
16 acquisition budget, faculty grading charts, self-evaluation studies; (iv) marketing  
17 plans, including a pricing and competition analysis; (v) State Bar Inspection  
18 Reports, including the Law School's responses to and correspondence with  
19 inspectors and the State Bar; and (vi) Dean Pulle's analysis of the Law School's  
20 General Bar Exam pass rates for the previous five years.

21 56. The forgoing documents candidly compare and contrast many facets of  
22 the Law School's academics, operations, regulatory competency and competitive  
23 strategies. For example, topics include: new curriculum that is popular with  
24 prospective students; techniques for avoiding grade inflation; teaching methods that  
25 work for English-as-a second-language students; strategies for identifying and  
26 attracting quality faculty, including compensation levels and administrative support;  
27 affordable and effective advertising expenditures; methods for reducing drop out  
28

1 rates; and cost-containment strategies. To the extent that the Law School received  
2 criticism from regulators, its actual or planned responses are set forth in certain of  
3 these documents. The ideas and strategies expressed in such responses reflect the  
4 strategic thinking of the Law School's Board of Directors, Deans, and Registrar.  
5 Keeping that Information confidential allows the Law School to work on any  
6 perceived shortcomings and minimize the risk that COL will exploit any weakness  
7 to its own advantage. The Law School discussed with Figuli, Haynes and Keith the  
8 regulatory findings and responses, interdisciplinary programs, the use of increased  
9 technology, and the potential for creating a day time law school program, among  
10 other topics.

11 57. Another category of documents set forth in paragraph 20, above, are  
12 those reflecting the Law School's financial reports and analysis. These documents  
13 provide details about the Law School's operational budget, cash flow and expense  
14 projections, and compensation analysis for the Deans, Registrar and faculty. This  
15 information is what the Law School's Board of Directors uses to determine what  
16 academic, operational and marketing strategies it can afford and what must be  
17 deferred. In addition, the salaries and benefits of the Deans and Registrar and the  
18 compensation paid to part-time faculty are carefully structured in light of the Law  
19 School's cash flows and reserves. The Law School's flexibility and creativity in  
20 structuring the salaries and compensation is proprietary and a key reason the school  
21 has been able to adapt to changing regulatory and economic conditions over the  
22 years. Allowing a competitor like COL to gain access to this information,  
23 particularly in conjunction with the other strategic documents set forth above,  
24 reduces the Law School's ability to innovate and compete.

25 58. Dean Pulle has approximately thirty-five years of experience with law  
26 school education in the tri-county region and a detailed knowledge of the regulatory  
27 landscape. Plaintiff knows of no other educator in the region that has that level of  
28

1 experience. The Law School's Board of Directors has spent years planning and  
2 implementing strategies that have allowed the Law School to become successful and  
3 gain stature. Many of the documents shared with Figuli, Haynes and Keith contain  
4 the Board and Dean Pulle's best thinking on how to differentiate the Law School  
5 from other State Bar accredited law schools, most particularly COL. In addition, as  
6 alleged above, Figuli, Haynes and Keith received the benefit of detailed discussions  
7 at the meetings the parties' conducted, including strategies for completing WASC  
8 accreditation in an economic and reasonably prompt manner. This strategic  
9 information is something the Law School developed for the purpose of facilitating  
10 its acquisition or alignment with a larger institution. It is a trade secret and is set out  
11 in part in the Acquisition Profile, identified in paragraph 20, above.

12 59. The Information summarized in paragraphs 55 through 58, above,  
13 constitutes trade secrets because plaintiff derives independent economic value from  
14 maintaining the confidentiality of the Information, such Information is not generally  
15 known nor readily ascertainable by proper means by other persons who can obtain  
16 economic value from its disclosure or use, and because the information is the subject  
17 of reasonable efforts to maintain its secrecy. In the current tough economy with  
18 declining enrollment, the efforts of the Law School to position itself as an  
19 academically superior institution that offers affordable education is critical to its  
20 ability to differentiate itself from COL and other law schools. Its academic,  
21 operational, financial and regulatory strategies are the means to this end and were  
22 shared with the defendants based on the plaintiff's belief that the defendants would  
23 honor their commitment to maintain the plaintiff's confidences and use the  
24 Information for the purpose of TCS's acquisition of the Law School.

25 60. Defendants have actually misappropriated and/or threaten to  
26 misappropriate plaintiff's trade secrets without plaintiff's consent in violation of  
27 California's Uniform Trade Secrets Act ("CUTSA"), California Civil Code §3426, *et*  
28



1 *seq.* By affiliating with COL, TCS is now in a competitive relationship to the  
2 plaintiff. It is using and will continue to use plaintiff's trade secrets and other  
3 confidential Information to advance COL's interests.

4 61. Haynes, who recently joined the Board of Trustees of COL, was privy  
5 to all of the discussions and Information the Law School revealed. He gained access  
6 to Information that only the Law School's Deans, Registrar and Board of Directors  
7 typically review and consider, assisted in bringing about the TCS-COL affiliation  
8 and is now capable of using the plaintiff's Information to develop strategies to  
9 compete against the Law School.

10 62. In addition to the press releases, open houses and Internet-based  
11 announcements proclaiming the TCS-COL affiliation and the many advantages it  
12 offers prospective students, the Law School is experiencing increased competition  
13 from COL through marketing strategies that the Law School proposed to TCS,  
14 Figuli, and Haynes. For example, during the parties' meetings, Dean Pulle  
15 expressed the Law School's plans for increased marketing in the Santa Barbara area,  
16 including advertising on buses. COL recently embarked on an advertising campaign  
17 that increased the intensity of marketing in the Santa Barbara area and is advertising  
18 on buses. The Law School proposed the marketing campaign to carefully target the  
19 fewer potential students in the Santa Barbara area. This strategy is now being used  
20 against the Law School to reduce its enrollment.

21 63. Due to their contractual and fiduciary-like obligations, defendants  
22 gained access to plaintiff's most valuable trade secrets and confidential Information.  
23 Defendants continue to have knowledge of that information, notwithstanding the  
24 fact that TCS is now affiliated with COL and is competing with the plaintiff.  
25 Through Haynes, defendants are using plaintiff's trade secrets and confidential  
26 information in violation of the CUTSA and the NDA.



1 drafted the NDA and was actively involved in the parties' discussions regarding the  
2 acquisition of the Law School by TCS.

3 69. During the period commencing in or about September 2009, and  
4 continuing through the present, Figuli and HEG, intentionally induced and caused  
5 TCS to breach the NDA. Defendants directed, controlled, manipulated and caused  
6 TCS to repudiate its obligations regarding the NDA. The defendants did such acts  
7 intentionally to harm the plaintiff and frustrate plaintiff's rights.

8 70. Defendants' wrongful and intentional interference, did, in fact, disrupt  
9 the contractual relationship between the plaintiff and TCS, in that the plaintiff was  
10 denied the opportunity to complete its negotiations with TCS and was kept in the  
11 dark about the COL affiliation until after it was consummated.

12 71. As a direct and proximate result of Figuli and HEG's intentional and  
13 wrongful interference with the NDA, plaintiff was damaged in a sum to be  
14 determined at the time of trial, but in excess of the jurisdictional amount.

15 72. The acts of Figuli and HEG were approved in advance and ratified by  
16 them with full knowledge of the nature and effect of such actions. Such acts were  
17 done for their own monetary gain and in conscious disregard of plaintiff's rights  
18 with the intent to cause injury and harm to the plaintiff. By reason of these acts,  
19 plaintiff is entitled to an award of punitive and exemplary damages against these  
20 defendants.

### 21 **FIFTH CLAIM FOR RELIEF**

#### 22 **(Violation Of The Unfair Competition Law Against All Defendants)**

23 73. Plaintiff hereby repeats, realleges and incorporates by reference the  
24 allegations which are contained in paragraphs 1 through 72, above. This fifth claim  
25 for relief is alleged against defendants for their violation of the Unfair Competition  
26 Law, California Business & Professions Code §§ 17200, *et seq.*




- 1           7.     For plaintiff's costs of suit including their reasonable attorneys' fees;  
2           8.     For prejudgment and post judgment interest; and  
3           9.     For such other and further relief as the Court deems just and proper.

4  
5 DATED: May 17, 2011

THE LAW OFFICES OF GEORGE A. SHOHET,  
A PROFESSIONAL CORPORATION

6  
7 KREINDLER & KREINDLER LLP

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9  
10 By:  \_\_\_\_\_

11           George A. Shoet  
12           Attorneys for Plaintiff

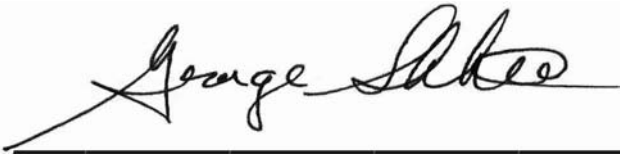
**JURY TRIAL DEMAND**

Plaintiffs hereby demand a trial by jury in this matter.

DATED: May 17, 2011

THE LAW OFFICES OF GEORGE A. SHOHEK,  
A PROFESSIONAL CORPORATION

KREINDLER & KREINDLER LLP

By: 

George A. Shohet  
Attorneys for Plaintiff

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who have consented to electronic service are being served with a copy of the foregoing document via Central District of California CM/ECF system on May 18, 2011

\_\_\_\_\_/s/ George A. Shohet\_\_\_\_\_