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16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF NEVADA**

18 PSX, INC., a Louisiana Corporation;) Case No. 2:19-cv-01478-KJD-VCF
19)
20 Plaintiff,)

21 v.)

22 **STIPULATION AND ORDER TO**
23 **AMEND COMPLAINT PURSUANT TO**
24 **LR 7-1, AND LR 15-1**

25 Gilberto S. Medina, Jr., an individual;)
26)
27 Defendant.)
28)

29 THE PARTIES TO THIS ACTION, by and through the parties' counsel of
30 record, hereby stipulated as follows:

31 The parties hereby stipulate, subject to this Court's approval, that Plaintiff PSX,
32 Inc. is permitted to file and serve the First Amended Complaint attached hereto as
33 **Exhibit 1**, within ten days of approval by this Court. This parties enter this stipulation
34 for good and not for any improper purpose, such as to harass or cause necessary delay.

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1 The caption shall be amended accordingly. Defendant’s Motion to Dismiss for Failure
2 to Join Necessary Party (ECF No. 12) shall be dismissed as moot upon Plaintiff’s filing
3 of its First Amended Complaint.

4 Dated this 30th day of December 2019.

5 FISHER & PHILLIPS LLP	RICE REUTHER SULLIVAN & 6 CARROLL, LLP
7 <u>/s/ Brian L. Bradford, Esq.</u>	<u>/s/ David A. Carroll, Esq.</u>
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Attorneys for Plaintiff PSX, Inc.	Attorneys for Plaintiff

11 IT IS SO ORDERED this 31st December
12 day of _____, 2019.

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15 _____
16 UNITED STATES MAGISTRATE JUDGE

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EXHIBIT 1

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14 Attorneys for Plaintiff

15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

17 PSX, INC., a Louisiana Corporation;) Case No. 2:19-cv-01478-KJD-VCF
18)
19 Plaintiff,)
20) **FIRST AMENDED COMPLAINT**
21 v.)
22)
23 GILBERTO S. MEDINA, JR., an)
24 individual; and CCS PRESENTATION)
25 SYSTEMS, LLC, an Arizona Limited)
26 Liability Company,)
27)
28 Defendants.)

29 Plaintiff PSX, Inc. (“PSX” or “Plaintiff”), by and through its undersigned
30 counsel, complains against Defendant, Gilberto S. Medina, Jr. (“Medina”) and CCS
31 Presentation Systems, LLC (“CCS”), and alleges as follows:

32 **I. SUMMARY OF THE ACTION**

33 1. This Complaint arises from undeniable evidence that: (a) Medina began
34 competing with former employer, PSX, while he was still working for and conducting
35 business on behalf of PSX, and is presently competing with PSX using unfair and
36 unethical business practices, not to mention using PSX’s confidential and trade secret

1 information for the benefit of another competitor; (b) Medina copied, retained, and
2 continues to possess without authorization a large amount of proprietary, confidential,
3 and trade secret information of PSX, including a comprehensive client list with
4 confidential details about PSX’s clients and prospective clients; (c) on or around April 5,
5 2019, the same day he resigned from PSX, Medina sent from his personal e-mail account
6 a large amount of Confidential Information and PSX’s Trade Secrets, including (as
7 further described below) information and attachments containing price lists and client
8 and prospective client contact information; and (d) since the time that Medina stopped
9 performing services on behalf of PSX in April of 2019, he was subsequently hired by
10 CCS Presentation Systems, LLC (“CCS”) and began to solicit PSX’s employees and
11 clients using PSX’s confidential and trade secret information while he was still employed
12 by PSX, (as set forth below and above) including, but not limited to, contact information
13 of employees and clients that is not generally available from public sources and was
14 compiled by PSX through significant effort and time.

15 2. Plaintiff seeks permanent injunctive relief from this Court to compel
16 Medina, to (a) refrain from disclosing and using any of Plaintiff’s confidential and trade
17 secret information; (b) order Medina to return to Plaintiff the property that that Medina
18 wrongfully took; (c) prohibit Medina from further benefiting financially from their
19 unlawful solicitation of clients using PSX’s confidential and trade secret information;
20 and (d) prohibit Medina from soliciting PSX’s clients and unfairly competing with PSX
21 in the course of providing his services to CCS.

22 **II. THE PARTIES**

23 3. Plaintiff PSX, Inc. (“PSX”) is a corporation organized and existing under
24 the laws of the state of Louisiana, maintaining its principal place of business in
25 Covington, LA at 150 New Camellia Blvd., Covington, LA 70433.

26 4. Plaintiff is informed and believes and on that basis alleges that Gilberto
27 Medina is an individual residing in Clark County in the city of Henderson, Nevada.

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1 5. Medina was hired by PSX on or about August 29, 2016 to work as
2 Director of Business Development and Management, Western Division, of PSX.
3 Thereafter, he continued providing services to PSX and conducting business on behalf of
4 PSX until on or about April 5, 2019.

5 6. Plaintiff is informed and believes and on that basis alleges that Medina is
6 currently employed by CCS Presentation Systems, LLC (“CCS”), an Arizona limited
7 liability company, licensed to conduct business and is conducting business in the State
8 of Nevada. CCS is also engaged in the highly competitive commercial audiovisual
9 industry. CCS is a direct competitor of PSX.

10 7. Plaintiff is informed and believes and on that basis alleges that
11 Defendants, and each of them, acted in concert with one another to commit the wrongful
12 acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in
13 the wrongful acts alleged herein, and/or attempted to do so. Upon further information
14 and belief, Defendants, and each of them, formed and executed a conspiracy or common
15 plan pursuant to which they would commit the unlawful acts alleged herein, with all such
16 acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and
17 actually causing PSX harm.

18 **III. JURISDICTION AND VENUE**

19 8. The Court has subject matter jurisdiction over this civil action pursuant to
20 28 U.S.C. § 1331 because this action involves claims asserted pursuant to the federal
21 Defend Trade Secrets Act (18 U.S.C. §§ 1830, et seq.) and the federal Computer Fraud
22 and Abuse Act (18 U.S.C. §§ 1030, et seq.). Injunctive relief is sought pursuant to
23 Federal Rule of Civil Procedure 65.

24 9. The supplemental jurisdiction of the Court is invoked pursuant to 28
25 U.S.C. § 1367 to consider Plaintiff’s claims under Nevada common law, the Nevada
26 Trade Secrets Act, and other Nevada statutes.

27 10. Venue is proper in this judicial district as to Medina pursuant to 28 U.S.C.
28 § 1391(b) because a substantial part of the events or omissions giving rise to the claims

1 occurred in this judicial district. Medina was performing services on behalf of PSX out
2 of PSX's Nevada-based office from on or about August 29, 2016 until on or about April
3 5, 2019.

4 **IV. FACTUAL ALLEGATIONS**

5 **PSX's Business Overview**

6 11. Headquartered in Louisiana with an office in Nevada, PSX has provided
7 state-of-the-art technology and advanced systems integration since 1996.

8 12. PSX specializes in the design, engineering, fabrication and installation of
9 custom audio, video, lighting, show control, digital signage networks, software systems,
10 and infrastructure for casinos, convention centers, hotels, day/night clubs, theme parks,
11 restaurants, schools, universities, and other venues around the world. Indeed, PSX is one
12 of the most experienced companies in the United States delivering advanced audiovisual
13 systems for the casino market. PSX prides itself on ensuring client satisfaction and
14 providing their clients with innovative, leading edge designs at the forefront of new
15 technologies.

16 **PSX's Trade Secrets and Confidential Database**

17 13. PSX's business is client-driven, and as an integral part of its business,
18 PSX has developed, compiled and maintains a database that contains and collectively
19 compiles detailed confidential, private, proprietary, and trade secret information and data
20 including, but not limited to: (a) names/identities of clients and prospective clients
21 (where names and identities of such clients and prospective clients are not generally
22 available and not publicly disclosed by either PSX or the client or prospective client); (b)
23 the primary contact person(s) for each client and prospective client; (c) client service
24 histories (including, among other things, negotiated rates, pricing models, historical
25 orders, specifications, and preferences, financial information, and revenues from each
26 client); (d) sales strategies, performance reports, presentations, revenue projections, stock
27 projections, sales goals, histories, and performance indicators; and (e) other non-public
28 financial information of PSX that would be valuable for a competitor to have.

1 Collectively, the foregoing categories of information, whether the information is in the
2 actual Database, in any other electronic or paper form, or in a person's head as
3 information the person was exposed to while conducting business on behalf of PSX, are
4 referred to herein as "**Trade Secrets.**"

5 14. PSX's Trade Secrets were compiled and developed by PSX over many
6 years through substantial efforts and trial-and-error. PSX has expended a great deal of
7 time, money and effort identifying, cultivating relationships with, and servicing the needs
8 of its clients and prospective clients. To aid this process, PSX invested a substantial
9 amount money developing its database. PSX derives substantial benefit by maintaining
10 the confidentiality of the Trade Secrets in its database, and disclosure and use of this
11 information would be injurious to PSX.

12 15. PSX's Trade Secrets, all of which are a product of substantial time and
13 expense, are not generally known to the public. PSX's Trade Secrets are not readily
14 ascertainable in PSX's industry or in any type of trade or public directory or any other
15 source. Additionally, this information was secured with considerable time, effort and
16 expense to PSX, and is not readily ascertainable by others including PSX's competitors.

17 16. Plaintiff's database facilitates seamless client relations, operations, and
18 business development. It allows PSX to ensure prompt responsiveness to client needs
19 and requests. To that end, the clients' and prospective clients' history, orders,
20 specifications, preferences, and pricing are accessible via this proprietary Database solely
21 to PSX employees who have a need-to-know basis for this information for purposes of
22 performing their jobs.

23 17. PSX's Trade Secrets would provide a substantial competitive advantage
24 if acquired by any competitor, as the Trade Secrets would allow a competitor (and have
25 allowed Medina) to: (a) target PSX's clients and prospective clients; (b) inform the
26 competitor of the specific person(s) to contact; (c) inform the competitor of the clients'
27 preferences and order history; (d) inform the competitor of the negotiated discount rates,
28 and specific pricing history for these clients, and thereby allow the competitor to undercut

1 PSX's rates; and (e) otherwise allow the competitor to profit from PSX's extensive and
2 proprietary legwork in establishing and growing its business.

3 18. PSX's Trade Secrets are a direct result of PSX's marketing and sales
4 efforts, in addition to the time and monetary investment PSX has made in developing its
5 worldwide business reputation and standards. PSX has invested and continues to invest
6 significant time and resources to gather, capture, and compile accurate information
7 regarding its clients and prospective clients. Thus, the identity, direct contact
8 information, sales discounts and contract terms offered to clients of PSX are highly
9 valuable assets that, if disclosed, would benefit PSX's competitors and undermine and
10 injure PSX's business.

11 19. PSX's Trade Secrets are valuable to PSX, and the value of PSX's Trade
12 Secrets lies primarily in being kept secret and not generally known. For that reason, PSX
13 has taken, and continues to take, careful, substantial, and reasonable steps to safeguard
14 the secrecy of its Trade Secrets, including, but not limited to: (a) imposing strict
15 confidentiality standards in the PSX Employee Handbook; (b) emphasizing to
16 employees, contractors, and service providers and reminding them of PSX's need to keep
17 this information a secret; (c) requiring, as a condition of employment, that Medina
18 promise not to use or disclose this information, except in the performance of his duties
19 for PSX and/or while conducting business on behalf of PSX; (d) limiting access and/or
20 restricting access to this information by employees and contractors/vendors on a need-
21 to-know basis; (e) requiring coded passwords to access PSX's database and other
22 electronic systems, networks, servers, and computers of PSX; and (f) implementing a
23 number of physical and electronic security measures, including restricting access to
24 databases and network space, assigning passwords and user-level permissions to access
25 information on PSX's computers and electronic system, servers, and networks, and
26 requiring that Trade Secrets be kept in secure locations when not in use.

27 20. In the course and scope of his duties to PSX, and in order to conduct
28 business on behalf of PSX, Medina was given access and authorization to use and used

1 Plaintiff's Trade Secrets and Confidential Information (defined below) for the purpose
2 of performing services and conducting business on behalf of PSX.

3 **PSX's Confidential Information**

4 21. In addition to Trade Secrets (as defined above), PSX maintains other
5 information as confidential that has value for PSX in being kept confidential but does not
6 qualify as a trade secret under applicable state or federal law (such information is referred
7 to herein as "**Confidential Information**"). PSX's Employee Handbook, which Medina
8 helped create and was required to follow while conducting business for PSX, refers to
9 both "confidential information" and "trade secrets" in discussing how essential it is that
10 Medina not disclose any trade secrets or confidential information.

11 22. PSX's Confidential Information encompasses all information belonging
12 to PSX other than Trade Secrets (as defined above) that is proprietary and confidential in
13 nature, whether the information is reduced to writing or in a form from which such
14 information can be obtained, translated or derived into reasonably usable form, and
15 whether the information is simply in an individual's head, that: (a) has been provided to
16 Medina while providing services for PSX and/or while conducting business on behalf of
17 PSX; (b) that Medina gained access to while providing services to and/or while
18 conducting business on behalf of PSX; or (c) was developed by Medina in the course of
19 working for PSX.

20 23. PSX's Confidential Information includes all information,
21 correspondence, documents, and other property (whether tangible or intangible) that PSX
22 owns that do not qualify as a trade secret under applicable state or federal law.

23 24. Examples of PSX's Confidential Information include, but are not limited
24 to: (a) information believed by PSX to be a Trade Secret (as defined above) that
25 ultimately does not qualify as a trade secret under applicable state or federal law but
26 nonetheless was maintained by PSX as confidential; (b) the non-trade secret but still
27 proprietary or confidential methods, strategies, programs, and systems used by PSX in
28 soliciting, marketing, selling and providing its products to its clients; (c) non-trade secret

1 but still proprietary or confidential financial and accounting information (such as cost,
2 pricing and billing information, price lists, financial policies and procedures, estimating
3 processes, revenues, and profit margins, targets, and forecasts); (d) non-trade secret but
4 still proprietary or confidential information concerning PSX's clients and prospective
5 clients (including, but not limited to, personal and/or private information and data that
6 clients and prospective clients expect PSX to keep as confidential, and correspondence
7 such as emails, letters and text messages with clients and prospective clients); (e) non-
8 trade secret but still proprietary or confidential information concerning PSX's
9 independent contractors, subcontractors, vendors, and suppliers (including lists of all the
10 foregoing); and (f) non-trade secret but still confidential or private information of third
11 parties that PSX has contractual and/or legal obligations to maintain as confidential.

12 25. As with its Trade Secrets, PSX takes the same reasonable steps described
13 above, to safeguard its Confidential Information from unauthorized disclosure.

14 **Summary of PSX's Business and Relationship with Gilberto Medina**

15 26. Over the past 23 years PSX has steadily expanded its business to become
16 one of the most experienced companies delivering advanced audiovisual systems, serving
17 an extensive list of clients throughout the United States and internationally.

18 27. Throughout his employment, Medina helped create the PSX Employee
19 Handbook.

20 28. In pertinent part, the PSX Employee Handbook states as follows: "You
21 may, in the course of your work, have access to information about the Company, other
22 employees or clients, which is confidential. This information is not to be revealed to
23 anyone other than in the normal course of conducting your duties and responsibilities.
24 Disclosure of such information is prohibited and could result in disciplinary action, up to
25 and including termination of employment."

26 29. The PSX Employee Handbook also states: "In order to compete
27 effectively and fairly in the marketplace with our many competitors, PSX, Inc. must
28 remain alert to changes in services and products offered to the public by our competitors.

1 Employees may not, however, seek to gain this information improperly. For example, it
2 is prohibited to hire an employee of a competitor to gain access to that competitor's trade
3 secrets or proprietary information. Similarly, an employee or former employee is
4 prohibited from providing such confidential information to our competitors.”

5 30. On or about August 26, 2016, PSX hired Medina to work in an executive
6 management position, as Director of Business Development and Management, Western
7 Division. Upon his date of hire, PSX began sharing Confidential and Proprietary Client
8 Information and Trade Secrets with Medina, and introduced him to existing contacts and
9 clients of PSX.

10 31. Throughout his employment, Medina helped create the PSX Employee
11 Handbook, which outlined his obligation to protect PSX's Trade Secrets and confidential
12 and proprietary information.

13 32. Throughout his employment, PSX gave Medina increasing amounts of
14 responsibility and exposed him to additional aspects of the business, introduced him to
15 long-time clients and distributors, and entrusted him with PSX's most confidential and
16 proprietary information and client relationships.

17 33. By virtue of his position as Director of Business Development and
18 Management and the business that Medina was asked to conduct on behalf of PSX,
19 Medina was placed in a position of trust and confidence and was provided increasing
20 levels of access to PSX's Trade Secrets and Confidential Information and was asked and
21 expected to help protect PSX, its assets, and its future from harm.

22 34. Throughout Medina's time providing services and conducting business on
23 behalf of PSX, Medina was required to enter all client contact information, inquiries,
24 orders and other pertinent information into PSX's database.

25 35. Medina was expressly authorized to access PSX's Trade Secrets,
26 Confidential Information and Database to conduct business on behalf of (and for the
27 benefit of) PSX through April 5, 2019.

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1 36. Medina was issued a Company-owned laptop computer and other
2 Company property. The laptop computer allowed Medina to gain remote access to Trade
3 Secrets, Confidential Information, and other digital proprietary data belonging to PSX
4 and contained in PSX's Database (including all pertinent confidential information of its
5 clients and prospective clients). Authorized users are granted access to better serve PSX,
6 PSX's business, its clients and prospective clients.

7 37. Thus, Medina had the privilege of access to all Confidential Information,
8 Trade Secrets and proprietary information belonging to PSX and its clients through his
9 Company-issued laptop computer and other Company property. Medina was responsible
10 for following PSX's policy and taking the lead in protecting PSX and its Trade Secrets
11 and Confidential Information from disclosure and abuse.

12 38. Plaintiff is informed and believes and on that basis alleges that during his
13 employment, Medina successfully diverted multiple prospective clients, prospective
14 projects, and former employees from PSX for his personal benefit and the benefit of
15 others, including his current employer CCS.

16 **The End of Medina's Relationship with PSX**

17 39. Plaintiff is informed and believes and on that basis alleges that beginning
18 on or about January of 2019, and thereafter through the present, Medina attempted to lure
19 employees, as well as current and prospective clients, from PSX to CCS by using PSX's
20 Trade Secrets and Confidential Information to solicit its employees, clients, prospective
21 clients, and projects. Medina's scheme was successful. Medina engaged in such conduct
22 in direct violation of his above-mentioned obligations under the Employee Handbook,
23 for the benefit of Medina and his current employer CCS.

24 40. On or around February 13, 2019 and March 11, 2019, Medina conspired
25 with CCS, for the purpose of soliciting PSX's employees, clients, prospective clients,
26 and projects, for the benefit of Medina and CCS. Specifically, Plaintiff is informed and
27 believes on that basis alleges that on or around February 13, 2019, Medina met with
28 David Peterson, Integration Manager for CCS to discuss a plan to have Medina, along

1 with several other key PSX employees defect to CCS and to bring PSX’s casino industry
2 clients with them.

3 41. On or about April 5, 2019, Medina resigned from PSX. Shortly before
4 his resignation, Medina sent from his personal e-mail account a large amount of
5 Confidential Information and PSX’s Trade Secrets, including (as further described
6 below) information and attachments containing price lists and client and prospective
7 client contact information.

8 42. Plaintiff is informed and believes and on that basis alleges that Medina,
9 with the knowledge and approval of CCS, continues through the present to use PSX’s
10 Trade Secrets and Confidential Information as part of an active scheme to steal
11 employees, clients, prospective clients, and projects and deliberately interfere with
12 existing and prospective business relationships for the benefit of Medina and his current
13 employer CCS.

14 43. Plaintiff is informed and believes and on that basis alleges that CCS,
15 armed with knowledge provided by Medina, has solicited PSX’s existing clients, armed
16 with the knowledge of PSX’s confidential information such as customer identities, and
17 PSX’s pricing and billing information for existing projects, and has attempted to use such
18 knowledge to PSX’s disadvantage.

19 44. Defendants’ conduct, as alleged above, has caused Plaintiff substantial
20 loss and irreparable harm including, but not limited to, the loss of substantial revenues
21 and clients, as well as reputational harm and loss of goodwill, and will continue to cause
22 Plaintiff such harm unless and until he is preliminarily and permanently enjoined from
23 his continuing improper conduct. Accordingly, PSX is entitled to damages to be proven
24 at trial and injunctive relief.

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COUNT I
(Misappropriation of Trade Secrets in Violation of the Defend
Trade Secrets Act, 18 U.S.C. §§ 1831 et seq.)
(Against All Defendants)

45. Plaintiff re-alleges and incorporates by this reference the allegations set forth in Paragraphs 1 through 43.

46. PSX's Trade Secrets alleged above constitute trade secrets under the Defend Trade Secrets Act (18 U.S.C. §§ 1831 et seq.).

47. PSX's Trade Secrets are valuable because they are not generally known or readily accessible, through proper means, to others who can profit from use of the Trade Secrets.

48. PSX has taken more than adequate measures under the circumstances to maintain the secrecy of this information, including requiring computer access passwords to be used to access PSX computer systems and records, restricting access to its business premises, and issuing an Employee Handbook, as well as PSX's Terms of Employment, that expressly prohibits the use, removal and disclosure of such information outside of PSX.

49. The foregoing conduct of Defendants constitutes an actual and threatened misappropriation and misuse of PSX's Trade Secret information in violation of the Defend Trade Secrets Act, 18 U.S.C. §§ 1831 et seq.

50. Defendants' actions with respect to PSX's Trade Secrets, as alleged above, for the benefit of Defendants, was a deliberate collective scheme and plan to deprive PSX of the exclusive benefits of PSX's own substantial investment and efforts and steal the fruits of years of PSX's labor.

51. PSX is informed and believes that Defendants continue to possess, use, and disclose PSX's misappropriated Trade Secrets for the benefit of Defendants. Medina's conduct therefore threatens further wrongful misappropriation, use, disclosure, and destruction of PSX's Trade Secrets.

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1 52. As a consequence of the foregoing, PSX has suffered and will continue to
2 suffer injury, damages, and irreparable harm and loss. Accordingly, PSX is entitled to
3 damages to be proven at trial and injunctive relief.

4 53. PSX has no adequate remedy at law for these injuries unless and until
5 Defendants are restrained from using PSX’s misappropriated Trade Secrets in the future
6 and ordered to return such information and property to PSX, because calculations of
7 damages will be difficult and PSX will be compelled to bring multiple suits to protect its
8 interest. Plaintiff is informed and believes and on that basis alleges that PSX sustained
9 significant harm including but not limited to damage to its reputation and goodwill, and
10 the disruption of its operations and client relationships as a result of Defendants’ conduct
11 and will continue to do so unless and until he is preliminarily and permanently enjoined
12 from his continuing improper conduct.

13 54. PSX, therefore, is entitled to a preliminary and permanent injunction, as
14 prayed for herein, prohibiting Defendants from further acts of misuse and disclosure of
15 PSX’s misappropriated Trade Secrets and ordering Defendants to return such Trade
16 Secrets to PSX immediately.

17 55. PSX is informed and believes that Defendants’ conduct was, and is,
18 malicious, fraudulent, deliberate and willful, as revealed by Defendants’ conduct
19 described above.

20 56. PSX is entitled to an award of attorneys’ fees pursuant to 18 U.S.C. §
21 1836(b)(3)(D).

22 **COUNT II**

23 **(Misappropriation of Trade Secrets in Violation of the**
24 **Nevada Trade Secrets Act, NRS §§ 600A.010 et seq.)**
(Against All Defendants)

25 57. Plaintiff re-alleges and incorporates by this reference the allegations set
26 forth in Paragraphs 1 through 55.

27 58. PSX’s Trade Secrets alleged above constitute trade secrets under the
28 Nevada Trade Secrets Act (NRS § 600A.010 et seq.), and contain information which is

1 not generally known to the public or to PSX's competitors, who can obtain economic
2 value from disclosure and use of such information in their own interest since the
3 information was compiled based on PSX's years of experience in business. This
4 information is a valuable asset in that it provides PSX a competitive advantage over
5 others. As set forth herein above, PSX has made reasonable efforts to protect the secrecy
6 of its Trade Secrets, including setting forth confidentiality rules and policies and
7 implementing security systems on PSX's computer system to prevent unauthorized
8 access or disclosure.

9 59. Defendants' actions with respect to PSX's Trade Secrets, as alleged
10 above, were a deliberate collective scheme and plan to deprive PSX of the benefits of
11 PSX's own substantial investment and efforts and steal the fruits of years of PSX's labor.

12 60. PSX is informed and believes that Defendants continue to possess, use,
13 and disclose PSX's misappropriated Trade Secrets for the benefit of Defendants.
14 Defendants' conduct therefore threatens further wrongful misappropriation, use,
15 disclosure, and destruction of PSX's Trade Secrets.

16 61. As a proximate result of Defendants' acts as alleged above, PSX will
17 continue to suffer injury, damages, and irreparable harm and loss unless Defendants are
18 enjoined. Accordingly, PSX is entitled to damages to be proven at trial and injunctive
19 relief.

20 62. PSX has no adequate remedy at law for these injuries unless and until
21 Medina is restrained from using PSX's misappropriated Trade Secrets in the future and
22 ordered to return such information and property to PSX, because calculations of damages
23 will be difficult and PSX will be compelled to bring multiple suits to protect its interest.
24 Plaintiff is informed and believes and on that basis alleges that PSX sustained significant
25 harm including but not limited to damage to its reputation and goodwill, and the
26 disruption of its operations and client relationships as a result of Defendants' conduct
27 and will continue to do so unless and until he is preliminarily and permanently enjoined
28 from his continuing improper conduct.

1 63. PSX, therefore, is entitled to a permanent injunction, as prayed for herein,
2 prohibiting Defendants from further acts of misuse and disclosure of PSX’s
3 misappropriated Trade Secrets and ordering Defendants to return such Trade Secrets to
4 PSX immediately.

5 64. PSX is informed and believe that Defendants’ conduct was, and is,
6 malicious, fraudulent, deliberate and willful, as revealed by Defendants’ conduct
7 described above. PSX is entitled to an award of attorneys’ fees pursuant to NRS §
8 600A.060.

COUNT III

(Violation of the Computer Fraud and Abuse Act, 18 U.S.C. §§ 1030, et seq. – Based on Unauthorized Access of Protected Computers) (Against Defendant Medina)

12 65. Plaintiff re-alleges and incorporates by this reference the allegations set
13 forth in Paragraphs 1 through 63.

14 66. PSX’s laptop computer and other electronic devices used by Medina are
15 “protected computers” within the meaning of 18 U.S.C. § 1030(e) because these
16 electronic devices were purchased by PSX then issued to Medina, who used these devices
17 for the purposes of performing services for PSX.

18 67. PSX is informed and believes and on that basis alleges that Medina
19 knowingly, intentionally, and with the intent to defraud PSX and improperly acquire its
20 Trade Secrets and Confidential Information, accessed PSX’s laptop computer and other
21 electronic devices without authorization and/or in excess of his authorized scope of
22 access in an effort to download, transfer, and delete files containing PSX’s confidential
23 and proprietary files, Trade Secrets, Confidential Information, and other digital property.

24 68. As a result, Medina caused PSX irreparable harm and loss to PSX’s
25 computers in excess of \$5,000.

26 69. As a consequence of the foregoing, PSX has suffered and will continue to
27 suffer injury, damages, and irreparable harm and loss. Accordingly, PSX is entitled to
28 damages to be proven at trial and injunctive relief.

1 70. Although Medina has returned the laptop computer after retaining and
2 accessing it without authorization, PSX has no adequate remedy at law as to its ongoing
3 injuries unless and until Medina is restrained from using in the future any of PSX's Trade
4 Secrets, Confidential Information, and other digital property that Medina, downloaded
5 from the laptop computer without authorization, because calculations of damages will be
6 difficult and PSX will be compelled to bring multiple suits to protect its interest. Plaintiff
7 is informed and believes and on that basis alleges that PSX sustained significant harm
8 including but not limited to damage to its reputation and goodwill, and the disruption of
9 its operations and client relationships as a result of Medina's conduct and will continue
10 to do so unless and until he is preliminarily and permanently enjoined from his continuing
11 improper conduct.

12 71. PSX, therefore, is entitled to a permanent injunction, as prayed for herein,
13 prohibiting Medina from further acts of misuse and disclosure of PSX's Trade Secrets,
14 Confidential Information, and other digital property, as alleged herein.

15 **COUNT IV**

16 **(Breach of Fiduciary Duty and Duty of Loyalty)**
17 **(Against Defendant Medina)**

18 72. Plaintiff re-alleges and incorporates by this reference the allegations set
19 forth in Paragraphs 1 through 70.

20 73. Medina had a fiduciary duty and duty of loyalty to PSX by virtue of his
21 duties to act for the benefit of PSX in matters connected with his employment relationship
22 with PSX and by the special confidence reposed in him by PSX.

23 74. Medina owed to PSX a fiduciary duty and duty of loyalty to act toward
24 PSX fairly, honestly, in good faith, with undivided loyalty, to avoid conflicts of interest,
25 to maintain the confidentiality of PSX's Trade Secrets and Confidential Information, and
26 to refrain from any act, or omission to act, calculated or likely to: (a) injure PSX; (b)
27 disclose PSX's Trade Secrets and/or Confidential Information to third parties; (c)
28 disclose private information of PSX's clients and prospective clients to third parties; (d)

1 misappropriate for his personal advantage or the advantage of any third party PSX's
2 Trade Secrets, Confidential Information, and/or other proprietary information; and (e)
3 usurp for his personal advantage or the advantage of any third party any business
4 opportunity that is in the same line of business as PSX.

5 75. After Medina ceased performing services to PSX on April 5, 2019,
6 Medina continued to owe a fiduciary duty to PSX to refrain from any act, or omission to
7 act, calculated to or likely to disclose to third parties PSX's Trade Secrets and/or
8 Confidential Information acquired during the course of Medina working for and
9 conducting business on behalf of PSX, or to misappropriate to his personal advantage or
10 the advantage of a third party such Trade Secrets and/or Confidential Information or any
11 other property belonging to PSX.

12 76. Medina intentionally and knowingly breached his fiduciary duty or duty
13 of loyalty owed to PSX by engaging in the conduct alleged above and, in particular, by:
14 (a) taking and using PSX's Trade Secrets to solicit business from PSX's clients and
15 prospective clients for Medina's own benefit, as well as for the benefit of CCS, during
16 the course and scope of Medina conducting business on behalf of PSX and thereafter; (b)
17 taking and using PSX's Confidential Information that PSX owns in accordance with NRS
18 § 600A.030, as well as with PSX's Employee Handbook, to solicit business from PSX's
19 clients and prospective clients for Medina's own benefit, as well as for the benefit of
20 CCS, during the course of conducting business on behalf of PSX and thereafter; (c)
21 usurping business opportunities of PSX for his own personal benefit or the benefit of a
22 third party while conducting business on behalf of PSX; and (d) engaging in other acts
23 of unfair competition.

24 77. As a direct and proximate result of Medina's breach of his fiduciary duty
25 and duty of loyalty to PSX, PSX to date has suffered and will continue to suffer injury,
26 damages, and irreparable harm and loss. Accordingly, PSX is entitled to damages to be
27 proven at trial and injunctive relief.

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1 4. engaging in unlawful, unfair, and fraudulent business practices,
2 including intentional interference with PSX’s business relationships and contracts with
3 its clients, vendors, independent contractor and other third parties; and

4 5. profiting or benefiting from his wrongful conduct;

5 D. An order that Defendants return to PSX, and then purge from their
6 possession, custody and control, any and all documents, computer-based files or data, or
7 information in any form, whether originals, copies, compilations or derivations, which
8 were removed from any PSX-owned computer or electronic devices issued to Medina by
9 PSX, or which were obtained by Medina, or anyone acting on his behalf or in concert
10 with Medina;

11 E. An order that Defendants return any and all confidential and/or trade
12 secret information of Plaintiff, and an order prohibiting any further use or benefit from
13 the use of said information;

14 F. An order that Defendants cease soliciting PSX’s clients, with the duration
15 of said enforcement order to begin upon entry of judgment in this action as the duration
16 of the covenant was tolled by Medina’s prior and continuing breach;

17 G. An order that Defendants inform PSX and the Court of all clients or clients
18 of PSX that Defendants contacted using PSX’s Trade Secrets and/or Confidential
19 Information;

20 H. An award in favor of PSX for its costs associated with this action,
21 including without limitation its attorneys’ fees pursuant to the common law and under
22 the Defend Trade Secrets Act, the Nevada Uniform Trade Secrets Act, and Nevada law;

23 I. An award of attorneys’ fees pursuant to 18 U.S.C. § 1836(b)(3)(D) and
24 NRS § 600A.060;

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J. Any such other legal and equitable relief as the Court deems appropriate.

DATED this ____ day of December 2019.

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