

05/04/2017 at 04:44:25 PM

Clerk of the Superior Court
By Carla Brennan, Deputy Clerk

1 **KRONENBERGER ROSENFELD, LLP**
2 Karl S. Kronenberger (CA Bar No. 226112)
3 Virginia Sanderson (CA Bar No. 240241)
4 Ansel J. Halliburton (CA Bar No. 282906)
5 150 Post Street, Suite 520
6 San Francisco, CA 94108
7 Telephone: (415) 955-1155
8 Facsimile: (415) 955-1158
9 karl@KRInternetLaw.com
10 ginny@KRInternetLaw.com
11 ansel@KRInternetLaw.com

12 Attorneys for Plaintiffs Proper Media, LLC,
13 Christopher Richmond, and Drew Schoentrup

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO**

Proper Media, LLC, a California limited liability company,
Christopher Richmond, an individual,
and **Drew Schoentrup**, an individual,

Plaintiffs,

v.

Bardav Inc., a California corporation, and
David Mikkelson, an individual,

Defendants.

Case No. 37-2017-00016311-CU-BC-CTL

COMPLAINT

DEMAND FOR JURY TRIAL





1 Plaintiffs Proper Media, LLC (“Proper Media”), Christopher Richmond
2 (“Richmond”), and Drew Schoentrup (“Schoentrup”) (collectively, “Plaintiffs”), by and
3 through their undersigned counsel, allege as follows:

4 **INTRODUCTION**

5 1. This case involves unlawful jockeying for ownership and control of the fact-
6 checking website Snopes.com (“Snopes”). Snopes advertises itself as “The definitive
7 Internet reference source for urban legends, folklore, myths, rumors, and misinformation”
8 and recently entered into a high-profile agreement with Facebook to integrate fact-
9 checking services into its social media platform. But while Snopes is built entirely around
10 the concepts of transparency and truth, its founder, Defendant David Mikkelson
11 (“Mikkelson”) has engaged in a lengthy scheme of concealment and subterfuge to gain
12 control of the company and to drain its profits.

13 2. Snopes is owned by Bardav Inc. (“Bardav”). Bardav was founded in 2003
14 by Mikkelson and his then-wife, Barbara Mikkelson (“Barbara”). Mikkelson and Barbara
15 each owned one share, or 50% of the equity in Bardav.

16 3. After a contentious divorce, Barbara sold her equity in Bardav to Plaintiff
17 Proper Media in July of 2016.

18 4. Proper Media is a San Diego-based Internet media company. Proper Media
19 manages several top-ranked web properties and, at the time of its purchase of Barbara’s
20 interest, it was already managing a significant amount of the operation of Snopes. Proper
21 Media’s management of Snopes is governed by a written General Services Agreement.

22 5. Because Bardav elected pass-through tax treatment under Subchapter S of
23 the Internal Revenue Code, Bardav’s shareholders may not be companies (such as
24 Proper Media, which is a limited liability company). 26 U.S.C. § 1361(b)(1)(B). The deal
25 was therefore structured as a sale by Barbara to Proper Media’s individual shareholders.
26 Proper Media’s members would only hold the shares for the benefit of Proper Media.
27 Accordingly, Bardav approved the issuance of fractional shares in the names of Proper
28 Media’s five members, including Vincent Green (“Green”), who was a small minority



1 member of Proper Media; however, no fractional shares were ever issued by Bardav.

2 6. As a member and officer of Proper Media, Green owes fiduciary duties both
3 to the company and to its other members under its Operating Agreement. These fiduciary
4 duties include duties of loyalty, care, and good faith, and any actions taken adversely to
5 Proper Media are expressly prohibited.

6 7. Mikkelson was unhappy that Barbara maintained ownership of half of what
7 he always considered to be *his* company after the divorce. Thus, after Proper Media's
8 purchase of Barbara's share, Mikkelson sought to finally gain control of Bardav by
9 aligning and conspiring with Green. Although Green purportedly holds only a small
10 fraction of Bardav's equity (which he only holds for the benefit of Proper Media), when
11 combined with Mikkelson's 50% interest, it would purportedly give Mikkelson majority
12 control of the company.

13 8. Beginning in February 2017, Mikkelson conspired with Green to block
14 Proper Media's access to the personnel, accounts, tools, and data necessary to manage
15 Snopes. On information and belief, Mikkelson, in conjunction with Green, intentionally did
16 block Proper Media's access to personnel, accounts, tools, and data to take over Snopes
17 and to prevent Proper Media from performing under the General Services Agreement.
18 Furthermore, Green instructed three Proper Media employees not to return to the Proper
19 Media office and removed over \$10,000 of equipment used by these three employees
20 from the Proper Media office.

21 9. Shortly thereafter, Green resigned from Proper Media. Green resigned
22 using a Snopes email account, indicating that he was now a direct employee of
23 Mikkelson at Bardav.

24 10. Accordingly, Mikkelson has induced Green to breach the Proper Media
25 Operating Agreement as well as Green's fiduciary duties.

26 11. Mikkelson has also caused Bardav to breach the General Services
27 Agreement.

28 12. Mikkelson has repeatedly engaged in fraud upon Proper Media, most



1 recently in an effort to obtain approval for Bardav to pay Mikkelson a sizable salary and
2 large sums of Mikkelson’s personal expenses.

3 13. Mikkelson’s actions amount to an abuse of control of Bardav and corporate
4 waste.

5 14. Proper Media now seeks relief for the harm Defendants Bardav and
6 Mikkelson have caused.

7 **PARTIES**

8 15. Plaintiff Proper Media, LLC is a California limited liability company with its
9 principal place of business in San Diego, California.

10 16. Plaintiff Christopher Richmond is an individual residing in San Juan, Puerto
11 Rico.

12 17. Plaintiff Drew Schoentrup is an individual residing in San Juan, Puerto Rico.

13 18. On information and belief, Defendant Bardav Inc. is a California corporation
14 with its principal place of business in San Diego County, California.

15 19. On information and belief, Defendant Mikkelson is an individual residing in
16 or around Calabasas, California.

17 **JURISDICTION AND VENUE**

18 20. This Court has original jurisdiction over this matter under the California
19 Constitution, Article VI, section 10.

20 21. This Court has personal jurisdiction over Defendants, and each of them,
21 because (1) a substantial part of Defendants’ misconduct that gave rise to this action
22 occurred in California and the primary injury as a result of Defendants’ misconduct was
23 felt in California; (2) Defendant Bardav is a California corporation, and Defendant
24 Mikkelson is a principal of Bardav; and (3) for all or part of the relevant time period,
25 Mikkelson was a resident of and domiciled in California.

26 22. Venue is proper in San Diego County because Defendant Bardav maintains
27 its principal place of business within this County.

28 //



FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

23. Plaintiff Proper Media is an Internet-based media company. Proper Media manages several top-ranked web properties. Proper Media owns, develops, and manages advertising-technology systems and also offers services related to website design, web-server management, and Internet-content management systems.

24. Plaintiffs Christopher Richmond (“Richmond”) and Drew Schoentrup (“Schoentrup”) co-founded Proper Media in 2015, and together are Proper Media’s majority equity holders. Until recently, there were three other minority members, including Green.

25. At all relevant times, the ownership of Proper Media was divided among its members as follows: Schoentrup owned 40%; Richmond owned 40%; Ryan Miller owned 6.66%; Green owned 6.66%; and Tyler Dunn owned 6.68%.

Proper Media

26. Proper Media is governed by the Limited Liability Company Agreement of Proper Media, LLC (the “Operating Agreement”), which all five of its members signed.

27. Section III.H of the Operating Agreement sets forth the following duties of members to other members as well as Proper Media itself:

H. Fiduciary Duties of the Members.

1. *Loyalty and Care.* Except to the extent otherwise provided herein, each Member shall have a fiduciary duty of loyalty and care similar to that of members of limited liability companies organized under the laws of California.

2. *Competition with the Company.* The Members shall refrain from dealing with the Company in the conduct of the Company's business as or on behalf of a party having an interest adverse to the Company unless a majority of the Members excluding the interested Member, consents thereto. The Members shall refrain from competing with the Company in the conduct of the Company's business unless a majority of the Members excluding the interested Member, consents thereto. In the event that a Member is the sole Member of the Company, no vote shall be required.

3. *Duties Only to the Company.* The Member's fiduciary duties



1 of loyalty and care are to the Company and not to the other
2 Members. The Members shall owe fiduciary duties of disclosure,
3 good faith and fair dealing to the Company and to the other
4 Members. A Member who so performs their duties shall not have
5 any liability by reason of being or having been a Member.

6 28. Section VI.C of the Operating Agreement sets forth additional fiduciary
7 duties of officers of Proper Media. The duties enumerated in Section VI.C are identical to
8 those set forth in Section III.H, with the sole difference being that Section III.H applies to
9 members while Section VI.C applies to officers.

10 **Bardav**

11 29. On information and belief, Bardav was founded in 2003 by Mikkelson and
12 his then-wife, Barbara. Mikkelson and Barbara each owned one-half, or fifty percent
13 (50%), of the equity in Bardav. Mikkelson's and Barbara's respective ownership interest
14 were each represented by a single share in the company, for a total of two (2) shares.

15 30. On information and belief, Bardav is and always has been an
16 S Corporation, meaning it has elected pass-through tax treatment under Subchapter S of
17 the Internal Revenue Code.

18 31. Bardav's web property, Snopes, is one of the 1000 most popular websites
19 in the United States, and is highly profitable, with revenue coming primarily from
20 advertising that appears on the site. On information and belief, in the aftermath of the
21 reported Russian intelligence operation to influence the 2016 election with so-called "fake
22 news" spread through Facebook and other social media websites, Facebook entered into
23 an agreement with Snopes and other media organizations to integrate fact-checking
24 services into Facebook. See, e.g., Mike Isaac, THE NEW YORK TIMES, *Facebook Mounts*
25 *Effort to Limit Tide of Fake News*, [https://www.nytimes.com/2016/12/15/technology/
26 facebook-fake-news.html?_r=0](https://www.nytimes.com/2016/12/15/technology/facebook-fake-news.html?_r=0) (Dec. 15, 2016); Jen Weedon, et al., *Information*
27 *Operations and Facebook*, [https://fbnewsroomus.files.wordpress.com/2017/04/facebook-
28 and-information-operations-v1.pdf](https://fbnewsroomus.files.wordpress.com/2017/04/facebook-and-information-operations-v1.pdf) (Apr. 27, 2017).

The General Services Agreement

32. In or about August 2015, Proper Media entered into a General Services

1 Agreement with Bardav (the “General Services Agreement”), under which Proper Media
2 would manage most of the operations of the popular fact-checking website Snopes.

3 33. Under the General Services Agreement, Proper Media is responsible for
4 managing all content and advertising accounts for Snopes. In order to perform these
5 management services, Bardav gave Proper Media control of Snopes’ email hosting and
6 content-management system. Proper Media also relied on third-party project
7 management tools, such as Slack and Asana, to manage Snopes-related data.

8 34. Proper Media performed all obligations required of it under the General
9 Services Agreement at all times from the inception of the General Services Agreement
10 until prevented from doing so by Mikkelson, as outlined below.

11 **Proper Media’s Acquisition of Barbara Mikkelson’s Share of Bardav**

12 35. On information and belief, in or about 2014, David and Barbara Mikkelson
13 began what would prove to be a contentious divorce. As a result, by 2016, Barbara
14 sought to sell her 50% equity interest in Bardav.

15 36. During the summer of 2016, Proper Media negotiated to buy Barbara’s 50%
16 equity in Bardav. Because Bardav elected pass-through tax treatment under Subchapter
17 S of the Internal Revenue Code, Bardav’s shareholders may not be companies (such as
18 Proper Media, which is a limited liability company). 26 U.S.C. § 1361(b)(1)(B). The deal
19 was therefore structured as a sale by Barbara to Proper Media’s individual shareholders,
20 but for the benefit of Proper Media. Accordingly, Proper Media’s interest in Bardav was
21 taken in the name of its individual members.

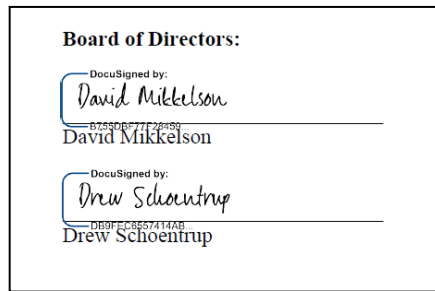
22 37. It was mutually agreed and expected that a representative of Proper Media
23 would join Bardav’s Board of Directors after the Closing. Indeed, Barbara represented to
24 Schoentrup that a representative of Proper Media would be appointed to the Board of
25 Directors to replace her, as Barbara had a guaranteed board seat. Furthermore,
26 Mikkelson did not object to Barbara’s sale of all of her interest and rights in her Bardav
27 stock to Proper Media. Proper Media’s members entered into the agreement to purchase
28 Barbara’s equity in reliance on this representation.



1 38. The sale of Barbara's equity in Bardav to Proper Media's five members
2 closed on July 1, 2016 (the "Closing").

3 39. On the date of the Closing, Barbara resigned in writing from Bardav's Board
4 of Directors, and from all of her officer roles with Bardav. Barbara sent her resignation to
5 Mikkelson and Schoentrup as the company's presumptive Directors.

6 40. On August 26, 2016, all of Bardav's nominal shareholders—namely,
7 Mikkelson and the five members of Proper Media—signed a shareholder and board
8 resolution permitting the issuance of fractional shares of Bardav to the five Proper Media
9 members. Both Mikkelson and Schoentrup signed this resolution a second time in their
10 separate capacities as directors of Bardav:



11
12
13
14
15
16 This resolution was executed as an amendment to Bardav's original bylaws; however,
17 Plaintiffs have recently discovered those bylaws do not exist. Moreover, no fractional
18 shares were ever issued by Bardav.

19 41. A significant portion of the purchase price for Barbara's equity was financed
20 by Diamond Creek Capital, LLC ("DCC"). Proper Media is a party to the financing and
21 loan agreements with DCC, and is also a party to a promissory note with Barbara. The
22 individual members of Proper Media are not parties to the promissory note with Barbara.
23 From the Closing through April 2017, Proper Media, Richmond, and Schoentrup
24 exclusively made all payments to DCC and Barbara. To be clear, Green has not
25 personally made any payments related to Proper Media's acquisition of ownership
26 interests in Bardav.

27 **Mikkelson's Misuse of Bardav Funds**

28 42. Throughout Proper Media's business relationship with Mikkelson, despite

1 being paid handsomely, Mikkelson has claimed to be underpaid. Mikkelson has also
2 submitted large expenses for reimbursement by Bardav.

3 43. In the second half of 2016, Mikkelson's purported business expenses
4 included tens of thousands of dollars in legal fees, which, on information and belief, were
5 not for Bardav's benefit, but rather for personal legal representation in his ongoing and
6 contentious divorce proceeding with Barbara.

7 44. Mikkelson's purported business expenses in the second half of 2016 also
8 included tens of thousands of dollars in travel expenses, which, on information and belief,
9 were actually for personal travel—including a honeymoon to Asia with Mikkelson's new
10 wife (and Bardav/Snopex employee) Elyssa Young in November or December 2016.¹

11 45. Through February 2017, Mikkelson and the other shareholders in Bardav
12 discussed how to close out Bardav's financial books for 2016, including what
13 compensation Mikkelson was due, culminating in a draft document titled the "Bardav, Inc.
14 2016 Compensation Agreement" (the "2016 Compensation Agreement").

15 46. On information and belief, Mikkelson knowingly and falsely represented to
16 Bardav's shareholders, including Richmond and Schoentrup, that all the claimed
17 expenses listed in the draft 2016 Compensation Agreement were for business purposes.

18 47. Relying on this representation, and the representation by Mikkelson that he
19 would thereafter enter into a compensation agreement for 2017, all of Bardav's
20 shareholders except Mikkelson signed the 2016 Compensation Agreement. On May 4,
21 2017, both Richmond and Schoentrup expressly revoked their agreement to the 2016
22 Compensation Agreement, which at the time of the revocation was still unsigned by
23 Mikkelson.

24 **Mikkelson's Conspiracy with Green**

25 48. On information and belief, beginning as early as the start of 2017,
26 Mikkelson conspired with Green to obtain a controlling interest in Bardav and to exclude

27 ¹ Notably, Barbara made similar accusations against Mikkelson in their divorce proceedings, namely, that
28 he improperly used company funds for personal travel and paid escort services, including services from
Elyssa Young.

1 Proper Media from its operation.

2 49. Green was an employee and member of Proper Media from approximately
3 March 2015 through April 3, 2017. Green was also an officer of Proper Media, with his
4 most recent title being Vice President of Operations. Throughout his employment, Green
5 worked extensively on the Snopes website, and, as a result, came to personally know
6 and befriend Mikkelson.

7 50. On Saturday, February 18, 2017, Richmond and Schoentrup had an in-
8 person conversation with Green at Proper Media's offices. When confronted, Green
9 admitted that he was not acting in the best interest of Proper Media. After this
10 conversation, Green never returned to the Proper Media office, and performed no further
11 work for Proper Media. On Tuesday, February 21, 2017—the second business day after
12 the conversation described above—without Richmond's or Schoentrup's knowledge or
13 consent, Green removed Richmond's and Schoentrup's access to the Snopes content-
14 management system, instructed three Proper Media employees not to return to work, and
15 removed over \$10,000 of computer equipment from the Proper Media offices used by
16 these three employees. On information and belief, Green did so in conspiracy with and at
17 the direction of Mikkelson.

18 51. Under the General Services Agreement, Proper Media was, *and still is*,
19 responsible for operating this content-management system. Without access, Proper
20 Media cannot fulfill its obligations under the General Services Agreement.

21 52. On or about March 8, 2017, Green added himself to the "Snopes.com Staff"
22 page on Snopes, which lists his role as "Business Development". *Snopes.com Staff*,
23 <http://www.snopes.com/snopes-staff/> (last accessed Apr. 27, 2017; archived at
24 <https://perma.cc/BRX7-C99L>).

25 53. On March 10, 2017, again without Richmond's or Schoentrup's knowledge
26 or consent, Green removed Snopes-related data from Proper Media's communication
27 and project-management tools, including Slack and Asana. On information and belief,
28 Green did so in conspiracy with and at the direction of Mikkelson.



1 54. Without access to this Snopes-related data in Slack and Asana, Proper
2 Media cannot fulfill its obligations under the General Services Agreement.

3 55. Also on March 10, 2017, Mikkelson purported to terminate the General
4 Services Agreement, to be effective in 60 days, *i.e.*, on or about May 9, 2017.

5 56. On or about April 1, 2017, Mikkelson removed Richmond’s and
6 Schoentrup’s access to the bank account used for Snopes business by Bardav and
7 Proper Media.

8 57. On April 3, 2017, Green gave written notice—from his Snopes email
9 account—of his resignation from Proper Media.

10 58. During the weeks between February 18, 2017 and April 3, 2017, Green
11 admitted that he was doing no work for Proper Media, and was instead working with
12 Mikkelson at Bardav. Despite doing no work, until April 3, 2017, Proper Media continued
13 to pay Green, and contributed to Green’s health-insurance premiums.

14 59. Under the express terms of Sections III.H and VI.C the Operating
15 Agreement, and under California law, Green owed fiduciary duties both to the other
16 members of Proper Media and to Proper Media as a company.

17 60. Through the actions cited above, and in conspiracy with Mikkelson, Green
18 breached his fiduciary duties to Proper Media and its members.

FIRST CLAIM FOR RELIEF

Breach of Contract

(By Plaintiff Proper Media Against Defendant Bardav)

21 61. Plaintiff realleges and incorporates by reference the allegations in each of
22 the preceding Paragraphs as if fully set forth herein.

23 62. The General Services Agreement is a valid written contract between Proper
24 Media and Bardav.

25 63. Until Defendants’ actions made Proper Media’s performance impossible,
26 Proper Media performed all of its obligations under the General Services Agreement.

27 64. Bardav’s actions as stated herein, including, among other things,
28



1 intentionally excluding Plaintiffs from the accounts, tools, and data necessary to fulfill
2 Proper Media’s obligations under the General Services Agreement, constitute a breach
3 of the General Services Agreement.

4 65. As a direct and proximate result of Bardav’s conduct, Proper Media has
5 suffered actual damages, in an amount to be determined according to proof at trial.

6 **SECOND CLAIM FOR RELIEF**

7 **Intentional Interference with Contract**

8 **(By All Plaintiffs Against Defendant Mikkelson)**

9 66. Plaintiffs reallege and incorporate by reference the allegations in each of
10 the preceding Paragraphs as if fully set forth herein.

11 67. A written agreement exists between Proper Media and Bardav—namely,
12 the General Services Agreement.

13 68. Mikkelson knew about the General Services Agreement.

14 69. Mikkelson has intentionally excluded Proper Media from the accounts,
15 tools, and data necessary to fulfill Proper Media’s obligations under the General Services
16 Agreement, and has conspired with Green to frustrate and/or terminate the General
17 Services Agreement.

18 70. Mikkelson undertook the actions alleged herein with the intent and
19 understanding that Proper Media would be unable to fulfill its obligations under the
20 General Services Agreement and/or that Bardav would terminate the General Services
21 Agreement.

22 71. As a result of Mikkelson’s actions, Bardav has terminated the General
23 Services Agreement.

24 72. Similarly, Mikkelson knew about the Proper Media Operating Agreement, to
25 which Plaintiffs Proper Media, Schoentrup, and Richmond are parties.

26 73. Mikkelson has intentionally induced Green to breach the Operating
27 Agreement by conspiring with Green to take actions adverse to Proper Media, including
28 by intentionally excluding Proper Media from the accounts, tools, and data necessary to



1 fulfill Proper Media's obligations under the General Services Agreement.

2 74. Mikkelson undertook the actions alleged herein with the intent and
3 understanding that Green would breach the Operating Agreement.

4 75. As a result of Mikkelson's actions, Green has breached the Operating
5 Agreement.

6 76. As a direct and proximate result of Mikkelson's conduct, Plaintiffs have
7 suffered substantial economic loss and other general and specific damages, all in an
8 amount to be determined according to proof at trial.

9 77. Mikkelson acted maliciously, oppressively, and fraudulently, and Plaintiffs
10 are entitled to punitive and exemplary damages.

11 **THIRD CLAIM FOR RELIEF**

12 **Civil Conspiracy**

13 **(By Plaintiff Proper Media Against Defendant Mikkelson)**

14 78. Proper Media realleges and incorporates by reference the allegations in
15 each of the preceding Paragraphs as if fully set forth herein.

16 79. Sometime between January 2017 and the present, Mikkelson did knowingly
17 and willfully conspire and agree with Green, and attempted to (1) convert a portion of
18 Proper Media's interest in Bardav into Green's individual interest, (2) join forces such
19 that, together, Mikkelson and Green would purportedly own a controlling share of Bardav,
20 (3) frustrate and/or prevent Proper Media's access to the tools, data, and accounts
21 necessary for Proper Media to perform under the General Services Agreement, and (4)
22 terminate the General Services Agreement.

23 80. In furtherance of this conspiracy and agreement, Mikkelson engaged in
24 fraudulent representations, omissions, and concealment of facts, acts of cover-up, and
25 statements calculated to obtain Proper Media's trust for the Defendants' and Green's
26 benefit.

27 81. Mikkelson's actions were in violation of the rights of Proper Media, and
28 committed in furtherance of the above conspiracies and agreements. Moreover,



1 Mikkelson lent aid and encouragement and knowingly financed, ratified, and adopted the
2 acts of his co-conspirator.

3 82. As a proximate result of the wrongful acts herein alleged, Proper Media has
4 suffered substantial economic loss and other general and specific damages, all in an
5 amount to be determined according to proof at trial.

6 83. Mikkelson acted maliciously, oppressively, and fraudulently, and Proper
7 Media is entitled to punitive and exemplary damages.

8 **FIFTH CLAIM FOR RELIEF**

9 **Abuse of Control**

10 **(By Plaintiff Proper Media Against Defendant Mikkelson)**

11 84. Proper Media realleges and incorporates by reference the allegations in
12 each of the preceding Paragraphs as if fully set forth herein.

13 85. By virtue of his position and financial holding in Bardav, Mikkelson
14 exercised control over Bardav and its operations, and owed duties as a controlling
15 person to Bardav and its shareholders not to use his position of control within Bardav for
16 his own personal interests and contrary to the interest of Bardav and its shareholders.

17 86. Mikkelson's conduct amounts to an abuse of his control of Bardav, in
18 violation of his obligations to Bardav and its shareholders. Mikkelson knowingly aided,
19 encouraged, cooperated, and/or participated in this abuse of control.

20 87. As a proximate result of the abuse of control herein alleged, Proper Media
21 has suffered substantial economic loss and other general and specific damages, all in an
22 amount to be determined according to proof at trial.

23 **SIXTH CLAIM FOR RELIEF**

24 **Corporate Waste**

25 **(By Plaintiff Proper Media Against Defendant Mikkelson)**

26 88. Proper Media realleges and incorporates by reference the allegations in
27 each of the preceding Paragraphs as if fully set forth herein.

28 89. By virtue of his position and financial holding in Bardav, Mikkelson had a



1 fiduciary duty to exercise good faith and diligence in the administration of the affairs of
2 Bardav and in the use and preservation of its property and assets, and the highest
3 obligation of fair dealing.

4 90. Mikkelson wasted Bardav's corporate assets by using them to pay for
5 personal expenses.

6 91. As a result of Mikkelson's actions, Bardav's shareholders, including Proper
7 Media, have suffered losses.

8 92. As a proximate result of the corporate waste herein alleged, Proper Media
9 has suffered substantial economic loss and other general and specific damages, all in an
10 amount to be determined according to proof at trial.


11 PRAYER FOR RELIEF

12 Plaintiffs respectfully request that the Court enter judgment in favor of Plaintiffs
13 and against Defendants, and award the following relief to Plaintiffs and against
14 Defendants:

- 15 1. Compensatory damages in an amount to be proved at trial;
- 16 2. Exemplary damages pursuant to California Civil Code § 3294;
- 17 3. A declaration that Proper Media is the beneficial owner of 50% of the equity
18 in Bardav;
- 19 4. An order for specific performance that Bardav issue stock certificates to
20 Proper Media's members as nominal owners of equity in Bardav, but with
21 legends stating that Proper Media is the beneficial owner of that equity;
- 22 5. The costs of the suit;
- 23 6. Interest on the sum of the compensatory and exemplary damages; and
- 24 7. Such other relief as the Court may deem proper.

25 DATED: May 4, 2017

KRONENBERGER ROSENFELD, LLP

26 By: 
27 Karl S. Kronenberger

28 Attorneys for Plaintiffs

1 **REQUEST FOR JURY TRIAL**

2 Plaintiffs hereby demand a trial of this action by jury of all issues that may be tried
3 to the jury.

4
5 DATED: May 4, 2017

KRONENBERGER ROSENFELD, LLP

6
7 By: *Karl S. Kronenberger*
8 Karl S. Kronenberger

9 Attorneys for Plaintiffs
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

