

IN THE _____ COURT OF _____ COUNTY, _____
FOR THE _____ DISTRICT OF _____
_____ DIVISION

NAME OF PLAINTIFF)	
_____)	
)	
V.)	NO. _____
)	
)	
NAME OF DEFENDANT)	
_____)	
)	

COMPLAINT

COMES NOW _____, Plaintiff in the above styled cause, by and through counsel, and files this civil action against _____, Defendant, and in support thereof would show the following:

PARTIES

1.

Plaintiff, _____ (hereinafter "_____"), is a _____ business corporation with its principal place of business at _____, _____ County, _____.

2.

Defendant, _____ (hereinafter "_____") is an adult resident of _____ County, _____, who may be served with process at his residence _____, _____, _____.

FACTUAL BACKGROUND

3.

On or about _____, _____, _____ (hereinafter "_____") began doing business as a sole proprietor under the name _____. At the outset, _____ was engaged primarily in the business of providing forklift batteries and related products to various products throughout Central and Southern _____. As his customer base grew, _____ saw the opportunity to expand his business to include forklift maintenance and repair.

4.

After securing commitments from numerous customers that they would allow _____ to provide maintenance and repair to their forklifts, _____ sought to hire a forklift technician/mechanic. One of the persons responding to _____'s efforts to locate a forklift technician/mechanic was _____. Ultimately, _____ decided to hire _____ on an at-will basis and agreed to pay him an hourly wage for work performed.

5.

As the business grew and expanded, _____ constantly requested that _____ allow him to "own a piece of the rock" and repeatedly offered to buy a portion of the business. In _____, _____, _____ was in need of additional capital and discussed with _____ the possibility of _____ purchasing an ownership interest in the business. _____ and _____ ultimately agreed that _____ would loan _____ the sum of \$25,000.00, evidenced by a Promissory Note. _____ and _____ further agreed that the business would be incorporated effective _____ 1, _____, with _____ and his wife receiving 75% of the stock in the corporation, in exchange for all of the assets and liabilities of the sole proprietorship, and with _____ to receive 25% of the stock in exchange for cancellation of _____'s \$25,000.00 Promissory Note.

6.

_____ was formed as a _____ corporation effective _____, _____, with _____ receiving 510 shares, _____'s wife, _____, receiving 240 shares, _____ received 250 shares of _____ in exchange for cancellation of the \$25,000.00 Promissory Note. The corporation was further organized with _____, his wife, and _____ being named the Board of Directors, and with _____ being elected President, _____ being elected Vice-President, and _____ being elected Secretary-Treasurer.

7.

In addition to serving in his capacity as an officer and director of the corporation, _____ was also hired as service manager for _____.

8.

In August _____, _____, in his capacity as president of _____, terminated _____'s employment as service manager due to _____'s mismanagement of the service department, disruptive personnel practices and customer dissatisfaction.

9.

Immediately upon termination and in total disregard for his duties as an officer, director and shareholder of _____, _____ tortiously and intentionally enticed three of _____'s forklift technicians/mechanics to terminate their employment with _____ and to come to work for _____ in competition with _____. At the same time, _____ contacted various customers of _____ in an attempt to convince such customers not to do business with _____ but instead, to do business with _____. _____ also intentionally and tortiously made untrue and derogatory comments regarding _____ and otherwise attempted to undermine and destroy the relationships which _____ had with its customers and to otherwise injure _____'s business reputation.

10.

As a result of _____'s actions in enticing three of _____'s employees to cease their employment, in enticing or attempting to entice _____'s customers to cease doing business with _____ and otherwise disparaging _____'s name, _____ has suffered financial losses, as well as loss of business reputation.

11.

Approximately three to four weeks after _____ was terminated, _____'s wife contacted _____ in his capacity as President of _____ and requested that _____ give _____ a second chance. Reluctantly, _____ agreed and _____ was rehired as service manager for _____ beginning _____, ____.

12.

In _____, _____, in his capacity as President of _____, discovered that _____ was or had been engaging in conduct adverse to the best interest of _____. In particular, it was discovered that _____ had tortiously and intentionally enticed or attempted to entice various employees of _____ to leave employment, had tortiously and intentionally enticed or attempted to entice customers not to do business with _____ or to allow _____ to perform repairs at night and on weekends for his own benefit, and otherwise engaged in conduct which did or was intended to damage the economic viability of _____.

13.

In _____, it was also discovered that _____ broke into _____'s locked office and locked filing cabinet and removed therefrom confidential and proprietary information pertaining to _____'s customers, contracts and other business records.

14.

At all relevant times, _____ had an obligation as an officer, director and service manager of _____ to conduct himself in a manner, at all times, consistent with the best interest of _____.

COUNT ONE

BREACH OF FIDUCIARY DUTY

15.

The allegations and enfrances of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

16.

_____ has a fiduciary duty and is required to deal with _____ using utmost good faith, undivided loyalty and with inherent fairness. _____ has breached his fiduciary duty to _____ and has engaged in conduct contrary to the best interest of _____.

COUNT TWO

MISAPPROPRIATION OF TRADE SECRETS AND PROPRIETARY DATA

17.

The allegations and enfranchise of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

18.

_____ has misappropriated, misused and otherwise, for his own illegal use, the trade secrets and proprietary data of _____.

COUNT THREE

UNJUST ENRICHMENT

19.

The allegations and enfranchise of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

20.

_____ has been unjustly enriched by the diversion of materials and/or supplies and other benefits to himself at the expense of _____, and should be required to pay _____ the amount diverted from it or the value of such materials, supplies and benefits.

COUNT FOUR

PUNITIVE DAMAGES

21.

The allegations and enfranchise of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

22.

The actions of _____ in breaching his fiduciary duty, in intentionally and tortiously interfering with _____'s employment contracts and in intentionally and tortiously interfering with _____'s customer relations, were done knowingly, willfully and intentionally or with reckless disregard for the rights of _____, evidencing bad faith on the part of _____ and entitling _____ to punitive damages. _____ sues

_____ for punitive damages in the amount of \$_____ in order to punish _____
for his actions and to deter such activities by him in the future.

COUNT FIVE

INTENTIONAL INTERFERENCE WITH BUSINESS

23.

The allegations and enfranchise of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

24.

At all relevant times hereto, _____ knew that _____ was engaged in the business of selling forklift batteries, accessories and other products, and providing forklift maintenance and repair services. _____ was aware that any contacts, persuasion, influence, inducement or coercion exerted upon _____'s customers would result in a loss of termination of business to _____, thereby causing _____ injury. The actions of _____ were intentional in nature, were calculated to cause damage to the business of _____, were reformed with the unlawful purpose of causing such damage and loss without any right or justifiable cause on the part of _____, and resulted in actual damages to _____, thereby constituting an intentional interference with business relations and pursuits of _____. These actions were performed and exercised by _____ during a time in which he was certain or substantially certain that his actions would result in such interference with the business relations and pursuits of _____.

25.

As a direct and proximate result of the tortious actions undertaken and performed by _____, _____ has suffered damages and injury to its business and is entitled to recover from _____ to the extent of the damages suffered by it.

COUNT SIX

INTENTIONAL INTERFERENCE WITH EMPLOYMENT RELATIONS

26.

The allegations and enfranchise of Paragraphs 1 through 15 set forth above are realleged in full and incorporated herein by reference.

27.

_____ was aware that any contacts, persuasion, influence, inducement or coercion exerted upon _____'s key employees to terminate or otherwise cease their employment with _____. These employees were needed for _____ to provide adequate and competent services to its customers and to otherwise maintain its customer relations, thereby causing _____ injury. The actions of _____ were intentional in nature, were calculated to cause damage to the business of _____, were reformed with the unlawful purpose of causing such damage and loss without any right or justifiable cause on the part of _____, and resulted in actual damages to _____, thereby constituting an intentional interference with employee relations and pursuits of _____. These actions were performed and exercised by _____ during a time in which he was certain or substantially certain that his actions would result in such interference with the employee relations and pursuits of _____.

28.

As a direct and proximate result of the tortious actions undertaken and performed by _____, _____ has suffered damages and injury to its business and is entitled to recover from _____ to the extent of the damages suffered by it.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, _____ prays that summons is issued against the Defendant, _____, that the Defendant be cited to appear and answer herein, that on a final hearing hereof, Plaintiff have judgment entered against the Defendant in the amount of \$_____ in actual damages and in the amount of \$_____ in punitive damages, plus reasonable attorneys fees and all costs of Court incurred herein.

AND, Plaintiff, _____ prays for such other general or special relief to which it may be entitled under the circumstances.

THIS, THE _____ DAY OF _____, _____.

Respectfully submitted,
