JOSEPH W. COTCHETT (SBN 36324)
jcotchett@cpmlegal.com
JUSTIN T. BERGER (SBN 250346)
jberger@cpmlegal.com
ERIC J. BUESCHER (SBN 271323)
ebuescher@cpmlegal.com
COTCHETT, PITRE & McCARTHY, LLP
840 Malcolm Road
Burlingame, California 94010
Telephone: (650) 697-6000
Facsimile: (650) 692-3606

Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

BROGAN BAMBROGAN, an individual; KNUT SAUER, an individual; DAVID PENDERGAST, an individual; and WILLIAM MULHOLLAND, an individual,

Plaintiffs,

v.

HYPERLOOP TECHNOLOGIES, INC. (d/b/a HYPERLOOP ONE), a Delaware corporation; SHERVIN PISHEVAR, an individual; JOSEPH LONSDALE, an individual; ROBERT LLOYD, an individual; AFSHIN PISHEVAR, an individual; and DOES 1-50,

Defendants.

CASE NO.

COMPLAINT FOR MONEY DAMAGES AND INJUNCTIVE RELIEF FOR:

1. **VIOLATION OF CALIFORNIA LABOR CODE § 1102.5**
2. **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
3. **BREACH OF CONTRACT**
4. **DEFAMATION**
5. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
6. **ASSAULT**
7. **BREACH OF FIDUCIARY DUTY**

DEMAND FOR JURY TRIAL

TABLE OF CONTENTS

Page No.

I. INTRODUCTION 1

II. VENUE AND JURISDICTION 7

III. THE PARTIES 8

IV. FACTUAL ALLEGATIONS 12

A. Defendants' Breaches of Fiduciary Duty 12

B. Defendants' Mismanagement and Mistreatment of Employees 16

C. Plaintiffs' Attempts to Reform the Company, and Defendants' Retaliation 19

V. CAUSES OF ACTION 24

FIRST CAUSE OF ACTION
RETALIATION IN VIOLATION OF LABOR CODE § 1102.5
(by all Plaintiffs against all Defendants) 24

SECOND CAUSE OF ACTION
WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY
(by all Plaintiffs against Defendants Hyperloop One, Shervin, Lonsdale, and Lloyd) 24

THIRD CAUSE OF ACTION
BREACH OF CONTRACT
(by Plaintiff Sauer against Defendant Hyperloop One) 25

FOURTH CAUSE OF ACTION
DEFAMATION
(by all Plaintiffs against Defendants Hyperloop One, Shervin, Lonsdale, and Lloyd) 26

FIFTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(by Plaintiff BamBrogan against Defendants Hyperloop One and Afshin Pishevar) 26

SIXTH CAUSE OF ACTION
ASSAULT
(by Plaintiff BamBrogan against Defendants Hyperloop One and Afshin Pishevar) 27

SEVENTH CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY
(by Plaintiffs BamBrogan and Mulholland against Defendants Shervin Pishevar and Joseph Lonsdale) 27

VI. PRAYER FOR RELIEF 28

VII. JURY DEMAND 29

Plaintiffs Brogan BamBrogan, Dr. Knut Sauer, David Pendergast, and William Mulholland, by their undersigned counsel, hereby complain against Defendants Hyperloop Technologies, Inc. (d/b/a Hyperloop One) ("Hyperloop One"), Shervin Pishevar ("Shervin"), Joseph Lonsdale, Robert Lloyd, Afshin Pishevar ("Afshin"), and DOES 1-50, and allege as follows:

I. INTRODUCTION

1. Hyperloop One bears all the hallmarks of an exciting new company destined to change the world by developing a 21st century transportation system designed to move passengers and cargo in a fast, safe, and energy efficient manner. Its world-class team of engineers and technicians came together to develop the technology required to commercialize the ingenious hyperloop concept, and has made lightning-quick progress towards a full-scale prototype. That technological promise, however, is being strangled by the mismanagement and greed of the venture capitalists who control the company.

2. Like many of their colleagues, Plaintiffs gave up higher-paying, secure job opportunities to join (and in BamBrogan's case, co-found) Hyperloop One, because they believed in the groundbreaking potential of the hyperloop idea. Plaintiff BamBrogan was a co-founder and the Chief Technology Officer of Hyperloop One. Plaintiff Dr. Knut Sauer was Hyperloop One's Vice President of Business Development. Plaintiff David Pendergast was Hyperloop One's Assistant General Counsel. Plaintiff William Mulholland was Hyperloop One's Vice President of Finance.

3. Over the course of Plaintiffs' employment, it became apparent that those in control of the company continually used the work of the team to augment their personal brands, enhance their romantic lives, and line their pockets (and those of their family members). Those with the expertise to bring the hyperloop concept to fruition—the team that has done an incredible job building out hardware with their heads down and hands in the dirt—have been systematically marginalized, while the "money men" who do not understand the technology spent little time seeking to understand its potential, focusing instead on puffery—turning the company into a marketing-driven exercise, instead of the engineering-driven enterprise it should be.

4. While the team worked tirelessly and successfully to hit initial targets, Defendants established an autocratic governance culture rife with nepotism, and wasted the company's precious cash: Defendant Shervin Pishevar, who was generally uninvolved in day-to-day matters, began dating the company's PR vendor, and increased her salary from $15,000 to $40,000 a month, more than any employee in the company. When their subsequent wedding engagement fell through, he finally heeded suggestions that her work was worth little, and terminated the arrangement. Similarly, Defendant Joseph Lonsdale insisted that the company hire his little brother's two-person outfit, with no notable experience with companies building hardware and engaged in infrastructure development, and few independent contacts with international and top-tier investor funds, as the company's *exclusive* investment bank, when far better partners were available. Meanwhile, Shervin installed his brother, a personal injury and criminal defense attorney with his own small firm in Rockville, Maryland, as Hyperloop One's General Counsel, granting him salary and stock options far greater than even the most talented engineers received. These nepotistic hires all quickly proved disastrous, and wasteful; they also constituted blatant breaches of Defendants' fiduciary duties under basic corporate law.

5. As detailed further in this Complaint, these examples were just the tip of the iceberg. Defendants abused their control of the company in myriad ways. For example, on the financing side, Shervin instituted a "pay-to-play" scenario by pressuring potential Hyperloop One investors to invest in Shervin's own fund, Sherpa Capital, in order to gain access to direct investment in Hyperloop One. He also commanded that personal buddies be allowed to invest while strategic and other reputable investors were pushed off. On the business side, Defendants unilaterally committed the company to long-term partnerships after no meaningful due diligence. And from a governance perspective, Defendants granted themselves super-voting rights to the detriment of minority shareholders (including employee shareholders that hold just a sliver of shares).

6. Despite the severity of these and other breaches, and the failure of Defendants to respond to employees' repeated efforts to raise concerns through the chain of command, Plaintiffs and their senior colleagues still believed that the company's course could be corrected, and they

felt a responsibility to the amazing team, and minority shareholders, to try. In a letter dated May 26, 2016, Plaintiffs and seven of their senior colleagues diplomatically and quietly approached Defendants about the breaches of fiduciary duty they had witnessed, and changes necessary to set the company on a course for long-term success. The letter was sent to Board Chair Shervin Pishevar, Board Member Joseph Lonsdale, and CEO Robert Lloyd. The eleven top employees who signed onto the letter included Plaintiffs, and the heads of engineering, finance, business development, and operations, and functional head of legal. Defendants reacted swiftly, seeking to divide-and-conquer the group of eleven employees, and ensure Defendants' continued control. Over the course of the following month of discussions, Defendants made clear that no significant changes would be made, and targeted the supposed ringleaders for termination.

7. In the midst of those negotiations, Plaintiff BamBrogan was scheduled to visit Russia on a marketing trip, and to join meetings arranged by two separate Russian investors. With the company in disarray, BamBrogan decided to stay in California to continue attempting to solve the critical issues facing the company. Accordingly, two and a half weeks after the letter (and 4 days before his flight to Moscow), Plaintiff BamBrogan called each of the Russian investors to let them know he would not be making the trip due to the issues covered in the letter. BamBrogan was shocked to learn that despite being Board observers, the Russian investors had heard nothing about the letter or the concerns it raised. One of the investors indicated he would discuss the issues with Shervin at dinner in Moscow on June 14, 2016.

8. As later reported by that investor, Shervin became agitated when the issues were raised at the dinner. Then, just hours after that dinner, at 11:28 p.m. California time, Shervin's brother and Chief Legal Officer of Hyperloop One, Defendant Afshin Pishevar, strolled through Hyperloop One's office and placed a hangman's noose on BamBrogan's chair. Hyperloop One's security cameras captured it all:

/ / /

/ / /

/ / /

/ / /

Fig 1. Defendant Afshin Pishevar approaching Plaintiff BamBrogan's desk with a noose coiled in his left hand.

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

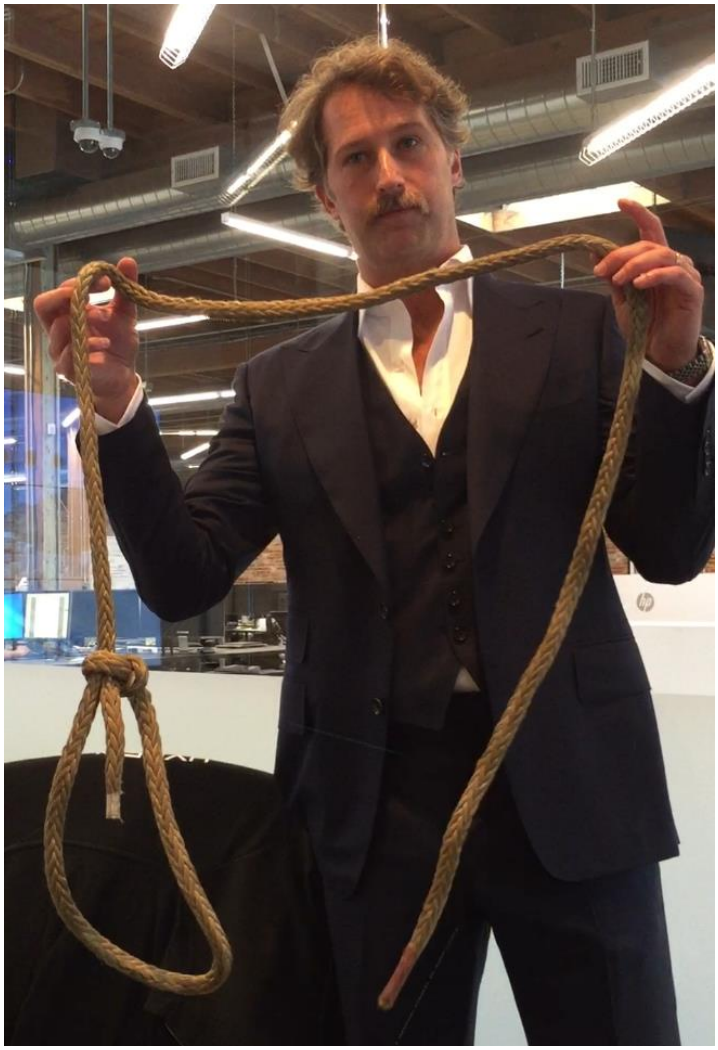

Fig. 2. Plaintiff BamBrogan, the morning of June 15, 2016, holding the hangman's noose left on his chair by Pishevar.

9. The message was clear, and made even more so later that day, when Hyperloop One presented its final offer in response to the group of eleven employees' letter: no core changes would be made, and three heads would roll: Plaintiffs Pendergast and Mulholland would be fired, and BamBrogan would be demoted and forced to take a leave of absence (and would not be terminated outright only if he promised to "behave"). If the group of eleven accepted the proposal, then Defendants promised not to "pursue them to the ends of the earth," threatening economic and legal warfare by millionaires with extensive networks. CEO Rob Lloyd addressed the employees

who signed the letter gathered in a conference room, and laid out a series of threats: If anyone who signed the letter was found to have engaged in any misconduct, all eleven would be held accountable; if anyone talked to investors about what was happening in the company, Hyperloop One would "come after" them; if they did not toe the line, this would be the "worst day" of their lives; and they would bleed the employees dry with frivolous lawsuits.

10. Faced with these threats, and without other secure employment, some of the eleven have understandably stayed with the company. Others, including Plaintiffs, were left with only the opposite choice. Fearing for his physical safety, BamBrogan was forced to resign. Pendergast and Mulholland had been fingered as the "troublemakers" behind the letter, and were slated for termination. CEO Rob Lloyd then fired Pendergast in front of Pendergast's wife and children (whom he had brought to the office out of fear for their safety after Afshin left the noose at BamBrogan's desk). Dr. Sauer was stripped of responsibility for his key project, and forced to resign. Plaintiffs BamBrogan, Mulholland, and Dr. Sauer (and Josh Giegel, the second-ranking engineer at the company), sent resignation e-mails the morning of June 16, 2016.

11. As Plaintiffs were forced out of the company, Defendants began a propaganda effort to conceal the truth of the foregoing events from employees. The day after the noose incident, on June 16, 2016, Defendant Lloyd told the entire company that Josh Giegel had joined the Board of Directors five days prior; a statement belied by the resignation e-mail that Giegel was sending Lloyd literally as he spoke. Defendants also blocked the resignation e-mails of the Plaintiffs and Giegel from reaching their team members, and to this day have persisted in telling employees that Plaintiffs are still full-time employees of Hyperloop One. Indeed, the public website of the company still shows Plaintiffs BamBrogan and Mulholland as team members. All of this has been an effort to turn the remaining team against those who stood up for them, and consequently are no longer at the company and unable to shed light on the truth.

12. Defendants also began a blatant smear campaign. Joseph Lonsdale defamed BamBrogan in an e-mail to the entire Board and BamBrogan's engineering team, describing him as "unstable," and "gone haywire." The e-mail accused BamBrogan of "attempt[ing] to sabotage deals," and closed with blunt threats: "Should you continue to do anything at all against the

companies [*sic*] interests you will be held fully liable for all of your illegal actions to date." Similarly, Defendants described Pendergast to employees and Board members as having engaged in unethical conduct for which he could be disbarred as an attorney.

13. None of these defamatory statements were true. Defendants forced Plaintiffs out of the company for one simple reason: To punish them for speaking up about mismanagement and breaches of fiduciary duty.

14. Plaintiffs wanted Hyperloop One to succeed. They wanted the engineers and other employees who are working long hours successfully building and innovating to be fairly compensated, and for the engineers that understand the technology to have meaningful influence over the direction of the company. They wanted those who are investing tens of millions of dollars into the concept to have full transparency into where their money is going. And they wanted those who are running the company to put technology development first, and take their fiduciary obligations seriously; to stop hiring cronies and relatives for useless work; to stop using company headquarters as their own private party venue; and to stop forcing potential investors to invest in other funds before they do business with Hyperloop One. Hyperloop is not a frivolity, a hobby, or a party trick. It is a serious concept that deserves serious development.

15. Plaintiffs brought these concerns to Defendants, and were met with threats, condemnation, and termination. Accordingly, Plaintiffs bring this action for whistleblower retaliation under California Labor Code § 1102.5, Wrongful Termination In Violation Of Public Policy, Defamation, Breach of Contract, Intentional Infliction of Emotional Distress, Assault and Breach of Fiduciary Duty.

II. VENUE AND JURISDICTION

16. This Court has jurisdiction over this action pursuant to Code of Civil Procedure sections 410.10 and 410.40. Plaintiffs' employment agreements with Defendants establish California as the agreed upon jurisdiction and choice of law for any disputes arising from those agreements.

17. Defendant Hyperloop One's principal place of business is in Los Angeles County, and venue is therefore proper in this Court pursuant to Code of Civil Procedure section 395.5.

III. THE PARTIES

18. **Plaintiff Brogan BamBrogan** co-founded Hyperloop One in his garage in the fall of 2014, and was Chief Technology Officer until his forced resignation in June 2016. He led the vision, and drove the technology development, actively supported fundraising of over $100 million, and built worldwide relationships with potential customers, key corporate partners and investors. Previously, from May 2003 to January 2013, BamBrogan worked in various senior roles at SpaceX, most recently as Senior Staff Engineer, Propulsion. He had primary design responsibility for Kestrel, the upper stage engineer of the Falcon 1 rocket, and supported hardware through development, fabrication, assembly, qualification and final integration. He also led the early design of the Dragon spacecraft, including detailed work on the Draco thrusters and the primary heat shield. BamBrogan supported numerous other technology developments, including zero-g propellant tank design, Dragon escape thruster layout, engine bay RUD containment, nozzle thermal imaging, ultra-low cost chamber design and many other innovations. Prior to SpaceX, BamBrogan worked as a Mechanical Design Engineer, Spacecraft, Propulsion and Lasers, at Northrup Grumman from June 1996 to April 2001. He designed solar arrays for Geolite spacecraft, developed laser solutions for Airborne Laser (ABL) and other programs, and developed a non-toxic RCS thruster solution for the Space Shuttle. From June 1994 to June 1996, BamBrogan was a Design & Manufacturing Engineer at Chrysler Motors, where he designed body panels for Dodge Ram trucks and tooling to support production of 400,000 units per year, and managed suppliers and led installation of tooling in production plants. BamBrogan earned a B.S. in Mechanical Engineering from Kettering University (formerly known as GMI Engineering & Management University). BamBrogan grew up in Michigan.

19. **Plaintiff Dr. Knut Sauer** has extensive experience in the global transportation industry from both an engineering and business perspective, with an extensive global network of relationships. From January 2016 until June 2016, Dr. Sauer led Hyperloop One's efforts developing early infrastructure set ups and strategic partnerships globally as Vice President. Prior to Hyperloop One, Dr. Sauer served as Vice President for Siemens' Transportation division, co-leading Siemens Infrastructure and Mobility Consulting as well as the Siemens "Urban Mobility"

think tank. Dr. Sauer was responsible for developing strategies and negotiating contracts for implementation of Siemens transportation-related technology on a global scale, including the eCar charging infrastructure for German motorways, and the electrification of various heavy freight railway lines in Brazil, Australia and South Africa. He represented Siemens at the UN Climate summit. Prior to Siemens, Dr. Sauer was a principal at the Oliver Wyman Surface Transportation practice advising clients like Deutsche Bahn, SNCF, KTZ, RZD and Amadeus on strategic and operational excellence matters. As VP for industry solutions "Travel & Transport" for Deutsche Telekom, notably Dr. Sauer was technically and commercially responsible for the two largest IT Services deals in the European transportation industry in the last 15 years as well as for smaller IT deals with Deutsche Lufthansa and DHL. Dr. Sauer started his carrier as Lead R&D Engineer for an European Space Agency project at Trimble Navigation developing firmware on automated aircraft landing equipment. Dr. Sauer earned a PhD on automated aircraft landing using assisted GPS sponsored by Alcatel Space at the Centre for Transport, Imperial College, London in the UK and an EMBA from the London School of Economics. He graduated *summa cum laude* as Mining and Mining Surveying Engineer from the Technical University in Freiberg/Germany. Dr. Sauer grew up close to Dresden in former East Germany and speaks German, English and Russian.

20. **Plaintiff David Pendergast**[1] is an experienced deal structuring and execution professional, having worked on more than 30 stock and bond offerings that raised $8.4 billion; over 25 merger, acquisition, joint venture and private equity transactions; and 80+ startup company investments. He has extensive experience preparing offering materials, having authored or substantially edited more than a dozen capital markets prospectuses, and negotiating highly complex loan covenants and security packages. At Hyperloop One, from January to June 2016, David structured, negotiated and executed strategic partnerships with Arup, AECOM, GE, Systra, SNCF, Bjarke Ingels Group and others. He also executed and helped negotiate the company's $22 million venture loan facility with WTI and Silicon Valley Bank as well as its equity financing

[1] None of allegations in this Complaint recite or are based on confidential or privileged information that is known only to Plaintiff Pendergast through his role as counsel for Hyperloop One. None of the allegations disclose or reflect legal advice sought by the Company from Pendergast.

transactions. Pendergast initiated and completed an Export Controls Regulations analysis, and created new equipment and supply chain purchase agreements for Hyperloop One. He frequently authored emails and other communications for CEO Lloyd to send to the Board and investors. From May 2013 to January 2016, Pendergast was Vice President of Corporate Development & Legal Affairs at PCH International, a global business with more than $1 billion in revenue in 2015 with significant operations in San Francisco, Shenzhen and Ireland. He was responsible for all legal matters for all business lines, including product development, manufacturing, supply chain management, fulfillment, distribution and ecommerce. He also structured PCH's market-leading hardware startup accelerator, Highway1, and later stage startup program PCH Access, through which he negotiated and executed numerous equity investments and lending facilities with startup companies based in California, United Kingdom, Sweden, Finland, Ireland, South Africa and Australia. Prior to PCH, David worked at several law firms, most recently Davis Polk & Wardwell, LLP. He has been the primary day-to-day attorney on complex capital markets transactions for every major investment bank in the world, including Goldman Sachs, Morgan Stanley, JP Morgan, Citibank, Merrill Lynch, Deutsche Bank, Credit Suisse, UBS, Barclays, HSBC, BNP Paribas, Bank of China, China Construction Bank, CITIC Securities, Standard Chartered Bank and ANZ. David received a J.D., with distinction, from the University of Iowa College of Law, and a B.S. in Political Science from Luther College. David grew up in Iowa.

21. **Plaintiff William Mulholland** is an experienced financial professional with over 15 years of experience in multiple industries across the globe. He was Vice President of Finance at Hyperloop One, where he led the Finance, Accounting, and Business Intelligence teams. He was the 10th person to join the team and helped guide the company from the days in the garage with only a few million in the bank into a company 150 people strong with over $100 million raised. During his 18 months at Hyperloop One he set up the processes, procedures and systems to support a rapidly growing organization while managing the fundraising processes, evaluating Hyperloop One opportunities across the globe, and supporting the development of market entry strategies and key partnerships with KPMG, WTI, Deloitte, and Silicon Valley Bank. He was regarded as a top performer and was repeatedly called out for his contributions to Hyperloop One

and given a company award and special bonus in the spring of 2016 by Defendants Lloyd and Shervin for his work. Prior to Hyperloop One, he led the Adap.tv FP&A team through their S1 filing and eventual acquisition by AOL for $465M. As a member of the of the leadership team he worked on Adap.tv's integration into AOL, two subsequent acquisitions into their vertical, and an overhaul of the business model. Prior to Adap.tv, Mulholland worked for high end consumer packaged goods firms, manufacturing companies, and high tech startups. Mulholland received a B.S. in Finance from Bentley University, and his MBA from San Jose State University. Mulholland grew up in Philadelphia.

22. **Defendant Hyperloop Technologies, Inc. (d/b/a Hyperloop One)** ("Hyperloop One") is a Delaware corporation with its principal place of business in downtown Los Angeles. Hyperloop One was co-founded in 2014 by Defendant Shervin Pishevar and Plaintiff Brogan BamBrogan, based on an open source concept.

23. **Defendant Shervin Pishevar** ("Shervin") is the Board Chair and Executive Chairman of Hyperloop One, and a resident of California. Shervin is the Managing Director of Sherpa Capital, a venture capital fund based in the San Francisco Bay Area.

24. **Defendant Joseph Lonsdale** is a Board Member of Hyperloop One, and a resident of California. Lonsdale is a founder of 8VC, a venture capital fund.

25. **Defendant Afshin Pishevar** ("Afshin") is the brother of Shervin Pishevar. Afshin served as General Counsel of Hyperloop One beginning in or about December 2014. Afshin is a resident of California.

26. **Defendant Robert Lloyd** is the CEO of Hyperloop One. He was hired in or about June 2015. Lloyd is a resident of California.

27. **Defendants DOES 1-50** are fictitious names for individuals or entities that may be responsible for the wrongful conduct alleged that caused harm to Plaintiffs, the true names and capacities of which are unknown to Plaintiffs, but Plaintiffs will amend this complaint when and if the true names of said Defendants become known to them.

28. Each of the individual Defendants and Doe Defendants were an agent of Defendant Hyperloop One and the other Doe Defendants, and in performing the acts alleged in this Complaint

were acting within the course and scope of that agency.

29. Each of the Defendants have participated, as members of the conspiracy, and have acted with or in furtherance of said conspiracy, or aided or assisted in carrying out the purposes of the conspiracy, and have performed acts and made statements in furtherance of the conspiracy and other violations of California law. Each of the Defendants acted both individually and in alignment with other Defendants with full knowledge of their respective wrongful conduct. As such, the Defendants conspired together, and with other unnamed co-conspirators, building upon each other's wrongdoing, in order to accomplish the acts outlined in this Complaint. Defendants are individually sued as principals, participants, and aiders and abettors in the wrongful conduct complained of, the liability of each arises from the fact that each has engaged in all or part of the improper acts, plans, schemes, conspiracies, or transactions complained of herein.

IV. FACTUAL ALLEGATIONS

A. Defendants' Breaches of Fiduciary Duty

30. As executives and Board Members of Hyperloop One, the individual Defendants owed an utmost fiduciary duty to the company and its shareholders, including a duty of loyalty, a duty to refrain from self-dealing, and a duty of good faith and fair dealing. Defendants breached their fiduciary duties by placing their own self-interests and other competing interests above those of Hyperloop One.

31. For example, rather than hiring a qualified, experienced attorney to serve as general counsel of Hyperloop One, Shervin Pishevar installed his brother, Afshin, a personal injury and criminal defense attorney from Maryland who specialized in petty criminal defense matters. Afshin's utter lack of experience and skill hampered Hyperloop One's growth. Over the course of his eighteen-month employment with Hyperloop One, Afshin was one of the top earners in the company, and received stock and options worth nearly double what some of the most talented engineers at the company received, for work that was of little-to-no use, and in many cases, counterproductive. Moreover, Afshin had repeated, unprofessional outbursts with various Hyperloop One employees, many of which were documented with the Human Resources department. Despite multiple complaints about his lack of competence and his mental and

emotional instability, as Shervin's brother, Afshin was untouchable. Even CEO Rob Lloyd conceded as much. As detailed herein, the fears about Afshin's instability were well-founded, and boiled to a head when he threatened the life of Plaintiff BamBrogan in the workplace after he raised concerns about the direction of the company.

32. This pattern of nepotism continued when Defendant Joseph Lonsdale forced Hyperloop One to hire his younger brother's company, Fideras, to assist with fundraising efforts in 2016. (Lonsdale's heavy involvement in hiring Fideras conspicuously contrasted with his general lack of interest in the day-to-day operations of the company: In the preceding 18 months, Lonsdale had only visited the company's headquarters twice.) Although the hire was ultimately approved by the Board, the decision to engage Fideras had already been made by Defendants; Board approval was a mere rubber stamp. Fideras was paid several hundred thousand dollars in fees and commissions for little, if any, value added to the process, and stands to make millions more, while putting the reputation of the company at risk.

33. Defendants hired Fideras, a new company with no reputation or connections (other than the connections of Joe Lonsdale) despite a competing proposal from a top-tier investment bank to provide the same services for no fees, with the hope of securing future work from Hyperloop One. Unlike Fideras, this well-respected investment bank had significant experience, both locally and internationally, and a wide network of contacts. Unlike Fideras, this well-respected firm pitched Hyperloop One with an outstanding written proposal, complete with a deal process timetable, a permanent capital financing strategy, and detailed background information on suggested target investors. Defendants rejected the top-tier firm's free services in favor of Fideras, for no reason other than pure nepotism. In fact, Plaintiffs understand Defendants never even presented this option to the Board.

34. The individual Defendants forced Hyperloop One to pay Fideras commissions on investments they did not generate, and even for an investor that had invested in Hyperloop One *prior to* Fideras' engagement. Of the millions raised through the post-Series B convertible note transaction on which Fideras was engaged, Fideras was responsible for less than a quarter of that amount. Nonetheless, over protestations from Plaintiffs, and even concessions by Lloyd as to

Fideras' lack of competence, Defendants paid Fideras a commission on a significant portion of the raise, and appointed Fideras as Hyperloop One's exclusive investment bank going forward. In favor of Fideras, Defendants forced Plaintiff Pendergast to terminate an engagement with a premier Chinese investment bank, and terminate discussions with several high-powered American investment banks. Due to this exclusivity with Fideras, aggressively pushed by Lonsdale, and the forced termination of premier investment banks, Hyperloop One has undoubtedly damaged its credibility and potentially lost out on tens of millions of dollars in investments, as well as the opportunity to garner investment from strategic and internationally respected sources. The arrangement, however, allows Lonsdale and Shervin to maintain control over who invests in Hyperloop One; and of course, directly benefits Lonsdale's little brother. This type of mismanagement, driven by unadulterated nepotism, represents a quintessential breach of fiduciary duty, in violation of California law.

35. Similarly, from January 2015 through March 2016, Shervin Pishevar forced Hyperloop One to pay his girlfriend, and eventual fiancé, approximately $400,000 for "PR Services." Those payments were far in excess of fair market value for the minor services provided, and were a waste of company assets. Shervin's girlfriend added very little value and work product to the fledgling company. Her $400,000 in compensation was far above market for services rendered by a PR firm, at a time when Hyperloop One's employees were working at well-below market rates. (Though the girlfriend was engaged by Hyperloop One before she began dating Shervin, after they began dating, Shervin increased her monthly payments from $15,000 to $40,000, with no proportionate increase in responsibility or work product). Despite repeated calls for her termination from the company's executive team, Shervin refused. Only upon the breakup of their romantic relationship did Shervin allow Hyperloop One to terminate his paramour's relationship with the company.

36. While Defendants went out of their way to benefit family members, Hyperloop One's employees worked tirelessly with little recognition from Defendants of their significant achievements—remunerative or otherwise. For example, in Spring 2016, while Lonsdale was busy forcing the company to pay his brother's company for little value added, the company's engineers

and technicians were working long hours, seven days a week in the Nevada desert on the first public demonstration of the hyperloop technology scheduled for May. Despite the overwhelming success of that showcase, the employees were given no bonuses or recognition of any kind for their efforts. None of the Defendants even bothered to send an email of thanks and congratulations to the team that actually did the work.

37. These examples of cronyism and nepotism highlight the Defendants' treatment of Hyperloop One as their personal plaything, rather than as a serious enterprise. For example, on multiple occasions, Shervin effectively forced Hyperloop One's engineers to stop work on the project and vacate Hyperloop One's headquarters so that he could host parties for his friends and acquaintances. For a company racing to develop new technology ahead of competitors, on tight deadlines and budgets, such distractions were wasteful and irresponsible.

38. Shervin and Lonsdale also frequently directed senior engineers to stop work to give tours of Hyperloop One to friends, acquaintances and others they wanted to impress, often including celebrities. Shervin even forced BamBrogan to give a tour of the company to a Los Angeles nightclub doorman. These tours were not for purposes of attracting investment into Hyperloop One, but merely to impress friends and bolster their own reputations.

39. Perhaps most egregiously, Shervin used Hyperloop One as leverage to compel at least one major investor to invest in his VC fund, Sherpa Capital, in concert with an investment in Hyperloop One. This type of "pay-to-play" arrangement is a blatant, fundamental breach of Shervin's fiduciary duties to Hyperloop One. It is reasonable to assume that numerous investors declined to invest in Hyperloop One out of disinterest in paying a *quid pro quo* to Sherpa Capital.

40. Similarly, as the company's Series B fundraising was coming to a close in the spring of 2016, Lonsdale made a last-minute decision to invest from his own fund. The Series B pool, however, had already been fulfilled (and in contravention of prudent practice, Defendants refused to keep the round open despite interest from additional strategic investors). As a result, an independent investor who had committed to the company in the Series B financing was forced to reduce its investment by half. It was but another instance of Lonsdale and Shervin abusing their

positions to maintain control over the company, at the expense of other potentially strategic and value-added investors.

41. More egregiously, Lonsdale's decision to invest was the second flip-flop. Initially, he promised to invest in the Series B round, then decided not to do so, which jeopardized an investment from a sovereign wealth fund.

B. Defendants' Mismanagement and Mistreatment of Employees

42. In addition to breaching their legal duties as executives and officers of Hyperloop One, the individual Defendants manipulated voting rights and share distribution of the company to ensure that none of the employees responsible for actually creating Hyperloop One's product had any control over the company, and minimal stake in its profits. This abuse was not only fundamentally unfair, but contravened Shervin and Lonsdale's legal duties as controlling shareholders. As summarized by the California Supreme Court:

> [M]ajority shareholders, either singly or acting in concert to accomplish a joint purpose, have a fiduciary responsibility to the minority and to the corporation to use their ability to control the corporation in a fair, just, and equitable manner. Majority shareholders may not use their power to control corporate activities to benefit themselves alone or in a manner detrimental to the minority. Any use to which they put the corporation or their power to control the corporation must benefit all shareholders proportionately and must not conflict with the proper conduct of the corporation's business.

Jones v. H. F. Ahmanson & Co. (1969) 1 Cal.3d 93, 108; *see also Stephenson v. Drever* (1997) 16 Cal.4th 1167, 1178.

43. Most of the engineers and other employees of Hyperloop One came to the company out of a passion for the technology, and to be part of a paradigm shift in transportation. Most had little-to-no experience in start-up financing. Shervin and Lonsdale took advantage of their superior knowledge of financing to ensure that they dominated control of the company. Between them, Shervin and Lonsdale now control approximately 78% of the shareholder voting rights.

44. Shervin and Lonsdale did not arrive at this level of control fairly or organically. At the founding of the company, **Shervin granted himself 90% of Hyperloop One's common stock**, and gave his co-founder, BamBrogan, only 6% (the remaining 4% was given to the initial Board members).

45. From the outset, Shervin thus owed BamBrogan, and other minority shareholders, a heightened fiduciary duty. Rather than respecting that duty, however, Shervin abused his position to further consolidate control, and block any investment that might eventually threaten his grip on the company.

46. In early 2015, Shervin amended the Hyperloop One Certificate of Incorporation to create two classes of common stock: Class A and Class B. Class A shares would be given 20:1 super-voting rights. Class B shares would remain at 1:1. Shervin and his colleague at Sherpa Fund, Scott Stanford, converted a portion of their shares to Class A, for no consideration. All other shareholders, including co-founder Plaintiff BamBrogan, were placed in Class B, with 1:1 voting rights.

47. Shervin repeated this expansion of his voting rights through the Series A offering, this time in conjunction with Joseph Lonsdale. In a last-minute alteration of the Series A documentation, Shervin split Series A preferred into two classes: A1 and A2. The Series A1 preferred shares were given 20:1 voting rights; Series A2 remained at 1:1. Only Shervin's fund and Lonsdale's fund were allowed to purchase the Series A1 preferred shares, and did so **at the same price as the Series A2 shares**. They did so to the detriment of minority owners, including their own employees and their co-founder—a virtually unprecedented disparity in "super-voting" shares. To ensure that no independent investor was allowed to purchase A1 preferred shares, Shervin insisted that he maintain full control over Series A fundraising, actively refusing any offers of help. In fact, when BamBrogan hosted a partner from a premier venture capital firm in his garage, Shervin screamed at BamBrogan (as was Shervin's typical approach to dissent), chastising him for independently talking to investors. Also, a prominent Board member offered to open his vast network for financing opportunities and was rebuffed by Shervin.

48. Employees who were given stock options as part of their compensation package were similarly taken advantage of. The Hyperloop One employee option plan gave the company the power to unilaterally repurchase shares that employees received upon their exercise of options, at a price equal to the **lower of:** (a) the fair market value at the time of repurchase; or (b) the exercise price paid by the employee at the time of exercise. This meant that at any time, the

company could buy back the shares at a price substantially lower than fair market value (under subsection b), or even lower than the price paid by employees (under subsection a). Those options, even after vesting, were thus potentially worthless to employees.

49. This underhanded manipulation of employee stock options was made worse by a provision giving Hyperloop One the power to cancel all vested, but unexercised options in the event of an acquisition of the company, without giving any notice to employees that an acquisition was coming to give the employees a chance to exercise their vested options prior to being cancelled.

50. Provisions such as these were both a symptom and a cause of Shervin and Lonsdale's complete control over the company, and marginalization of minority shareholders—including talented, hard-working employees committed to Hyperloop One for below-market salaries with the expectation of one day cashing in valuable stock options—in violation of their fiduciary duties of good faith and loyalty.

51. Ironically, Shervin's Sherpa Capital has held itself out to the public as especially committed to equitable treatment of founders and skilled workers that actually drive start-ups. In a 2014 profile in the Wall Street Journal, Shervin's partner, Scott Stanford, stated of Sherpa: "We felt like there was an opportunity to create a guild-like model. It's our name. We like to be in the background making magic happen–hauling the bags up the mountain, enabling great success, the ones behind the camera at the summit." In a profile of Sherpa in the New York Times from the same time-frame, Stanford elaborated: "The name, they said, is intended to conjure up thoughts of 'service.' 'We really are out to enable founders,' Mr. Stanford said. 'We not only carry the bag, but we propose best routes.'"

52. By their actions at Hyperloop One, Defendants have made a mockery of these soundbites. It is the engineers, team leaders, and department heads who have made the technology a reality to this point; they are "hauling the bags up the mountain." Defendants, meanwhile, are only "making magic happen" by increasing their own voting rights, and rendering employee stock options valueless, through surreptitious sleight of hand. Shervin is the first to show up for the cameras (in front, not behind), and celebrities, but for little else. Notably, Shervin has invested

only a miniscule amount of his own money into the company, and rarely visited headquarters other than for press events or parties.

53. With all of the power in the company effectively concentrated in Shervin and Lonsdale, they have proceeded unrestrained in putting not only Hyperloop One, its stockholders, and its employees in peril, but also endangering the future value of this great technology, through the conduct described herein.

54. As with many technology-based companies, the technical team was the backbone of Hyperloop One. This team was one of the finest in the world, consisting of engineers and technicians with top pedigrees and a demonstrated history of building technologically-advanced and commercially-viable hardware. Sadly, Defendants' misconduct has caused the breakup of this incredible team.

C. Plaintiffs' Attempts to Reform the Company, and Defendants' Retaliation

55. Over the course of their employment with Hyperloop One, Plaintiffs and others attempted to raise the foregoing issues with Shervin, Afshin, and Lloyd. Plaintiffs' concerns were blown-off, or ignored completely.

56. Fed up with being ignored, and increasingly concerned that the company was headed irreversibly down the wrong path, a group of eleven senior employees drafted a letter detailing their concerns, transmitted by e-mail to CEO Rob Lloyd, Shervin, and Lonsdale, on May 26, 2016. The letter stated, in pertinent part:

> Gentlemen:
>
> We regret that we find ourselves in this situation, but we feel that our past repeated efforts at dialogue with you have failed. Our purpose and goal is to achieve two things: engineering control of the company and equitable distribution of the benefits of Hyperloop to the team that is working every day.
>
> We want to be clear that we have made numerous attempts to address matters that have caused us concern through discussion.
>
> As you know, Hyperloop One has made amazing progress over the last two years and stands on the precipice of commercializing this leading edge technology to help solve some of the world's

mobility problems as well as bring great value & opportunity to everyone it touches. We believe this will be the whole world. This remarkable progress has been achieved by an amazing team acting on a truly great vision. The entire team's speed, quality of work, and dedication has led to rapid growth in people, partnerships, engineering product, and worldwide recognition. From the very beginning, the company culture built by our engineering leaders has attracted the brightest minds to build a singular company to deliver on the promise of Hyperloop.

But there is a problem: this stellar company and its team feel that our work is severely undervalued and that our principles are not matched by certain members of the Board.

Primarily, we feel that a significant problem exists in the disparity between the outsized control and equity owned by Shervin Pishevar and the limited collective control and ownership by the team. Also, we don't believe that venture capitalists should have voting control of a company which is engaged in the development of technology and deployment of infrastructure that they do not fully understand. As it stands, the people who are inventing this technology, building it, and interacting with customers, technical partners, corporate partners, and financiers are not the ones who stand to gain the appropriate value from it's success.

In addition, there have been multiple occurances of misuse of company resources and corporate waste by both Shervin and Joe. We have lost faith in Hyperloop One's governance structure. These views are held widely across the company. The people who are aware of this letter and support it are:

-- Brogan BamBrogan
-- Josh Giegel
-- Nima Bahrami
-- Brian Gaumer
-- TJ Ronacher
-- George O'Neal
-- Jim Coutre
-- William Mullholland
-- Erin Kearns
-- Knut Sauer
-- David Pendergast

We have chosen to keep this list short to provide an opportunity for a discrete resolution. Please note that this list includes the technical founders, all of the engineering leadership, as well as the heads of Finance, Operations, Business Development and Legal. We

> are fully confident that the entire engineering team and all the critical members of the other departments would join if asked.
>
> Hyperloop One should be an engineering led company with a team of people who are working every day in it's best interest. We believe that this company's leadership and ownership structure should reflect that. We acknowledge and deeply appreciate the contributions of Shervin Pishevar and Joe Lonsdale, but the disproportionate influence that the current ownership structure provides to them, especially in light of how they have used that influence, represents a threat to the success of this great company. We feel compelled to act in an effort to protect the best interests of the team, the company and the shareholders.

57. The letter then continued with a list of proposed changes to the management structure of the company to ensure balanced control of the company.

58. Rather than taking the concerns seriously, or bringing them to the full Board and observers for consideration, the individual Defendants reacted defensively, and began a campaign to divide-and-conquer the group of eleven. The employees that signed the letter were told that they were replaceable, and Plaintiffs understand that Shervin even suggested that all eleven employees be fired immediately. Joe Lonsdale replied to BamBrogan that the letter was **"not a good way to try to get me to do something when I'm in legal control."** He further stated that the "engineering team" was being manipulated into raising these concerns by "bad actors" on the "business side"—presumably a reference to Pendergast and Mulholland.

59. Shervin, the co-founder, Executive Chairman and Chairman of the Board, made no direct contact with any of the employees that signed the letter. Instead, over the following weeks, Hyperloop One Board member Justin Fishner-Wolfson ("Fishner-Wolfson") attempted to serve as an intermediary between the eleven employees on the one hand and Shervin, Lonsdale and Lloyd on the other, but to no avail. Shervin and Lonsdale refused to relax their stronghold. Within weeks, the situation rapidly deteriorated.

60. Defendants relentlessly attempted to drive a wedge between Plaintiff BamBrogan and Josh Giegel, the top two engineers at the company and drivers of the technology, and both of whom had signed onto the letter. Defendants offered Giegel a Board position, a personal significant share of voting control, and a promotion, if he acquiesced to Pendergast's and

Mulholland's termination, and BamBrogan's force-out. Giegel refused, but Defendants continued to turn the screws: Fishner-Wolfson took a late-night flight from San Francisco to Los Angeles to meet with Giegel from 12:30 a.m. until 3:30 a.m. Giegel continued to refuse to turn on his teammates.

61. Concurrently, Defendants ramped up their threats. As described above, Shervin's brother Afshin threatened the life of Plaintiff Brogan by leaving a hangman's noose at his desk. The noose incident followed Shervin's meeting with Russian investors who had been informed of certain of the issues facing the company by BamBrogan. Notably, the Russian investors had Board observer rights, and therefore should not have had to rely on BamBrogan to notify them of the material issues that had been raised by the group of eleven over two weeks prior.

62. The Russian investors reported to BamBrogan that Shervin became highly "agitated" after they raised some of the issues with him. Shervin complained to the Board and the entire team of Hyperloop One employees that BamBrogan's discussions with the Russian investors had put Shervin's safety at risk—suggesting that the investors (whom Shervin had brought into the company) were the type of people capable of physical violence. This absurd characterization of the Russian investors was far from reality, and merely a weak attempt to justify subsequent retaliation against BamBrogan. (Later, in a sad attempt to mollify BamBrogan, Shervin played the "victim card" by telling the entire company that he "forgave" BamBrogan, implying that BamBrogan had done something wrong.)

63. Not coincidentally, the noose was left for BamBrogan the very night prior to a meeting scheduled at Hyperloop One's headquarters, purportedly to "address" the group of eleven's concerns. Thus, when the employees arrived on June 15th to meet with Fishner-Wolfson and Lloyd, the tone had already been set with a death threat.

64. When the dust settled, five of the group of eleven had been forced out: Pendergast directly fired, Mulholland resigned after Defendants demanded his head be placed on a chopping block, BamBrogan resigned under the threat of physical violence and demotion, and Sauer resigned after being stripped of key responsibilities. Giegel resigned along with BamBrogan.

(Defendants continued pressuring Giegel to return, and Giegel has since decided to stay with the company with a "promotion" to co-founder.)

65. In the weeks following Plaintiffs' terminations and resignations, Defendants have continued spreading mistruths and curated vagaries about Plaintiffs to their former colleagues. For example, CEO Lloyd continued telling the team that Mulholland was simply "on leave," after he had submitted a clear written resignation, and Mulholland still appears listed as an employee on Hyperloop One's website. Similarly, despite his clear resignation, Plaintiff BamBrogan continues to be featured as a "co-founder" on Hyperloop One's website, complete with profile picture.

66. As a direct response to the letter and in an attempt to stem mass exodus of key employees, Defendants have also supposedly agreed to make watered-down versions of the changes demanded by the group of eleven, without relinquishing fundamental control, and of course taking credit in front of the entire company for such changes. The truth is, Defendants have not made any changes out of benevolence—they have made them to turn employees against Plaintiffs.

67. California law broadly protects employees who attempt to report misconduct from retaliation such as this. These whistleblower protections are most clearly expressed in Labor Code section 1102.5, which provides in pertinent part:

> (b) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, . . . to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, . . . if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties.

Cal. Lab. Code § 1102.5.

68. In blatant violation of this law, and others described below, Defendants bluntly retaliated against Plaintiffs for raising their legitimate concerns regarding Defendants' breaches of fiduciary duty.

69. Left no choice but to turn to the judicial system for redress, Plaintiffs bring these claims in an effort to put an end to the Defendants' campaign of destruction and to hold each of the Defendants responsible for the monetary and irreparable harm that they have inflicted on Hyperloop One and its employees.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION

RETALIATION IN VIOLATION OF LABOR CODE § 1102.5

(by all Plaintiffs against all Defendants)

70. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint.

71. Plaintiffs had reasonable cause to believe that Defendants had violated state law by, *inter alia*, breaching their fiduciary duties under California and Delaware law.

72. Plaintiffs disclosed to Defendants their belief that the law had been violated.

73. Defendants had authority over Plaintiffs, and had authority to investigate, discovery, or correct the violations raised by Plaintiffs.

74. Hyperloop, and the individual Defendants acting on behalf of Hyperloop, retaliated against Plaintiffs for disclosing that information, including by terminating and or constructively terminating Plaintiffs' employment, materially reducing job responsibilities, threatening physical harm, threatening legal action, threatening termination, and/or making defamatory statements.

75. Defendants' conduct was in violation of California Labor Code § 1102.5.

76. As a direct and proximate cause of Defendants' wrongful conduct, Plaintiffs' have suffered damages, including, but not limited to, loss of salary, stock options, and other valuable employee benefits all in an amount according to proof.

WHEREFORE, Plaintiff prays for the relief as set forth below.

SECOND CAUSE OF ACTION

WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

(by all Plaintiffs against Defendants Hyperloop One, Shervin, Lonsdale, and Lloyd)

77. Plaintiffs incorporate herein by reference and reallege the allegations stated in Paragraphs 1 through 69, inclusive, of this Complaint.

78. By the conduct herein alleged, Defendants threatened, harassed and discriminated against Plaintiffs in the terms and conditions of their employment, and ultimately terminated their employment, directly or constructively.

79. This conduct was in violation of public policies, including *inter alia* California Government Code § 1102.5, and was taken to punish Plaintiffs for their opposition to Defendants' illegal practices.

80. As a direct and proximate cause of Defendants' wrongful conduct, Plaintiffs have suffered damages, including, but not limited to, loss of salary, stock options, and other valuable employee benefits. Additionally, the actions of Defendants were carried out in a deliberate manner in conscious disregard of the rights of Plaintiffs and were malicious, despicable and were intended to harm them. Plaintiffs are therefore entitled to punitive damages against Defendants in an amount sufficient to punish Defendants, and to deter future similar misconduct.

WHEREFORE, Plaintiff prays for the relief as set forth below.

THIRD CAUSE OF ACTION

BREACH OF CONTRACT

(by Plaintiff Sauer against Defendant Hyperloop One)

81. Plaintiff Sauer repeats, realleges, and incorporates by reference each and every allegation of paragraphs 1 through 69 above as if fully set forth herein.

82. On February 1, 2016, Defendant Hyperloop One entered into a Contract with Plaintiff Sauer under which Defendant agreed to pay Plaintiff a quarterly bonus of $20,000 upon Plaintiff's achievement of predetermined goals. Under the terms of the Contract, Defendant was required to provide the quarterly bonuses set forth in the Contract.

83. Plaintiff complied with all of his obligations under the Contract.

84. Plaintiff has been deprived of the benefits of his agreement with Defendant.

85. Defendant breached the Contract by taking actions to deprive Plaintiff of the benefit of the Contract and by refusing to provide the quarterly bonus set forth in the Contract for the second quarter of 2016.

86. As a proximate result of Defendant's breach of contract, Plaintiff has suffered damages.

87. Plaintiff seeks actual damages and an injunction ordering Defendant to comply with the obligations of the Contract.

WHEREFORE, Plaintiff prays for the relief as set forth below.

FOURTH CAUSE OF ACTION

DEFAMATION

(by all Plaintiffs against Defendants Hyperloop One, Shervin, Lonsdale, and Lloyd)

88. Plaintiffs incorporate herein by reference and reallege the allegations stated in Paragraphs 1 through 69, inclusive, of this Complaint.

89. Defendants during the relevant times willfully, without justification and without privilege caused to be published or communicated false and/or misleading statements about Plaintiffs to persons other than Plaintiffs.

90. Those statements suggested that Plaintiffs had committed a crime, and/or the statements tended to injure Plaintiffs in respect to their profession, trade or business.

91. Defendants failed to use reasonable care to determine the truth or falsity of the statement(s).

92. Defendants' wrongful conduct was a substantial factor in causing actual and assumed damages.

93. In making the statements, Defendants acted with malice, oppression, or fraud.

WHEREFORE, Plaintiffs pray for relief as set forth below.

FIFTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(by Plaintiff BamBrogan against Defendants Hyperloop One and Afshin Pishevar)

94. Plaintiffs incorporate herein by reference and reallege the allegations stated in Paragraphs 1 through 69, inclusive, of this Complaint.

/ / /

/ / /

95. Defendant Afshin Pishevar, acting as an agent for Hyperloop One, intentionally inflicted emotional distress on Plaintiff BamBrogan through the conduct alleged herein, including by threatening his life by leaving a hangman's noose at his desk.

96. Defendants' conduct was outrageous.

97. Defendants intended to cause BamBrogan emotional distress, or acted with reckless disregard of the probability that BamBrogan would suffer emotional distress.

98. BamBrogan suffered severe emotional distress, and Defendants' conduct was a substantial factor in causing BamBrogan's severe emotional distress.

99. Defendants acted with malice, oppression, or fraud.

WHEREFORE, Plaintiff BamBrogan prays for relief as set forth below.

SIXTH CAUSE OF ACTION

ASSAULT

(by Plaintiff BamBrogan against Defendants Hyperloop One and Afshin Pishevar)

100. Plaintiffs incorporate herein by reference and reallege the allegations stated in Paragraphs 1 through 69, inclusive, of this Complaint.

101. Defendant Afshin Pishevar, acting as an agent of Hyperloop One, threatened physical harm to Plaintiff BamBrogan.

102. It reasonably appeared to BamBrogan that Afshin intended to carry out the threat.

103. BamBrogan did not consent to Afshin's conduct.

104. Afshin's conduct was a substantial factor in causing harm to BamBrogan.

105. Defendants acted with malice, oppression, or fraud.

WHEREFORE, Plaintiff BamBrogan prays for relief as set forth below.

SEVENTH CAUSE OF ACTION

BREACH OF FIDUCIARY DUTY

(by Plaintiffs BamBrogan and Mulholland against Defendants Shervin Pishevar and Joseph Lonsdale)

106. Plaintiffs incorporate herein by reference and reallege the allegations stated in Paragraphs 1 through 69, inclusive, of this Complaint.

107. As majority shareholders with control of and the ability to dominate the corporation's decisions, Defendants Shervin and Lonsdale owed fiduciary duties to minority shareholders, including Plantiffs BamBrogan and Mulholland.

108. Defendants Shervin and Lonsdale used their ownership and control of the company to obtain benefits from the company to the detriment and exclusion of minority shareholders, including Plaintiffs BamBrogan and Mulholland.

109. Defendants Shervin and Lonsdale breached the fiduciary duties owed to Plaintiffs BamBrogan and Mulholland through the conduct described herein.

110. As a result of Shervin's and Lonsdale's breaches, Plaintiffs Shervin and Mulholland have suffered damages, in an amount according to proof.

WHEREFORE, Plaintiffs BamBrogan and Mulholland pray for relief as set forth below.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, and each of them, pray that this Court enter judgment in their favor on each and every claim for relief set forth above, and award them relief including, but not limited to, the following.

1. A preliminary and permanent injunction enjoining and restraining Defendants, their officers, employees, agents, servants, consultants, subsidiaries, representatives and all persons acting in concert and participation with any of them from publishing or otherwise disseminating any material that mention or refers to Plaintiffs by name;
2. A public acknowledgment and apology to all employees and Board members of Hyperloop One by Defendants for their unlawful conduct;
3. Rescission and disgorgement of all direct and indirect benefits obtained by Defendants as a result of their use their ownership and control of the company to the detriment and exclusion of minority shareholders;
4. Reinstatement;
5. General, special, and consequential damages sustained by Plaintiffs according to proof;
6. Prejudgment interest at the maximum rate;

7. Costs of the proceedings herein;

8. Reasonable attorney's fees;

9. Punitive damages; and

10. All such other and further relief as the Court deems just and proper.

Dated: July 12, 2016

COTCHETT, PITRE & McCARTHY, LLP

By: _____
JOSEPH W. COTCHETT
JUSTIN T. BERGER
ERIC J. BUESCHER

Attorneys for Plaintiffs

VII. JURY DEMAND

Plaintiffs hereby demand a trial by jury of all issues so triable.

Dated: July 12, 2016

COTCHETT, PITRE & McCARTHY, LLP

By: _____
JOSEPH W. COTCHETT
JUSTIN T. BERGER
ERIC J. BUESCHER

Attorneys for Plaintiffs