

1 COOLEY LLP
2 KOJI F. FUKUMURA (189719)
3 (kfukumura@cooley.com)
4 DARCIE A. TILLY (239715)
5 (dtilly@cooley.com)
6 LILY S. DUONG (322274)
7 (lduong@cooley.com)
8 4401 Eastgate Mall
9 San Diego, CA 92121
10 Telephone: (858) 550-6000
11 Facsimile: (858) 550-6420

12 LUKE T. CADIGAN (*pro hac vice* forthcoming)
13 (lcadigan@cooley.com)
14 MICHAEL E. WELSH (*pro hac vice* forthcoming)
15 (mwelsh@cooley.com)
16 500 Boylston Street
17 Boston, MA 02116
18 Telephone: (617) 937-2300
19 Facsimile: (617) 937-2400

20 Attorneys for Defendants
21 Obelisk, Inc. and Nebulous, Inc.

22 UNITED STATES DISTRICT COURT
23 SOUTHERN DISTRICT OF CALIFORNIA

24 SHAUN ROBERTS, NICHOLAS
25 COLLEY, and ALLAN HENRY,
26 individually and on behalf of all others
27 similarly situated,

28 Plaintiffs,

v.

OBELISK, INC., a Delaware
corporation, NEBULOUS, INC., a
Delaware corporation, DAVID J.
VORICK, an individual, ZACH
HERBERT, an individual, and DOES 1
through 10, inclusive,

Defendants.

Case No. '18CV2898 LAB BGS

**NOTICE OF REMOVAL OF
ACTION
(28 U.S.C. §§ 1332, 1441, & 1453)**

1 TO PLAINTIFFS, THEIR ATTORNEYS, AND THE ABOVE-CAPTIONED
2 COURT:

3 PLEASE TAKE NOTICE that Defendants Nebulous, Inc. and Obelisk, Inc.
4 (collectively, "Corporate Defendants")¹ by and through their undersigned attorneys,
5 hereby remove the above-captioned civil action, and all claims and causes of action
6 therein, from the Superior Court of the State of California for the County of San
7 Diego, to the United States District Court for the Southern District of California.

8 This civil action is removed on the basis of diversity jurisdiction under 28
9 U.S.C. §§ 1332, 1441, and 1453. For the reasons set forth below, this Court has
10 subject matter jurisdiction under the Class Action Fairness Act of 2005 ("CAFA"),
11 codified in part at 28 U.S.C. §§ 1332 and 1453. Additionally, as required by 28
12 U.S.C. § 1446(a), all process, pleadings, and orders served on Corporate Defendants
13 in the action to date are attached hereto as Exhibit A.

14 As the requisite "short and plain statement of the grounds for removal," 28
15 U.S.C. § 1446(a), Corporate Defendants state as follows:

16 **BACKGROUND**

17 1. On November 19, 2018, Shaun Roberts, Nicholas Colley, and Allan
18 Henry (collectively, "Plaintiffs") commenced a civil action by filing a complaint in
19 the Superior Court of the State of California for the County of San Diego.

20 2. Plaintiffs allege that this action arises out of their alleged purchases of
21 DCR1 and/or SC1 cryptocurrency "miners" from Nebulous, Inc. and Obelisk, Inc.
22 (Compl. ¶ 1, 9–11.)

23 3. The Complaint is styled as a putative class action. Plaintiffs purport to
24 sue on their own behalf and on behalf of "[a]ll persons or entities who purchased SC1
25

26 ¹ Plaintiffs have yet to serve a summons and a complaint on Defendants David Vorick
27 and Zach Herbert. CAFA allows any defendant to remove a qualifying class or mass
28 action even without the consent of the other defendants. See 28 U.S.C. § 1453(b).
Accordingly, this notice of removal is currently brought only on behalf of the
Corporate Defendants.

1 or DCR1 miners from Defendants from June 1, 2017 through the present.” (Compl.
2 ¶ 73.)

3 4. The Complaint asserts six causes of action against the Corporate
4 Defendants and David Vorick and Zach Herbert (Vorick and Herbert collectively,
5 “Individual Defendants”). Plaintiffs assert claims for violations of Massachusetts
6 law for (1) unfair and deceptive practices, (2) unregistered offer and sale of securities,
7 and (3) control person liability for unregistered offer and sale of securities. (Compl.
8 ¶¶ 83–103.) In addition, the Complaint also asserts violations of California law for
9 (1) unfair competition, (2) unregistered offer and sale of securities, and (3) control
10 person liability for unregistered offer and sale of securities.

11 5. Plaintiffs seek, among other things, rescission of all SC1 and DCR1
12 miner purchases and/or compensatory damages (Compl. ¶ VII.4), a constructive trust
13 over the proceeds of Corporate Defendants’ alleged sales of SC1 and DCR1 miners
14 (Compl. ¶ VII.6), and punitive damages (Compl. ¶ VII.7.)

15 **PROCEDURAL HISTORY AND TIMELINESS OF REMOVAL**

16 6. Plaintiffs mailed the Summons and the Complaint to Corporate
17 Defendants by certified on November 20, 2018. (Exhibit A at 33, 36.) Under Section
18 415.40 of the California Code of Civil Procedure, the provision under which
19 Plaintiffs purport to have completed mail service (Exhibit A at 33, 36), “[s]ervice of
20 a summons by this form of mail is deemed complete on the 10th day after such
21 mailing.”

22 7. The San Diego Superior Court has calendared a case management
23 conference for June 14, 2019. (Exhibit A at 41.)

24 8. On information and belief, Plaintiff has neither modified the Complaint
25 to identify fictitious defendants (Does 1-10), nor served a copy of the Summons and
26 Complaint on them.

27 8. This Notice of Removal is timely because Corporate Defendants filed it
28 within thirty days of when Plaintiffs’ service on them with the Summons and

1 Complaint was deemed complete pursuant to Cal. Code Civ. Pro. § 415.40. *See* 28
2 U.S.C. § 1446(b); *Murphy Bros., Inc. v. Mitchetti Pipe Stringing, Inc.*, 526 U.S. 344,
3 347–48 (1999) (stating that formal service of process is measured according to state
4 law, and service under state law is a prerequisite for triggering the 30-day removal
5 period because it “assures defendants adequate time to decide whether to remove an
6 action to federal court”); *Jimena v. Standish*, 504 F. App’x 632, 634 (9th Cir. 2013).

7 9. In accordance with 28 U.S.C. § 1446(d), Corporate Defendants will
8 provide Plaintiffs written notice by serving Plaintiffs, through their counsel of record,
9 with this Notice of Removal and all documents filed in support thereof and
10 concurrently.

11 SUBJECT MATTER JURISDICTION

12 10. Pursuant to CAFA, a putative class action may be removed to the
13 appropriate federal district court if (1) the action purports to be a “class” action
14 brought on behalf of 100 or more members; (2) any member of a class of plaintiffs is
15 a citizen of a state different from any defendant; and (3) the amount in controversy
16 exceeds \$5 million. *See* 28 U.S.C. §§ 1332(d)(2), (2)(A), (5)(B), 1453(b). This
17 action meets each of those three requirements.

18 **PLAINTIFFS’ PURPORTED CLASS EXCEEDS 100 MEMBERS.**

19 11. According to Plaintiffs, “there are thousands of Class members.”
20 (Compl. ¶ 76.)

21 12. Without conceding liability, appropriateness of class treatment,
22 appropriateness of Plaintiffs’ class definition, or the validity of Plaintiffs’ claim for
23 relief, if the allegations in Plaintiffs’ Complaint are accepted as true, there are far
24 more than 100 proposed class members. (*Id.*); *see also Kuxhausen v. BMW Fin.*
25 *Servs. NA LLC*, 707 F.3d 1136, 1140 (9th Cir. 2013) (holding that even “hundreds,”
26 by definition, means at least 200); *Tompkins v. Basic Research LL*, No. CIV.
27 S08244LKKDAD, 2008 WL 1808316, at *3 (E.D. Cal. Apr. 22, 2008) (concluding
28 the allegations in the plaintiff’s complaint that the class included “thousands of

1 persons” logically implied a minimum of 2,000 class members).

2 **THE PARTIES ARE CITIZENS OF DIFFERENT STATES.**

3 13. In this action, Plaintiff Shaun Roberts is a resident of the State
4 California. (Compl. ¶ 9.)

5 14. Plaintiff Nicholas Colley is a resident of the State of Oregon. (Compl.
6 ¶ 10.)

7 15. Plaintiff Allan Henry is a resident of the State of Connecticut. (Compl.
8 ¶ 11.)

9 16. The Corporate Defendants, however, are both Delaware corporations
10 with their principal place of business in Massachusetts. (Compl. ¶ 12.)

11 17. Consequently, because none of the Plaintiffs are citizens of Delaware or
12 Massachusetts—where Corporate Defendants reside—minimal diversity is satisfied
13 under the second requirement of CAFA, 28 U.S.C. § 1332(d)(2)(A).

14 **THE AMOUNT IN CONTROVERSY EXCEEDS \$5 MILLION.**

15 18. “In measuring the amount in controversy, a court must assume that the
16 allegations of the complaint are true and that a jury will return a verdict for the
17 plaintiff on all claims made in the complaint.” *Korn v. Polo Ralph Lauren Corp.*,
18 536 F. Supp. 2d 1199, 1205 (E.D. Cal. 2008). “The ultimate inquiry is what amount
19 is put ‘in controversy’ by the plaintiff’s complaint, not what a defendant will *actually*
20 owe.” *Id.* (emphasis in original); *see also Deehan v. Amerigas Partners, L.P.*, No.
21 08-cv-1009 BTM JMA, 2008 WL 4104475, at *2 (S.D. Cal. Sept. 2, 2008); *Muniz v.*
22 *Pilot Travel Centers LLC*, No. CIV. S-07-0325 FCD EFB, 2007 WL 1302504, at *3
23 (E.D. Cal. May 1, 2007).

24 19. Corporate Defendants’ burden of proof on removal “is not daunting, as
25 courts recognize that . . . a removing defendant is *not* obligated to research, state, and
26 prove the plaintiff’s claims for damages.” *Korn*, 536 F. Supp. 2d at 1204–05
27 (emphasis in original (internal quotation marks removed)). Defendants “need only
28 include a plausible allegation that the amount in controversy exceeds the

1 jurisdictional threshold, and the defendant's amount in controversy allegation should
2 be accepted if not contested by the plaintiff or questioned by the court." *Varsam v.*
3 *Lab. Corp. of Am.*, No. 14CV2719 BTM JMA, 2015 WL 4199287, at *1 (S.D. Cal.
4 July 13, 2015).

5 20. Among other things, Plaintiffs seek rescission of Defendants' alleged
6 sales of cryptocurrency miners to all putative class members. (Compl. ¶ VII.4.)
7 Plaintiffs claim, "Defendants first presale closed on November 24, 2017 and
8 Defendants announced that they sold 3,516 SC1s and 2,888 DCR1s for \$2,499 each,
9 raising over \$16 million." (Compl. ¶ 45.) Plaintiffs also allege, "[a]fter conducting
10 the first SC1 and DCR1 presale, Defendants conducted a second presale between
11 December 31, 2017 and January 31, 2018 ("Batch 2"). During the Batch 2 presale,
12 Defendants sold 3,648 SC1 miners and 3,693 DCR1 miners for \$1,599 each, raising
13 over \$11.7 million." (Compl. ¶ 46.)

14 21. Without conceding liability, appropriateness of class treatment,
15 appropriateness of Plaintiffs' class definition, or the validity of Plaintiffs' claim for
16 relief, as pled by Plaintiffs, if all such sales were rescinded, the amount in controversy
17 exceeds \$5 million.

18 22. Moreover, Plaintiffs seek a constructive trust over the proceeds of
19 Defendants' alleged sales of both batches of SC1 and DCR1 miners. (Compl. ¶
20 VII.6.) This also supports a conclusion that the amount in controversy in this action
21 exceeds \$5 million. (Compl. ¶ 26); *see Holt v. Noble House Hotels & Resort, Ltd.*,
22 2018 WL 539176, at *4 (S.D. Cal. Jan. 23, 2018) (considering amount over which
23 plaintiff was seeking a constructive trust and disgorgement in assessing amount in
24 controversy).

25 VENUE IS PROPER


26 23. Removal to this judicial district and division is proper under 28 U.S.C.
27 §§ 1441(a) and 1446(a) because the state court action was originally pending in this
28

1 judicial district—namely, the Superior Court of the State of California for the County
2 of San Diego.

3 **NOTICE TO THE SUPERIOR COURT OF SAN DIEGO COUNTY**

4 24. Contemporaneously with the filing of this Notice of Removal,
5 Corporate Defendants are filing a true and correct copy of this Notice of Removal
6 and all documents filed in support thereof and concurrently therewith with the clerk
7 of the Superior Court of the State of California for the County of San Diego, under
8 28 U.S.C. § 1446(d).

9
10 Dated: December 28, 2018 COOLEY LLP

11
12 By: 
13 Darcie A. Tilly (239715)

14 Attorney for Defendants
15 OBELISK, INC. and NEBULOUS,
16 INC.

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JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Roberts, Shaun, Colley, Nicolas, Henry, Allan, and Does 1 through 10.

(b) County of Residence of First Listed Plaintiff Campbell
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
See attachment.

DEFENDANTS

Obelisk, Inc., Nebulous, Inc., Vorick, David J., and Herbert, Zach.

County of Residence of First Listed Defendant Boston
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
See attachment.

'18CV2898 LAB BGS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §§ 1332, 1441, and 1453.

Brief description of cause:

Unfair and deceptive practices and unfair competition and unregistered offer and sale of securities.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE 12/28/18 SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Roberts, et al. v. Obelisk Inc., et al.

CIVIL COVER SHEET ATTACHMENT

1. Plaintiffs' Counsel

Taylor-Copeland Law
501 W. Broadway Suite 800
San Diego, CA 92101
Telephone: (619) 400-4944

James Q. Taylor-Copeland (284743) (james@taylorcopelandlaw.com)

2. Defendants' Counsel

Cooley LLP
4401 Eastgate Mall
San Diego, CA 92121
Telephone: (858) 550-6000

Koji F. Fukumura (189719) (kfukumura@cooley.com)
Darcie A. Tilly (239715) (dtilly@cooley.com)
Luke T. Cadigan (561117) (*pro hac vice* forthcoming)
(lcadigan@cooley.com)
Michael E. Welsh (693537) (*pro hac vice* forthcoming)
(mwelsh@cooley.com)
Lily S. Duong (322274) (lduong@cooley.com)

EXHIBIT A

1 James Q. Taylor-Copeland (SBN 284743)
james@taylorcopelandlaw.com
2 TAYLOR-COPELAND LAW
501 W. Broadway Suite 800
3 San Diego, CA 92101
Tel: 619-400-4944
4

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
11/19/2018 at 11:08:06 AM
Clerk of the Superior Court
By Marc David, Deputy Clerk

5 *Attorney for Individual and*
Representative Plaintiffs Shaun Roberts,
6 *Nicholas Colley, and Allan Henry*

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SAN DIEGO
9

10 SHAUN ROBERTS, NICHOLAS COLLEY, and
ALLAN HENRY, individually and on behalf of
11 all others similarly situated

Case No. 37-2018-00058465-CU-BT-CTL

CLASS ACTION

12 Plaintiffs,

COMPLAINT FOR:

13 v.

14 OBELISK, INC., a Delaware corporation,
NEBULOUS, INC, a Delaware corporation,
15 DAVID J. VORICK, an individual, ZACH
HERBERT, an individual, and DOES 1 through
16 10, inclusive,

- (1) UNFAIR AND DECEPTIVE BUSINESS PRACTICES IN VIOLATION OF MASS. GEN LAWS CHAPTER 93A, § 2
- (2) UNREGISTERED OFFER AND SALE OF SECURITIES IN VIOLATION OF MASS. GEN LAWS CHAPTER 110A, § 410
- (3) CONTROL PERSON LIABILITY FOR UNREGISTERED OFFER AND SALE OF SECURITIES IN VIOLATION OF MASS. GEN LAWS CHAPTER 110A, § 410
- (4) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200
- (5) UNREGISTERED OFFER AND SALE OF SECURITIES IN VIOLATION OF SECTION 25503 OF THE CALIFORNIA CORPORATION CODE
- (6) CONTROL PERSON LIABILITY FOR UNREGISTERED OFFER AND SALE OF SECURITIES IN VIOLATION OF SECTION 25504 OF THE CALIFORNIA CORPORATION CODE

17 Defendants.
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JURY TRIAL DEMANDED

DEMAND EXCEEDS \$25,000

1 Plaintiffs SHAUN ROBERTS, NICHOLAS COLLEY, and ALLAN HENRY individually
2 and on behalf of all others similarly situated (“Plaintiffs”) complain against defendants
3 NEBULOUS, INC (“Nebulous”), its wholly owned subsidiary OBELISK, INC. (“Obelisk”), and
4 their executive officers DAVID J. VORICK (“Vorick”), ZACH HERBERT (“Herbert”), and Does
5 1-10 (collectively, “Defendants”) as follows:

6 **I. SUMMARY OF ACTION**

7 1. This is a class action on behalf of all investors who purchased cryptocurrency mining
8 appliance (“Mining Appliance”) preorders issued and sold by Defendants from June 1, 2017 through
9 the present (“Preorders”). It arises out of a scheme by Defendants to raise millions of dollars through
10 the unregistered sale of Mining Appliance Preorders to retail investors in violation of consumer
11 protection laws and the registration provisions of state securities laws.

12 2. Like the better known Bitcoin, the Siacoin and Decred cryptocurrencies can only be
13 generated through a process called mining. The mining process involves competing with other
14 miners to solve complicated mathematical problems with cryptographic hash functions. The first
15 miner to crack the code is rewarded with Siacoin or Decred. The use of specialized hardware is
16 necessary to compete with other miners. As the value of cryptocurrencies increased in 2017 the
17 market for advanced mining hardware grew similarly.

18 3. Against this backdrop, Defendants sold Preorders for Mining Appliances that were to
19 be specially tailored to mine Siacoin and Decred. To market and sell those Preorders, Defendants
20 advertised that their Mining Appliances would meet certain specifications thereby allowing
21 purchasers to reap significant profits once the Mining Appliances were delivered. Defendants also
22 promised to deliver those Mining Appliances by a date certain and informed Plaintiffs and other
23 purchasers that they would be able to receive a full refund if the Mining Appliances were not
24 delivered on time or did not meet the advertised specifications.

25 4. Despite their repeated promises, Defendants failed to ship any Mining Appliances on
26 time, and when they finally did ship some Mining Appliances those Mining Appliances did not meet
27 the specifications Defendants had promised during the presale. Most importantly, the actual hash
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1 rates of the Mining Appliances were far below those that Defendants had promised. As a result, the
2 Mining Appliances would not allow purchasers to come close to recouping the cost of their
3 investment. Defendants also refused to provide refunds to Plaintiffs and other purchasers despite
4 their earlier assurances.

5 5. In short, Defendants promised Plaintiffs and members of the Class the moon,
6 delivered them overpriced paperweights, and then reneged on their promise to provide refunds if
7 they were unable to provide Mining Appliances on time or up to their advertised specifications.

8 6. Both Massachusetts and California securities laws require any security that is offered
9 or sold to be registered. These laws are designed to protect the public by requiring various
10 disclosures so that investors can better understand the security that is being offered or sold, and risks
11 associated with investment in that security.

12 7. Here the Preorders offered and sold by Defendants have all the traditional hallmarks
13 of a security. Preorder purchasers, including Plaintiffs, provided consideration (in the form of U.S.
14 dollars or Bitcoin) in exchange for their Preorders. Preorder purchasers reasonably expected to
15 derive profits from their Preorders of the Mining Appliances, and Defendants themselves have
16 frequently highlighted this profit motive. Finally, the development of the Mining Appliances, and
17 the profits that investors expected to derive therefrom, were, and are, based entirely on the technical,
18 managerial, and entrepreneurial efforts of Defendants and other third parties employed by
19 Defendants.

20 8. However, Defendants did not register the Preorders with the SEC or any state
21 regulatory agency, and many of the representations Defendants made regarding the Mining
22 Appliances were designed to drive demand of Mining Appliance Preorders, allowing Defendants to
23 obtain greater returns on their Preorder sales.

24 II. PARTIES

25 9. Plaintiff Shaun Roberts is an individual who at all times mentioned, was and is a
26 resident of Campbell, California. Plaintiff Roberts purchased two Preorders of DCR1 Miners on or
27 about November 23, 2017 for approximately \$5,000.

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1 10. Plaintiff Nicholas Colley is an individual who resides in Portland Oregon. While a
2 resident of San Marcos, Texas, Plaintiff Colley purchased one Preorder of a SC1 Miner on or about
3 September 5, 2017 for approximately \$2,534. While a resident of San Francisco, California,
4 Plaintiff Colley purchased two Preorders of DCR1 Miners on or about January 31, 2018 for 0.22901
5 Bitcoin.

6 11. Plaintiff Allan Henry is an individual who at all times mentioned, was and is a resident
7 of Bridgeport, Connecticut. Plaintiff Henry purchased 16 Preorders of DCR1 Miners and 8
8 Preorders of SC1 Miners on or about November 23, 2017 for 8.019 Bitcoin, then valued at
9 approximately \$60,000. Plaintiff Henry also purchased 17 Preorders of SC1 Miners and 9 Preorders
10 of DCR1 Miners on or about January 31, 2018 for 1.709 Bitcoin, then valued at approximately
11 \$35,000.

12 12. Plaintiffs are informed and believe, and based thereon allege, that Defendant
13 Nebulous, Inc. is a Delaware corporation with its principal place of business in Boston,
14 Massachusetts.

15 13. Plaintiffs are informed and believe, and based thereon allege, that Defendant Obelisk,
16 Inc. is a Delaware corporation with its principal place of business in Boston, Massachusetts. Obelisk
17 is Defendant Nebulous' wholly owned subsidiary.

18 14. Plaintiffs are informed and believes, and based thereon allege, that Defendant David
19 Vorick, is an individual who resides in Boston, Massachusetts. Vorick is the CEO and Cofounder
20 of Nebulous and the CEO of Obelisk.

21 15. Plaintiffs are informed and believes, and based thereon allege, that Defendant Zach
22 Herbert, is an individual who resides in Boston, Massachusetts. Herbert is the Vice-President of
23 Operations of both Nebulous and Obelisk.

24 16. At all times mentioned herein, each of the defendants named herein, including DOES
25 1 through 10 were the co-conspirators, agents, representatives, alter egos, employers, and/or joint
26 venturers of the other defendants, and, in doing the acts and things herein alleged, were acting within
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1 the course, scope, and authority of said agency, service, or employment with knowledge,
2 permission, and consent of the other defendants and each of them.

3 17. Plaintiffs allege on information and belief that DOES 1-10, inclusive, were
4 individuals, corporations, companies, partnerships, or other business entities. DOES 1-10 were co-
5 conspirators with, or alter egos of, other Defendants in the violations alleged in this Complaint and
6 performed acts or made statements in furtherance thereof. Plaintiffs are presently unaware of the
7 true names and identities of DOES 1-10. Plaintiffs will amend this Complaint to allege the true
8 names of the DOE defendants when they are able to ascertain them.

9 **III. JURISDICTION AND VENUE**

10 18. This Complaint is filed, and these proceedings are instituted, to recover damages and
11 to obtain other relief that Plaintiffs have sustained due to Defendants' unfair and deceptive business
12 practices and unregistered offer and sale of securities in violation of both the Massachusetts Uniform
13 Securities Act and the California Corporations Code.

14 19. Venue is proper in this jurisdiction pursuant to the provisions of California Code of
15 Civil Procedure section 395(a) because none of Defendants reside in the state of California nor have
16 the foreign corporation Defendants qualified to do business in California.

17 20. This Court has personal jurisdiction over Defendants as a result of acts of Defendants
18 occurring in and/or aimed at the state of California in connection with Defendants' unfair
19 competition, unregistered offer and sale of securities in violation of the Massachusetts Uniform
20 Securities Act and the California Corporations Code. In particular, Defendants marketed and sold
21 Mining Appliance Preorders to California residents, including Plaintiff Roberts and made the
22 misrepresentations complained of below to those California residents to induce them to purchase
23 Mining Appliances Preorders.

24 **IV. SUBSTANTIVE ALLEGATIONS**

25 **A. DEFENDANTS' BUSINESS OPERATIONS**

26 21. Defendants developed Sia, technology that purportedly "connects users who need file
27 storage with hosts worldwide offering underutilized hard drive capacity" (the "Sia Platform").
28

1 According to Defendants, the Sia Platform allows the marketplace for that underutilized hard drive
2 capacity “to run without an intermediary,” because “Sia secures storage transactions with smart
3 contracts, creating a more reliable and affordable offering when compared to traditional cloud
4 providers.”

5 22. Defendants also developed Siacoin, a cryptocurrency that is intended to be used for
6 renting and hosting cloud storage on the Sia Platform. Users who wish to store their files on the Sia
7 Platform must pay for those services with Siacoins and hosts are paid in Siacoins for renting out
8 their hard drives.

9 23. Like Bitcoins, Siacoins can only be generated through mining. The mining process
10 involves competing with other miners to solve complicated mathematical problems with
11 cryptographic hash functions. The first Siacoin miner to crack the code is rewarded with Siacoin.
12 In order to be competitive with other miners a miner needs specialized hardware. As the value of
13 cryptocurrencies increased in 2017 the market for advanced mining hardware grew similarly.

14 B. DEFENDANTS’ PRESALE OF MINING APPLIANCES

15 1. DEFENDANTS’ PRESALE OF THE SC1

16 24. Against this backdrop, in June 2017 Defendant Vorick, using the screenname Taek42
17 on Reddit.com, announced that Defendants were developing an Application-Specific Integrated
18 Circuit (“ASIC”) customized for Siacoin mining dubbed the “SC1.”¹ Vorick announced that
19 Defendants would have a presale and that they had “set a conservative shipping date of June 2018.”

20 25. Vorick initially stated that the estimated hash rate of the SC1s would be “100 GH/s,”
21 stating that “we have confidence that 100 GH/s is a low bar to hit.” The hash rate of a Mining
22 Appliance is critical to potential purchasers because it is the speed at which the Mining Appliance
23 is completing an operation in the Siacoin code. A higher hash rate increases a miner’s opportunity
24 to solve the mathematical problem and thereby be rewarded with Siacoin. Thus, with all else being
25 equal, a higher hash rate increases expected profitability. Defendant Herbert acknowledged as much

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28 ¹ Obelisk’s Sia ASICs – Full Details,
https://www.reddit.com/r/siacoin/comments/6j1gyg/obelisks_sia_asics_full_details/ (last visited October 24, 2018)

1 stating “[i]ncreased hashrate means we stay more competitive if competition swoops in, or as we
2 sell future batches.”

3 26. Vorick stated that the presale would be open for seven days. He added that Defendants
4 “may pre-sell additional batches before the first batch ships,” but promised that “[t]he first batch
5 will have priority when we begin shipping, and if the later batches will be shipping shortly after,
6 those later batches will be sold at a higher price. People who buy in on the first batch *will receive*
7 *both price preference and shipping date preference as a reward for taking on the most risk.*”
8 (emphasis added).

9 27. Defendants also promised that units sold in the first presale (“Batch 1”) would come
10 with a six week exclusivity period—meaning that only those Batch 1 Mining Appliances would be
11 able to mine for at least six weeks. This is important because a period of exclusivity would allow
12 the Batch 1 Mining Appliances to generate a higher proportion of the network’s total hash rate and
13 therefore generate more profit for their operators.

14 28. Vorick later reiterated that “[I]nstead delivery [of the SC1s] would be in June 2018.
15 The target is to ship several months earlier than that.” When asked what would happen in the event
16 the SC1s “do not ship by [J]une 2018?” Vorick responded “[y]ou will be eligible for *a full refund.*”
17 (emphasis added).

18 ^ OP: Taek42 Sia Team Developer (5) 9 points 1 year ago

19 v Latest delivery would be in June 2018. The target is to ship several months earlier than that.

20 permalink embed save parent give gold

21 H ^ sebuhooin 6 points 1 year ago

22 v what happens in the event they do not ship by june 2018?

23 permalink embed save parent give gold

24 H ^ OP: Taek42 Sia Team Developer (5) 7 points 1 year ago

25 v You will be eligible for a full refund.

26 permalink embed save parent give gold

1 29. Vorick also told prospective purchasers, “[t]he US has very strict consumer
2 protection laws, if we are late in delivering the units, customers have the right to request a full
3 refund, and the law will enforce their ability to receive that refund.” (emphasis added).

4 30. Defendant Herbert similarly promised that presale purchasers would receive refunds
5 if Defendants were unable to deliver the SC1s by June 2018. When specifically asked, “[i]f
6 something happens along the way and you’re unable to ship the unit will a refund be issued?”
7 Defendant Herbert responded “[i]f we do not ship by June 30, 2018, *under US law we are legally
8 required to provide a refund* (if you request it).” (emphasis added).

9 **Re: Refunds for unfulfilled Orders**

1 message

10 **Obelisk Support** <hello@obelisk.tech>
Reply-To: Obelisk Support <hello@obelisk.tech>
11 To: [REDACTED]

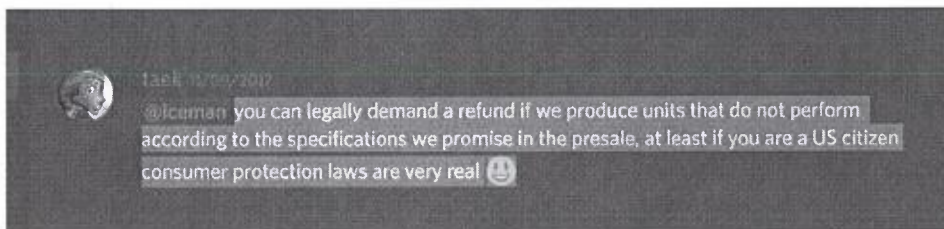
Wed, Jun 28, 2017 at 4:08 PM

12 If we do not ship by June 30, 2018, under US law we are legally required to provide a refund (if you request it)
- Zach Herbert, VP of Operations

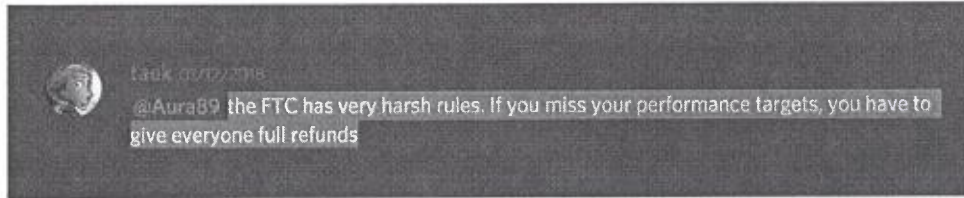
13 [REDACTED] on June 28, 2017 at 5:01pm wrote:

14 If something happens along the way and you’re unable to ship the unit will a refund be issued?

15 31. Defendants doubled down on this promise on several occasions. For example, on or
16 about November 9, 2017 Defendant Vorick stated “you can legally demand a refund if we produce
17 units that do not perform according to specifications we promise in the presale, at least if you are
18 US citizen consumer protection laws are very real 😊.”



1 32. Similarly, on or about January 1, 2018 Defendant Vorick stated “the FTC has very
2 harsh rules. If you miss performance targets, you have to give everyone full refunds.”



7 **2. DEFENDANTS’ PRESALE OF THE DCR1**

8 33. On or about November 3, 2017, while the SC1 presale was ongoing, Defendants
9 announced that they would also be preselling ASICs customized for Decred mining dubbed the
10 “DCR1.” Like Siacion, Decred is a cryptocurrency that is generated by mining.

11 34. Defendants once again promised to deliver the DCR1 miners by June 2018, stating on
12 their website that “Obelisk will produce powerful, profitable ASIC mining hardware for Decred and
13 Siacoin. We look forward to delivering Obelisk SC1 and DCR1 miners by June of 2018!”

14 35. On or about November 14, 2017, Defendants posted on Twitter stating “[w]e
15 increased our Obelisk minimum specs based on the results of recent simulations! 1500+ GH/s for
16 the DCR1 and 800+ GH/s for the SC1.” On that same day, Defendant Vorick told all users in
17 Defendants’ Discord chat that “You may have noticed that yesterday we posted an update to our
18 projected capabilities. The SC1 is now projected to hit 800 GH/s, and the DCR1 is now projected
19 to hit 1500 GH/s.”

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1 36. Defendants emphasized these specifications in advertisements on their website and
2 posted through numerous social media channels.



15 37. Also on or about November 14, 2017, Defendants answered questions regarding
16 their DCR1 presale during a Reddit Ask Me Anything titled “Obelisk AMA, Ask the Obelisk
17 Team Anything About Their Upcoming Decred ASIC!”² Defendant Vorick, using the
18 screenname Taek42 answered the question “What have we done to make sure Obelisk will
19 succeed?” by stating in part:

20 A big company killer in the ASIC space is deadlines. It's extremely rare that an
21 ASIC company ships miners on-time, to the point that if you can get away without
22 doing a presale, *you really shouldn't do a presale. Consumer protections in the
23 US are very strict, and missing deadlines is a big deal to the FTC.* When we
24 announced our presale, we said that the shipping date would be June 30th, 2018 or
25 earlier. This was a heavily buffered number. Our internal timeline said we could
26 get chips out as early as February. We've since hit a few delays, and unfortunately
27 there's no way we could make a February deadline at this point. However, we're
28 still well ahead of our June 30th deadline. I do not want to disappoint anyone in
case we hit more delays, so I will not be revealing what our current internal deadline
is, other than to say that we're still confident in the June 30th deadline.

² Obelisk AMA, Ask the Obelisk Team Anything About Their Upcoming Decred ASIC!,
https://www.reddit.com/r/decred/comments/7cuo48/obelisk_ama_ask_the_obelisk_team_anything_about/ (last visited
November 5, 2018).

1 38. Defendant Vorick continued to discuss the importance of not, “over-promising
2 specifications. It can be really tempting to make big promises, because you get these chip
3 simulations back and they are super optimistic.”

4 39. However, Defendant Vorick would do just that in the same post, stating “[i]n the name
5 of caution, we’ve decided to announce our unit specs at 800 GH/s for the SC1 miners, and 1500
6 GH/s for the DCR1 miners. They will potentially be much faster, but the reality is that we don’t
7 really know until we are putting all the pieces together for the first time.” Neither the SC1 nor the
8 DCR1 would achieve hash rates close to the minimum standards promised by Defendant Vorick.

9 40. When asked further about these specifications, Defendant Vorick stated “[w]e *are*
10 *legally required to deliver units that meet specifications, or otherwise offer full refunds* to our
11 customers. It puts us in a really bad position to advertise specs we can’t follow through with, and
12 we wouldn’t give hashrate estimates that we didn’t have high confidence we could achieve.”
13 (emphasis added).

14  Taek42 • 11 points 11 months ago

15 We are legally required to deliver units that meet specifications, or otherwise offer full refunds to our customers. It
16 puts us in a really bad position to advertise specs we can't follow through with, and we wouldn't give hashrate
17 estimates that we didn't have high confidence we could achieve.


18 permalink source embed save save-RES permit give gold hide child comments

19 41. A Reddit user going by the screenname “cryptostuffs” responded to this by asking,
20 “[y]es you’re legally required, but what happens if you run out of money? E.g. you spent all the
21 money of your presale customers and then figure out you can only deliver half the promised speed.
22 What happens then?” Defendant Vorick responded to this by stating “[w]e are confident that we
23 have the financial means to produce the units, including accounting for mistakes.” He continued,
24 stating he did “not feel that [bankruptcy] is a risk for us.”

25 42. Obelisk’s Vice President of Sales, Ken Carpenter, also discussed the importance of
26 the DCR1’s specifications. Using the screenname “SiaBillionaire” he stated “we know many were
27 waiting to see the competition’s specs. Now that you can see that the DCR1’s performance numbers
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1 and price per GH are much better than the competition, I believe that we will sell quite a few more
2 DCR1 units before Nov. 24th.”

3 43. On or about November 17, 2018, Defendants also posted an advertisement on their
4 website and Twitter that stated that the DCR1’s price per GH/s would be 33% lower than the
5 competition’s price.


6  **Obelisk** @ObeliskTechHQ · 17 Nov 2017
Obelisk's DCR1 is the best option on the market for @decredproject ASIC
mining. Sale ends in 1 week!

Specs	Obelisk DCR1	dcrASIC Material- Turbo
Hashrate	1.5 TH/s	3.0 TH/s
Power	500 W	2,100 W
Price per miner	\$2,499	\$7,500
Price per GH/s	✓ \$1.67	\$2.50
Power efficiency	✓ 3 TH/kWs	1.43 TH/kWs
Full-custom chip	✓ Yes	No
Power Supply included	✓ Yes	No
Colocation options	✓ Yes	Not yet

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LET'S ANALYZE IT

With a price per GH/s that's 33% lower and a chip that is
twice as power efficient, the DCR1 is the best, most
cost-efficient option on the market for Decred ASIC mining.

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21 44. On or about November 21, 2017, a user in Defendants’ Discord chat channel asked
22 “so lets say [DCR1] doesn’t get over a 1000 units then we are looking at 3.57 DCR a day; which
23 is like \$107.1; crazy.” Defendant Vorick replied stating “yes, full ROI [return on investment] in
24 under a month.”

25 45. Defendants first presale closed on November 24, 2017 and Defendants announced
26 that they sold 3,516 SC1s and 2,888 DCR1s for \$2,499 each, raising over \$16 million.
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1 **3. DEFENDANTS' SUBSEQUENT MINING APPLIANCE PRESALES**

2 46. After conducting the first SC1 and DCR1 presale, Defendants conducted a second
3 presale between December 31, 2017 and January 31, 2018 ("Batch 2"). During the Batch 2 presale,
4 Defendants sold 3,648 SC1 miners and 3,693 DCR1 miners for \$1,599 each, raising over \$11.7
5 million.

6 47. When asked when Defendants intended to ship the Batch 2 Mining Appliances,
7 Defendant Herbert indicated that they would ship "our batch 2 of units approximately 6 weeks
8 following our batch 1 units."

9 48. Defendant Obelisk proudly proclaimed on Twitter that the Batch 2 Mining Appliances
10 were "Shipping by August 31, 2018."

11 49. Even today, Defendant Obelisk's own site states that "[o]ur target ship date is August
12 31, 2018. We will do our very best to ship before this date."

13 50. As of the date of this filing, Defendants have not delivered any of the Batch 2 Mining
14 Appliances to presale purchasers.

15 **C. DEFENDANTS FAIL TO FULFILL ANY OF THEIR PROMISES**

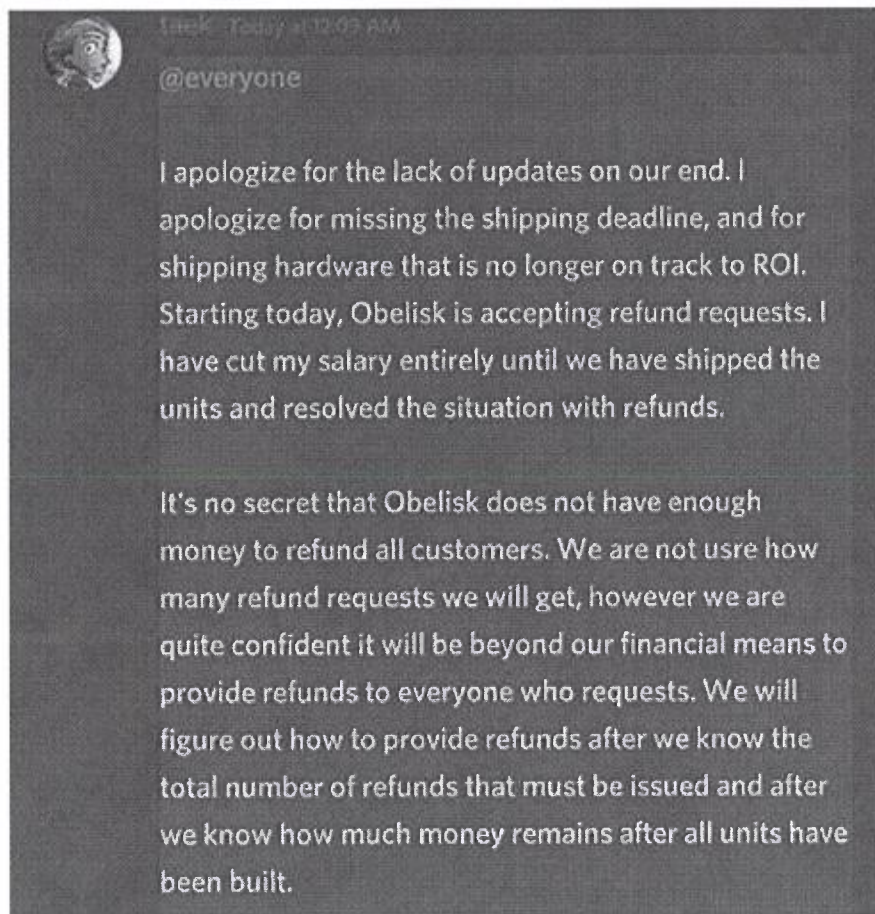
16 51. Despite their repeated promises, Defendants failed to ship any Batch One Mining
17 Appliances by June 30, 2018, and when they finally did ship some Mining Appliances in late August
18 those miners did not meet the specifications Defendants had promised during the presale. Most
19 importantly, the actual hash rates of the Mining Appliances were far below those that Defendants
20 had promised. As a result, the Mining Appliances would not allow purchasers to come close to
21 recouping their investment.

22 52. In May 2018 it became clear that Defendants would be unable to deliver Mining
23 Appliances with the promised specifications. Defendant Herbert posted a Medium update that
24 stated that the SC1's hash rate would be only 550 GH/s—250 GH/s below the promised
25 specifications. That same update stated that the DCR1's hash rate would be only 1200 GH/s—300
26 GH/s below the promised specifications. When the Mining Appliances were finally delivered their
27 actual hash rates were even lower. The SC1's actual hash rate was only 400 GH/s—half the
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1 promised specifications—and the DCR1’s actual hash rate was only 900 GH/s—600 GH/s below
2 the promised specifications.

3 53. Following this update, when asked why Defendants would ship miners that they were
4 not happy with, Defendant Vorick stated “because we are in a lot of legal trouble if we don’t send
5 miners out by June 30th and every day that we delay increases our legal exposure.”

6 54. On August 3, 2018 Defendant Vorick admitted that Defendants had failed to ship
7 Mining Appliances on time and failed to deliver upon the specifications Defendants promised,
8 stating “I apologize for the lack of updates on our end, I apologize for missing the shipping deadline,
9 and for shipping hardware that is no longer on track to ROI [return on investment]. Starting today,
10 Obelisk is accepting refund requests.” He also acknowledged that the SC1’s “hashrates are currently
11 below the target of 800 GH/s.”



1 55. Defendant Vorick continued, stating “[i]t’s no secret that Obelisk does not have
2 enough money to refund all customers. We are not [sure] how many refund requests we will get,
3 however we are quite confident it will be beyond our financial means to provide refunds to everyone
4 who requests. We will figure out how to provide refunds after we know the total number of refunds
5 that must be issued and after we know how much money remains after all units have been built.”

6 56. Defendant Vorick then directed customers to submit their refund requests by email
7 and Plaintiffs did in fact submit refund requests. However, Defendants failed to issue any refunds
8 to Plaintiffs or members of the class. Defendant Vorick later acknowledged this failure to honor
9 Defendants’ earlier promises stating, “we do not have the money to be able to honor refunds.”

10 57. Defendant Herbert also acknowledged Defendants’ failure to deliver miners with the
11 promised specifications. When asked if 800 GH/s was a good hash rate, he replied “for SC1 []?
12 that’s the original promised spec.” He later followed up saying “eek lawyers would ask me to say
13 ‘estimated’ spec.”

14 58. Defendants themselves acknowledge that they did not complete shipping Batch 1
15 Mining Appliances until October 18, 2018—nearly four months after they promised they would be
16 delivered.

17 59. In short, Defendants promised Plaintiffs and members of the class the moon, delivered
18 them an overpriced paperweight months late, and then reneged on their promise to provide refunds
19 if they were unable to provide Miners on time or up to their specifications.

20 **D. PLAINTIFFS DEMAND A REFUND**

21 60. Following Defendants’ refusal to provide refunds to Plaintiffs they engaged counsel
22 to send a demand letter to Defendants. This letter was sent to Defendants on August 23, 2018 and
23 laid out Plaintiffs’ claims and once again requested that Defendants refund Plaintiffs’ Preorder
24 purchases of the Mining Appliances. Defendants, through their counsel, once again refused to
25 provide a refund to Plaintiffs.

26 **E. THE PRESALE OF MINING APPLIANCES CONSTITUTED AN**
27 **UNREGISTERED OFFER AND SALE OF SECURITIES**

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1. Mining Appliance Presale Purchasers Made an Investment of Money in A Common Enterprise

61. Plaintiffs and the Class invested U.S dollars and Bitcoin to purchase Mining Appliance Preorders. Investment of both fiat and digital currency meets the first prong of *Howey*.

62. Defendants sold Mining Appliance Preorders to the general public through their website obelisk.tech.

63. The profits of each investor in the Mining Appliance Preorders are inextricably intertwined with those of all other purchasers because the hash rate of each SC1 and DCR1 are the same as all other SC1s and DCR1s.

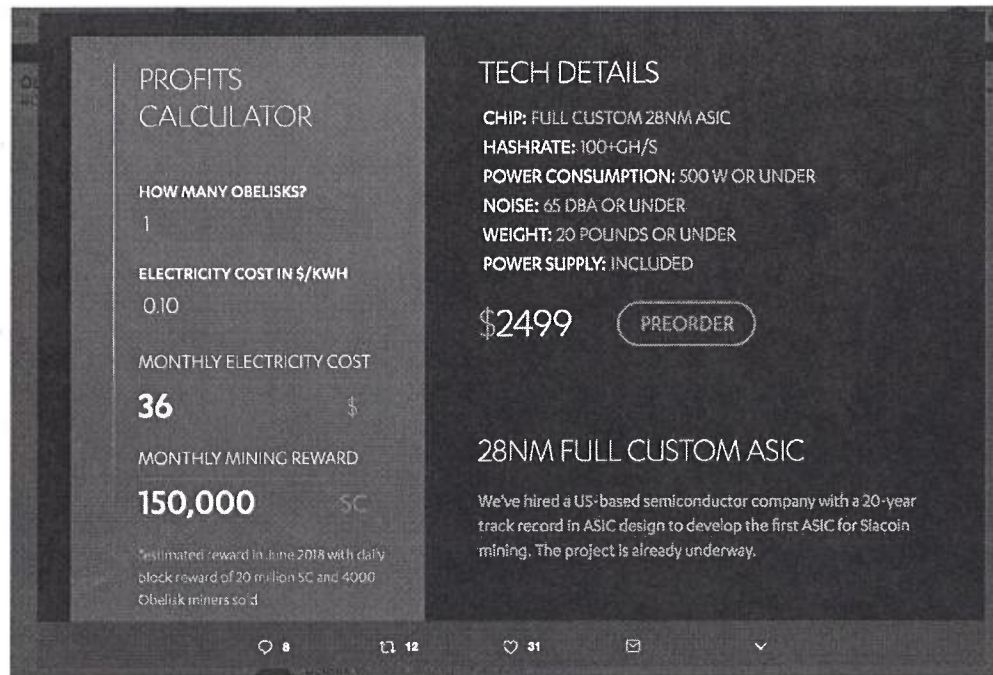
64. The profits of Plaintiffs and the Class are also interwoven with and dependent upon the efforts and success of Defendants. Plaintiffs and the Class had an entirely passive role vis-à-vis Defendants and relied entirely on Defendants to design and deliver profitable Mining Appliances as promised.

65. Defendant Obelisk acknowledged that it was offering the “Mining Appliance based on pre-orders to help finance the development and manufacturing of the [] Mining Appliance.” Similarly, in a May 8, 2018 Medium Post titled “Obelisk Update: January-May 2018” Defendant Herbert described Obelisk as “a community funded hardware company.”

2. Mining Appliance Presale Investors Had a Reasonable Expectation of Profits

66. Investors in the Mining Appliance Presale, including Plaintiffs and the Class, made their investment with a reasonable expectation of profits. In fact, the sole purpose of Mining Appliances was to mine the Siacoin or Decred cryptocurrencies and thereby allow purchasers to generate a profit.

1 67. Defendants themselves have highlighted investors' reasonable expectation of profits.
 2 Defendant Obelisk's website even contained a "Profits Calculator" which purported to allow
 3 potential purchasers to calculate the profits they could generate by inputting the number of Mining
 4 Appliance Preorders they purchased along with their electricity costs.



17 68. Defendant Vorick similarly touted the profits that presale purchasers could generate
 18 with the Mining Appliances, telling prospective purchasers that if 1,000 SC1s sell then each one
 19 would generate 20,000 Siacoins (approximately \$300) per day and that if 10,000 SC1s sell then
 20 each would generate approximately 2,000 Siacoins (approximately \$30) per day. Defendant Vorick
 21 continues stating that "if 10,000 units sell, it'll take about 80 days for you to end up with more
 22 siacoins (starting from when the miners arrive) to have more than you would have gotten if you just
 23 bough Siacoin today."

24 69. The reality, however, is that the Mining Appliances did not generate close to the
 25 profits advertised by Defendants.
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1 **3. The Success of the Mining Appliances Was Entirely Dependent on the**
2 **Efforts of Defendants**

3 70. Plaintiffs and the Class have entirely passive roles vis-à-vis the successful
4 development and delivery of profitable Mining Appliances. Rather, as Defendants' own marketing
5 makes clear, the successful development of the Mining Appliances, and the profits the Class
6 reasonably expected to derive from investing in the Mining Appliance Presale are dependent solely
7 on the technical, entrepreneurial, and managerial efforts of Defendants and their agents and
8 employees.

9 71. Plaintiffs and the Class reasonably expected Defendants to provide significant
10 managerial efforts, to develop and manufacture the Mining Appliances. Defendants themselves
11 repeatedly represented that they would provide significant managerial efforts to achieve these
12 objectives and deliver profitable Mining Appliances.

13 72. The Mining Appliances derive their value entirely from their specifications, and
14 particularly their hash rates, which were dependent entirely on the technical, entrepreneurial, and
15 managerial efforts of Defendants. The Preorders of Mining Appliances were thus an investment in
16 a common enterprise, with an expectation of profits, solely from the efforts of Defendants.

17 **V. CLASS ACTION ALLEGATIONS**

18 73. This suit is brought as a Class action pursuant to section 382 of the California Code
19 of Civil Procedure, on behalf of a Class of:

20 **All persons or entities who purchased SC1 or DCR1 miners from**
21 **Defendants from June 1, 2017 through the present. Excluded from the Class**
22 **are: retail employees; corporate officers, members of the boards of directors,**
23 **and senior executives of Defendants; and any and all judges and justices, and**
24 **chambers' staff, assigned to hear or adjudicate any aspect of this litigation. The**
25 **Class asserts claims for Unfair and Deceptive Practices in Violation of Mass.**
26 **Gen Laws Chapter 93A, Section 2, and Unregistered Offer and Sale of**
27 **Securities in violation of Mass. Gen Laws Chapter 110A, §§ 301, 410(a) and**
28 **410(b) (See Counts I – III)**

74. This suit is also brought on behalf of a California Subclass of:

All California residents who purchased SC1 or DCR1 miners from
Defendants from June 1, 2017 through the present. Excluded from the Class
are: retail employees; corporate officers, members of the boards of directors,
and senior executives of Defendants; and any and all judges and justices, and
chambers' staff, assigned to hear or adjudicate any aspect of this litigation. The

1 **California Subclass asserts claims for Unfair Competition in Violation of Cal.**
2 **Bus. & Prof. Code §§ 17200, *et seq.*, and Unregistered Offer and Sale of**
3 **Securities in Violation of Sections 25110, 25503, and 25504 the California**
4 **Corporations Code.**

5 75. Plaintiff reserve the right to amend the Class definition if further investigation and/or
6 discovery indicate that the Class definition should be narrowed, expanded, or otherwise modified.

7 76. Plaintiff does not, as of yet, know the exact size of the Class. However, Plaintiff is
8 informed and believes that there are thousands of Class members. The members of the Class are
9 thus so numerous that joinder of all members is impracticable.

10 77. The Class is readily ascertainable and identifiable. It can be identified by reference
11 to Defendants' own records of Mining Appliance Preorders

12 78. Questions of law and fact common to the Class that predominate over any questions
13 that may affect only individual members of the Class, including, but not limited to:

- 14 (a) Whether the representations made by Defendants regarding the Mining Appliances'
15 delivery date, specifications, or profitability were false and/or misleading;
- 16 (b) Whether Defendants' representation that Mining Appliance presale purchasers would
17 receive a full refund if the Appliances were not delivered on time or did not meet the
18 advertised specifications was false and/or misleading.
- 19 (c) Whether Defendants' sale of Mining Appliance Preorders was a securities offering
20 under the Massachusetts Uniform Securities Act;
- 21 (d) Whether Defendants' sale of Mining Appliance Preorders was a securities offering
22 under the California Corporations Code;
- 23 (e) Whether Defendants' sale of Mining Appliance Preorders violated the registration
24 provisions of the Massachusetts Uniform Securities Act;
- 25 (f) Whether Defendants' sale of Mining Appliance Preorders violated the registration
26 provisions of the California Corporations Code; and
- 27 (g) Whether Defendants Nebulous, Vorick, and Herbert ("Control Person Defendants")
28 were control persons under the Massachusetts Uniform Securities Act;

1 (h) Whether the Control Person Defendants were control persons under the California
2 Corporations Code;

3 (i) The type and measure of damages suffered by Plaintiff and the Class.

4 79. Lead Plaintiffs will fairly and adequately protect the interests of the Class because
5 Plaintiffs' claims are typical and representative of the claims of all members of the Class. Lead
6 Plaintiffs suffered injury in fact when they preordered Mining Appliances.

7 80. Lead Plaintiffs' claims are typical of the claims of all Class members, as all members
8 of the Class are similarly affected by Defendants' wrongful conduct.

9 81. There are no unique defenses that may be asserted against Lead Plaintiffs
10 individually, as distinguished from the other members of the Class, and the relief sought is common
11 to the Class. Plaintiffs are typical of other members of the Class, do not have any interests that are
12 in conflict with or are antagonistic to the interests of the members of the Class, and have no conflict
13 with any other members of the Class. Plaintiffs have retained competent counsel experienced in
14 securities, consumer protection, and class action litigation to represent themselves and the Class.

15 82. A class action is superior to other available methods for the fair and efficient
16 adjudication of this controversy since joinder of all Class members is impracticable. Furthermore,
17 as the damages suffered by individual Class members may be relatively small, the expense and
18 burden of individual litigation make it impossible for Class members to redress individually the
19 wrongs done to them. In the absence of a class action, Defendants will retain the benefits of their
20 wrongful conduct.

21 **VI. CAUSES OF ACTION**

22 **FIRST CAUSE OF ACTION**

23 **Unfair and Deceptive Practices in Violation of Mass. Gen Laws Chapter 93A, Section 2**

24 **(Against All Defendants)**

25 83. Plaintiffs, on behalf of themselves and all others similarly situated, reallege and
26 incorporate herein by reference each and every allegation contained in the preceding paragraphs of
27 this Complaint, and further alleges as follows:

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1 84. Defendants, and each of them, by engaging in the conduct described above, have
2 engaged in unfair and deceptive acts or practices in violation of Mass. Gen Laws Chapter 93A, § 2.

3 Such unfair or deceptive acts or practices include without limitation the following:

4 a. Defendants made false and/or misleading representations to Plaintiffs and the
5 Class regarding the delivery date of the Mining Appliances.

6 b. Defendants made false and/or misleading representations to Plaintiffs and the
7 Class regarding the specifications of the Mining Appliances.

8 c. Defendants made false and/or misleading representations to Plaintiffs and the
9 Class regarding the profitability of the Mining Appliances.

10 d. Defendants made false and/or misleading representations to Plaintiffs and the
11 Class regarding the availability of a full refund if the Mining Appliances were delivered late or did
12 not meet advertised specifications.

13 e. Defendants made false and/or misleading representations to Plaintiffs and the
14 Class regarding their expertise in designing ASIC Mining Appliances.

15 f. Defendants violated the Federal Trade Commission's Mail, Internet, or
16 Telephone Order Merchandise Rule, 16 C.F.R. § 435, by failing to provide refunds to Plaintiffs and
17 the Class for Mining Appliances that were delivered late and did not meet the advertised
18 specifications.

19 85. Defendants' false and/or misleading representations to consumers, prospective
20 purchasers, and others were material and deceived or had the tendency or capacity to deceive or
21 mislead potential customers including Plaintiffs.

22 86. Defendants knew or should have known that the representations made to consumers,
23 prospective purchasers, and others were false and/or misleading. Defendants knew or should have
24 known that its acts or practices were unfair and deceptive acts in violation of Mass. Gen. Laws
25 Chapter 93A, § 2.

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1 87. Defendants acquired millions of dollars from purchasers by reasons of their unfair or
2 deceptive acts or practices, causing purchasers to suffer an ascertainable loss by paying for Preorders
3 of the Mining Appliances.

4 88. Defendants unfair or deceptive acts and practices resulted in harm to consumers.

5 **SECOND CAUSE OF ACTION**

6 **Unregistered Offer and Sale of Securities in Violation of Mass. Gen Laws Chapter 110A, §§**
7 **301, 410(a)(1) (Against All Defendants)**

8 89. Plaintiffs, on behalf of themselves and all others similarly situated, reallege and
9 incorporate herein by reference each and every allegation contained in the preceding paragraphs of
10 this Complaint, and further alleges as follows:

11 90. Mass. Gen Laws Chapter 110A, Section 301 provides that, with limited exceptions,
12 “[i]t is unlawful for any person to offer or sell any security in the commonwealth,” unless that
13 security has been registered. Section 401 in turn provides that “[a]ny person who offers or sells a
14 security in violation of” Section 301 is “liable to the person buying the security from him, who may
15 sue either at law or in equity to recover the consideration paid for the security, together with interest
16 at six per cent per year from the date of payment, costs, and reasonable attorneys’ fees, less the
17 amount of any income received on the security, upon the tender of the security, or for damages if
18 he no longer owns the security.”

19 91. The sale of SC1 and DCR1 Mining Appliance Preorders were securities within the
20 meaning of the Massachusetts Uniform Securities Act.

21 92. Defendants, and each of them, by engaging in the conduct described above within
22 Massachusetts, directly or indirectly, sold and offered to sell securities to Plaintiffs and members of
23 the class.

24 93. Plaintiffs and members of the Class purchased SC1 and DCR1 Preorder securities
25 from Defendants.

26 94. No registration statements have been filed with any state or federal government entity
27 or have been in effect with respect to any of the offerings alleged herein.

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1 95. By reason of the foregoing, each of the Defendants have violated Sections 301 and
2 410(a)(1) of the Massachusetts Uniform Securities Act.

3 96. As a direct and proximate result of Defendants' unregistered sale of securities,
4 Plaintiff and members of the Class have suffered damages in connection with their respective
5 Preorders of SC1 and DCR1 securities.

6 **THIRD CAUSE OF ACTION**

7 **Control Person Liability for Unregistered Offer and Sale of Securities in Violation of Mass.**
8 **Gen Laws Chapter 110A, §§ 301, 410(b) (Against Control Person Defendants)**

9 97. Plaintiffs, on behalf of themselves and all others similarly situated, reallege and
10 incorporate herein by reference each and every allegation contained in the preceding paragraphs of
11 this Complaint, and further alleges as follows:

12 98. This Count is asserted against the Control Person Defendants under Section 410(b) of
13 the Massachusetts Uniform Securities Act.

14 99. The Control Person Defendants, by virtue of their offices, stock ownership, agency,
15 agreements or understandings, and specific acts were, at the time of the wrongs alleged herein, and
16 as set forth herein, controlling persons within the meaning of Section 410(b) of the Massachusetts
17 Uniform Securities Act. The Control Person Defendants, and each of them, had the power and
18 influence and exercised the same to cause the unlawful offer and sale of SC1 and DCR1 preorder
19 securities as described herein.

20 100. The Control Person Defendants, separately or together, possess, directly or indirectly,
21 the power to direct or cause the direction of the management and policies of Defendant Obelisk,
22 through ownership of voting securities, by contract, subscription agreement, or otherwise.

23 101. The Control Person Defendants, separately or together, have sufficient influence to
24 have caused Obelisk to submit a registration statement.

25 102. The Control Person Defendants, separately or together, jointly participated in, and/or
26 aided and abetted, Obelisk's failure to register the Preorder Securities.

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1 103. By virtue of the conduct alleged herein, the Control Person Defendants are liable for
2 the wrongful conduct complained of herein and are liable to Lead Plaintiffs and the Class for
3 recession and/or damages suffered.

4 **FOURTH CAUSE OF ACTION**

5 **Unfair Competition in Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.* (Against All**
6 **Defendants)**

7 1. Plaintiff Roberts, on behalf of himself and the California Subclass, realleges and
8 incorporate herein by reference each and every allegation contained in the preceding paragraphs of
9 this Complaint, and further alleges as follows:

10 2. Defendants, and each of them, by engaging in the conduct described above, have
11 committed acts of unfair competition, as defined by Business and Professions Code section 17200.
12 Such unfair or deceptive acts or practices include without limitation the following:

13 a. Defendants made false and/or misleading representations to Plaintiffs and the
14 Class regarding the delivery date of the Mining Appliances.

15 b. Defendants made false and/or misleading representations to Plaintiffs and the
16 Class regarding the specifications of the Mining Appliances.

17 c. Defendants made false and/or misleading representations to Plaintiffs and the
18 Class regarding the profitability of the Mining Appliances.

19 d. Defendants made false and/or misleading representations to Plaintiffs and the
20 Class regarding the availability of a full refund if the Mining Appliances were delivered late or did
21 not meet advertised specifications.

22 e. Defendants made false and/or misleading representations to Plaintiffs and the
23 Class regarding their expertise in designing ASIC Mining Appliances.

24 f. Defendants violated the Federal Trade Commission's Mail, Internet, or
25 Telephone Order Merchandise Rule, 16 C.F.R. § 435, by failing to provide refunds to Plaintiffs and
26 the Class for Mining Appliances that were delivered late and did not meet the advertised
27 specifications.

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g. The harm to Plaintiff Roberts and members of the California Subclass outweighs the utility of Defendants' policy/practice and, consequently, Defendants practice constitutes an unfair business act or practice within the meaning of Business and Professions Code section 17200.

h. Defendants' conduct threatens an incipient violation of consumer protection and securities laws, including but not limited to those laws referenced above or violates the policy or spirit of such law or otherwise significantly threatens or harms competition.

3. Defendants' false and/or misleading representations to consumers, prospective purchasers, and others were material and deceived or had the tendency or capacity to deceive or mislead potential customers including Plaintiffs.

4. Defendants knew or should have known that the representations made to consumers, prospective purchasers, and others were false and/or misleading. Defendants knew or should have known that its acts or practices were unfair and deceptive acts in violation of Business and Professions Code section 17200.

5. Defendants acquired millions of dollars from purchasers by reasons of their unfair or deceptive acts or practices, causing purchasers to suffer an ascertainable loss by paying for Preorders of the Mining Appliances.

6. Defendants unfair or deceptive acts and practices resulted in harm to consumers.

FIFTH CAUSE OF ACTION
Unregistered Offer and Sale of Securities in Violation of California Corporations Code
Section 25110 and 25503 (Against All Defendants)

7. Plaintiff Roberts, on behalf of himself and the California Subclass, realleges and incorporate herein by reference each and every allegation contained in the preceding paragraphs of this Complaint, and further alleges as follows:

8. The sale of SC1 and DCR1 Mining Appliance Preorders were securities within the meaning of the California Corporations Code.

1 9. Defendants, and each of them, by engaging in the conduct described above within
2 California, directly or indirectly, sold and offered to sell securities to Plaintiff Roberts and members
3 of the California Subclass

4 10. Plaintiff Roberts and members of the California Subclass purchased SC1 and DCR1
5 Preorder securities from Defendants.

6 11. No registration statements have been filed with any state or federal government entity
7 or have been in effect with respect to any of the offerings alleged herein.

8 12. By reason of the foregoing, each of the Defendants have violated Sections 25110 and
9 25503 of the California Corporations Code.

10 13. As a direct and proximate result of Defendants' unregistered sale of securities,
11 Plaintiff Roberts and members of the California Subclass have suffered damages in connection with
12 their respective Preorders of SC1 and DCR1 securities.

13 **SIXTH CAUSE OF ACTION**

14 **Control Person Liability for Unregistered Offer and Sale of Securities in Violation of**
15 **Section 25504 of the California Corporations Code) (Against Control Person Defendants)**

16 14. Plaintiff Roberts, on behalf of himself and the California Subclass, realleges and
17 incorporate herein by reference each and every allegation contained in the preceding paragraphs of
18 this Complaint, and further alleges as follows:

19 15. This Count is asserted against the Control Person Defendants under 25504 of the
20 California Corporations Code.

21 16. The Control Person Defendants, by virtue of their offices, stock ownership, agency,
22 agreements or understandings, and specific acts were, at the time of the wrongs alleged herein, and
23 as set forth herein, controlling persons within the meaning of Section 25504 of the California
24 Corporations Code.

25 17. The Control Person Defendants, and each of them, had the power and influence and
26 exercised the same to cause the unlawful offer and sale of SC1 and DCR1 preorder securities as
27 described herein.

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1 18. The Control Person Defendants, separately or together, possess, directly or indirectly,
2 the power to direct or cause the direction of the management and policies of Defendant Obelisk,
3 through ownership of voting securities, by contract, subscription agreement, or otherwise.

4 19. The Control Person Defendants, separately or together, have sufficient influence to
5 have caused Obelisk to submit a registration statement.

6 20. The Control Person Defendants, separately or together, jointly participated in, and/or
7 aided and abetted, Obelisk's failure to register the Preorder Securities.

8 21. By virtue of the conduct alleged herein, the Control Person Defendants are liable for
9 the wrongful conduct complained of herein and are liable to Plaintiff Roberts and the Class for
10 recession and/or damages suffered.

11 **VII. PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff demands judgment on his behalf and that of the Class as follows:

13 1. Declaring that this action may be maintained as a Class action under California Code
14 of Civil Procedure section 382 and California Rule of Court 3.670, *et seq.*, certifying Plaintiffs as
15 representatives of the Class and designating his counsel as counsel for the Class;

16 2. Declaring that Defendants offered and sold unregistered securities in violation of
17 Sections 301 and 401 of the Massachusetts Uniform Securities Act.

18 3. Declaring that Defendants offered and sold unregistered securities in violation of
19 Section 25110, 25503, and 25504 of the California Corporations Code;

20 4. That judgment be entered against Defendants and in favor of Plaintiffs and each
21 member of the Class they represent, granting the remedy of recession, and/or awarding
22 compensatory damages in favor of Plaintiff and the Class against all Defendants, jointly and
23 severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be
24 proven at trial;

25 5. Requiring an accounting of all remaining assets and funds raised by Defendants
26 through the sale of SC1 and DCR1 preorders;


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- 1 6. Imposing a constructive trust over the assets and funds raised by Defendants through
- 2 the sale of SC1 and DCR1 preorders;
- 3 7. For punitive damages;
- 4 8. For pre and post-judgment interest;
- 5 9. For equitable relief, including a judicial determination of the rights and
- 6 responsibilities of the parties;
- 7 10. For attorneys' fees;
- 8 11. For costs of suit; and
- 9 12. For such other and further relief as may be deemed just and proper.

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Dated: November 19, 2018

TAYLOR-COPELAND LAW

By: 

James Q. Taylor-Copeland

Attorney for Plaintiffs Shaun Roberts, Nicholas Colley,
and Allan Henry

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): James Q. Taylor-Copeland (SBN 284743) james@taylorcopelandlaw.com 501 W. Broadway Suite 800 San Diego, CA 92101 TELEPHONE NO.: 619-400-4944 FAX NO.: ATTORNEY FOR (Name): Shaun Roberts, Nicholas Colley, and Allan Henry	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 11/19/2018 at 11:08:00 AM Clerk of the Superior Court By Marc David, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Central	CASE NUMBER: 37-2018-00058485-CU-BT-CTL JUDGE: Judge Katherine Bacal DEPT:
CASE NAME: Shaun Roberts et. al. v. Obelisk, Inc. et al.	CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/D/W/D (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/W/D (23) Non-PI/PD/W/D (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/W/D tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 6

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 19, 2018
 James Taylor-Copeland _____
(TYPE OR PRINT NAME) ▶
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other P/IPD/AWD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—
Physicians & Surgeons
Other Professional Health Care Malpractice
Other P/IPD/AWD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/AWD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other P/IPD/AWD

Non-P/IPD/AWD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-P/IPD/AWD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): James Taylor-Copeland (SBN 284743) 501 W. Broadway Suite 800 San Diego, CA 92101 TELEPHONE NO.: 619-734-8770 FAX NO. (Optional): E-MAIL ADDRESS (Optional): james@taylorcopelandlaw.com ATTORNEY FOR (Name): Shaun Roberts, Nicholas Colley, and Allan Henry	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 12/19/2018 at 08:39:00 AM Clerk of the Superior Court By E-Filing, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Central	
PLAINTIFF/PETITIONER: Shaun Roberts, et. al. DEFENDANT/RESPONDENT: Obelisk, Inc., et. al.	CASE NUMBER: 37-2018-00058465-CU-BT-CTL
<p style="text-align: center;">PROOF OF SERVICE OF SUMMONS</p>	Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. summons
 - b. complaint
 - c. Alternative Dispute Resolution (ADR) package
 - d. Civil Case Cover Sheet (served in complex cases only)
 - e. cross-complaint
 - f. other (specify documents): Notice of Case Assignment
3. a. Party served (specify name of party as shown on documents served):
 NEBULOUS, INC., a Delaware corporation
 - b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
 The Company Corporation as registered agent for service of process
4. Address where the party was served:
 251 Little Falls Dr., Wilmington, DE 19808
5. I served the party (check proper box)
 - a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): (2) at (time):
 - b. **by substituted service.** On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - (1) **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): from (city): or a declaration of mailing is attached.
 - (5) I attach a **declaration of diligence** stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: Shaun Roberts, et. al.	CASE NUMBER: 37-2018-00058465-CU-BT-CTL
DEFENDANT/RESPONDENT: Obelisk, Inc., et. al.	

5. c. **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): November 20, 2018 (2) from (city): San Diego
- (3) with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. **by other means** (*specify means of service and authorizing code section*):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
- b. as the person sued under the fictitious name of (*specify*):
- c. as occupant.
- d. On behalf of (*specify*): **Nebulous, Inc.**

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: **James Taylor-Copeland**
- b. Address: **501 W. Broadway Suite 800, San Diego, CA 92101**
- c. Telephone number: **619-734-8770**
- d. **The fee** for service was: \$ **0**
- e. I am:

- (1) not a registered California process server.
- (2) exempt from registration under Business and Professions Code section 22350(b).
- (3) a registered California process server:
- (i) owner employee independent contractor.
- (ii) Registration No.:
- (iii) County:

8. **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. **I am a California sheriff or marshal** and I certify that the foregoing is true and correct.

Date: November 20, 2018

James Taylor-Copeland

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY													
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Samy Azer</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>													
<p>1. Article Addressed to:</p> <p><i>The Company Corporation 251 Little Falls Dr. Wilmington, DE 19808</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>													
 9590 9402 4157 8092 1143 94	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery with Signature Confirmation™</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>		<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Certified Mail Restricted Delivery with Signature Confirmation™	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®													
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™													
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery													
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise													
<input type="checkbox"/> Certified Mail Restricted Delivery with Signature Confirmation™	<input type="checkbox"/> Signature Confirmation™													
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Signature Confirmation Restricted Delivery													
7017 3040 0000 1786 8813														

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): James Taylor-Copeland (SBN 284743) 501 W. Broadway Suite 800 San Diego, CA 92101 TELEPHONE NO.: 619-734-8770 FAX NO. (Optional): E-MAIL ADDRESS (Optional): james@taylorcopelandlaw.com ATTORNEY FOR (Name): Shaun Roberts, Nicholas Colley, and Allan Henry	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 12/19/2018 at 09:39:00 AM Clerk of the Superior Court By E- Filing, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Central	CASE NUMBER: 37-2018-00058465-CU-BT-CTL
PLAINTIFF/PETITIONER: Shaun Roberts, et. al. DEFENDANT/RESPONDENT: Obelisk, Inc., et. al.	Ref. No. or File No.:
PROOF OF SERVICE OF SUMMONS	

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
 - a. summons
 - b. complaint
 - c. Alternative Dispute Resolution (ADR) package
 - d. Civil Case Cover Sheet (served in complex cases only)
 - e. cross-complaint
 - f. other (specify documents): Notice of Case Assignment
3. a. Party served (specify name of party as shown on documents served):
 OBELISK, INC., a Delaware corporation

 b. Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
 The Corporation Trust Company as agent for service of process
4. Address where the party was served:
 1209 Orange St., Wilmington, DE 19801
5. I served the party (check proper box)
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): _____ (2) at (time): _____
 - b. by substituted service. On (date): _____ at (time): _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): _____
 - (1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date): _____ from (city): _____ or a declaration of mailing is attached.
 - (5) I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: Shaun Roberts, et. al.	CASE NUMBER: 37-2018-00058465-CU-BT-CTL
DEFENDANT/RESPONDENT: Obelisk, Inc., et. al.	

5. c. **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
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- (3) with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. **by other means** (specify means of service and authorizing code section):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. as an individual defendant.
- b. as the person sued under the fictitious name of (specify):
- c. as occupant.
- d. On behalf of (specify): Obelisk, Inc.

under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: James Taylor-Copeland
- b. Address: 501 W. Broadway Suite 800, San Diego, CA 92101
- c. Telephone number: 619-734-8770
- d. The fee for service was: \$ 0
- e. I am:

- (1) not a registered California process server.
- (2) exempt from registration under Business and Professions Code section 22350(b).
- (3) a registered California process server:
- (i) owner employee independent contractor.
- (ii) Registration No.:
- (iii) County:

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


or

9. I am a California sheriff or marshal and I certify that the foregoing is true and correct.


Date: November 20, 2018

James Taylor-Copeland

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature</p> <p>X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (<i>Printed Name</i>) C. Date of Delivery</p>												
<p>1. Article Addressed to:</p> <p style="font-size: 1.2em; font-family: cursive;">The Corporation Trust Company 1209 Orange St. Wilmington, DE 19801</p>	<p style="text-align: center; font-size: 1.5em; font-weight: bold;">RECEIVED</p> <p style="text-align: center; font-size: 1.2em;">NOV 26 2018</p> <p style="text-align: center; font-size: 1.5em; font-weight: bold;">CT CORPORATION</p>												
 <p style="text-align: center;">9590 9402 4157 8092 1143 63</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below <input type="checkbox"/> No</p>												
<p>2. Article Number (from label)</p> <p style="font-size: 1.2em;">7017 3040 0000 1786 8806</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
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<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™												
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	<p style="text-align: right;">Domestic Return Receipt</p>												



Taylor-Copeland Law
500 W. Broadway Suite 800
San Diego, CA 92101



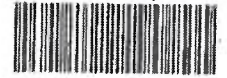
1000

18001-1120

U.S. POSTAGE PAID
SAN DIEGO, CA
PERMIT NO. 10
-AMOUNT-
\$8.46
92304 6108837-87

The Corporation Trust Company
as agent for Obelisk, Inc.
1209 Orange St.
Wilmington, DE 19801

CERTIFIED MAIL



7017 3040 0000 1766 8806

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
11/19/2018 at 11:08:06 AM
Clerk of the Superior Court
By Marc David, Deputy Clerk

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

OBELISK, INC., a Delaware corporation, Additional Parties Attachment form is attached

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SHAUN ROBERTS, NICHOLAS COLLEY, and ALLAN HENRY, individually and on behalf of all others similarly situated

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): **San Diego Superior Court (Central)**
330 W. Broadway
San Diego, CA 92101

CASE NUMBER:
(Número del Caso): **37-2018-00058465-CU-BT-CTL**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
James Taylor-Copeland, 501 W. Broadway Suite 800, 619-734-8770, james@taylorcopelandlaw.com

DATE: **11/20/2018**
(Fecha)

Clerk, by  Deputy
(Secretario) **M. David** (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):

SUM-200(A)

SHORT TITLE: Shaun Roberts et. al. v. Obelisk, Inc. et al.	CASE NUMBER:
---	--------------

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff
 Defendant
 Cross-Complainant
 Cross-Defendant

NEBULOUS, INC, a Delaware corporation, DAVID J. VORICK, an individual, ZACH HERBERT, an individual, and DOES 1 through 10, inclusive

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7069	
PLAINTIFF(S) / PETITIONER(S): Shaun Roberts et.al.	
DEFENDANT(S) / RESPONDENT(S): Obelisk INC et.al.	
ROBERTS VS OBELISK INC [EFILE]	
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE	CASE NUMBER: 37-2018-00058465-CU-BT-CTL

CASE ASSIGNMENT

Judge: Katherine Bacal

Department: C-69

COMPLAINT/PETITION FILED: 11/19/2018

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	06/14/2019	09:30 am	C-69	Katherine Bacal

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

JURY FEES: In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

MANDATORY eFILE: Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at www.onelegal.com. Refer to General Order in re procedures regarding electronically imaged court records, electronic filing, and access to electronic court records in civil and probate cases or guidelines and procedures.

COURT REPORTERS: Court reporters are not provided by the Court in Civil cases. See policy regarding normal availability and unavailability of official court reporters at www.sdcourt.ca.gov.

*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Filed Over Obelisk's Sale of SC1, DCR1 Cryptocurrency Miners](#)
