

1 Laurence M. Rosen, Esq. (SBN 219683)
2 **THE ROSEN LAW FIRM, P.A.**
3 355 South Grand Avenue, Suite 2450
4 Los Angeles, CA 90071
5 Telephone: (213) 785-2610
6 Facsimile: (213) 226-4684
7 Email: lrosen@rosenlegal.com

8 Counsel for Plaintiff

9 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA

10 LANCE TULLER, Individually and on
11 behalf of all others similarly situated,

12 Plaintiff,

13 v.

14 TINTRI, INC., KEN KLEIN, and IAN
15 HALIFAX,

16 Defendants.
17
18

Case No. 17-cv-6857

**CLASS ACTION COMPLAINT FOR
VIOLATION OF THE FEDERAL
SECURITIES LAWS**

JURY TRIAL DEMANDED

19
20 Plaintiff Lance Tuller (“Plaintiff”), individually and on behalf of all other
21 persons similarly situated, by Plaintiff’s undersigned attorneys, for Plaintiff’s
22 complaint against Defendants (defined below), alleges the following based upon
23 personal knowledge as to Plaintiff and Plaintiff’s own acts, and information and belief
24 as to all other matters, based upon, inter alia, the investigation conducted by and
25 through Plaintiff’s attorneys, which included, among other things, a review of
26 Defendants’ public documents, conference calls and announcements made by
27 Defendants, United States Securities and Exchange Commission (“SEC”) filings, wire
28 and press releases published by and regarding Tintri, Inc. (“Tintri” or the “Company”),

1 and information readily obtainable on the Internet. Plaintiff believes that substantial
2 evidentiary support will exist for the allegations set forth herein after a reasonable
3 opportunity for discovery.

4 **NATURE OF THE ACTION**

5 1. This is a federal securities class action on behalf of a class consisting of
6 all persons and entities other than Defendants who purchased or otherwise acquired the
7 publicly traded securities of Tintri pursuant and/or traceable to the Company's
8 Registration Statement and Prospectus (defined below) issued in connection with the
9 Company's initial public offering completed on or about June 30, 2017 (the "IPO"),
10 seeking to recover compensable damages caused by Defendants' violations of the
11 federal securities laws.

12 **JURISDICTION AND VENUE**

13 2. The claims asserted herein arise under and pursuant to §§11 and 15 of the
14 Securities Act of 1933 (the "Securities Act") (15 U.S.C. §§77k and 77o).

15 3. This Court has jurisdiction over this action pursuant to §22 of the
16 Securities Act (15 U.S.C. §77v) and 28 U.S.C. §1331.

17 4. Venue is properly laid in this District pursuant to §22 of the Securities Act
18 and 28 U.S.C. §1391(b) as the Company conducts business in this judicial district.

19 5. In connection with the acts, conduct and other wrongs alleged in this
20 complaint, Defendants, directly or indirectly, used the means and instrumentalities of
21 interstate commerce, including but not limited to, the United States mails, interstate
22 telephone communications and the facilities of the national securities exchange.

23 **PARTIES**

24 6. Plaintiff, as set forth in the accompanying certification, incorporated by
25 reference herein, purchased the Company's securities at artificially inflated prices
26 pursuant and/or traceable to the Company's IPO and was economically damaged
27 thereby.

28

1 7. Defendant Tintri develops and markets an enterprise cloud platform
2 combining cloud management software technology and a range of all-flash storage
3 systems for virtualized and cloud environments in the United States and internationally.
4 Tintri is a Delaware corporation with its headquarters located at 303 Ravendale Drive,
5 Mountain View, California. The Company conducts business in Los Angeles,
6 California. Tintri securities trade on the Nasdaq Global Market (“NASDAQ”) under
7 the ticker “TNTR.”

8 8. Defendant Ken Klein (“Klein”) has been the Company’s Chairman and
9 Chief Executive Officer since October 2013.

10 9. Defendant Ian Halifax (“Halifax”) has been the Company’s Chief
11 Financial Officer since December 2013.

12 10. Defendants Klein and Halifax are collectively referred to herein as the
13 “Individual Defendants.”

14 11. Each of the Individual Defendants:

- 15 a. directly participated in the management of the Company;
- 16 b. was directly involved in the day-to-day operations of the Company
17 at the highest levels;
- 18 c. was privy to confidential proprietary information concerning the
19 Company and its business and operations;
- 20 d. was directly or indirectly involved in drafting, producing,
21 reviewing and/or disseminating the false and misleading statements
22 and information alleged herein;
- 23 e. was directly or indirectly involved in the oversight or
24 implementation of the Company’s internal controls;
- 25 f. was aware of or recklessly disregarded the fact that the false and
26 misleading statements were being issued concerning the Company;
27 and/or

28

1 g. approved or ratified these statements in violation of the federal
2 securities laws.

3 12. Tintri is liable for the acts of the Individual Defendants and its employees
4 under the doctrine of *respondeat superior* and common law principles of agency
5 because all of the wrongful acts complained of herein were carried out within the scope
6 of their employment.

7 13. The Company and Individual Defendants are collectively referred to
8 herein as “Defendants.”

9 **SUBSTANTIVE ALLEGATIONS**

10 14. Pursuant to the Securities Act, Defendants are strictly liable for material
11 misstatements in the Registration Statement and Prospectus, issued in connection with
12 the IPO. The Securities Act claims specifically exclude any allegations of fraud,
13 knowledge, recklessness or scienter, do not “sound in fraud” and based solely on strict
14 liability and negligence.

15 **Background**

16 15. On June 1, 2017, the Company filed a registration statement on Form S-1
17 with the SEC. The registration statement was subsequently amended, with the final
18 amended registration statement on Form S-1/A filed on June 29, 2017 (collectively, the
19 “Registration Statement”). The Registration Statement was declared effected by the
20 SEC on June 29, 2017.

21 16. The Registration Statement contained a preliminary prospectus. The final
22 prospectus was filed on June 30, 2017 (“Prospectus”).

23 17. On or about June 30, 2017, the Company completed its IPO, selling 8.572
24 million shares at \$7.00 per share and raising approximately \$60 million.

25 **Materially False and Misleading Statements**

26 18. The Registration Statement, signed by Defendants Klein and Halifax,
27 stated the following regarding the Company’s growth strategy:

28

1 **Our Growth Strategy**

2 We intend to extend our position as a leader in providing enterprise cloud
3 solutions to large organizations and CSPs. Key elements of our growth
4 strategy include:

- 5 • Extend Our Differentiation in Enterprise Cloud through Continued
6 Software Innovation. We plan to continue to invest in enhancing
7 our CONNECT architecture and our enterprise cloud platform, and
8 extending our portfolio of software products, thereby driving cross-
9 selling and attach rates.
- 10 • Pursue Additional Large Organizations and CSPs. We intend to
11 continue our sales efforts to further penetrate the Global 2000
12 enterprises and CSPs with the most demanding workloads and
13 complex cloud requirements.
- 14 • Leverage Line of Business Buyers to Accelerate Adoption. We
15 intend to continue to focus on selling to line of business buyers,
16 who generally have their own IT budgets, and leverage those
17 relationships to sell more broadly within their organizations.
- 18 • Increase Sales to Installed Base. We intend to continue expanding
19 our footprint with our existing customers by supporting additional
20 use cases and selling additional software products. These additional
21 use cases include data protection and disaster recovery, to expand
22 our total addressable market.
- 23 • Expand Sales and Marketing Presence in New and Existing
24 Markets. We plan to expand our presence in both existing and new
25 markets, including territories in the Middle East, Asia and Europe.
- 26 • Support Value-Add Channel Partners. We expect to focus our
27 efforts on supporting those partners offering cloud services,
28 including infrastructure “stacks” that include our solutions.
- Expand and Deepen Technology Partnerships and Integrations. We
 intend to expand and deepen our relationships with leading
 technology companies. We expect to continue to work closely with
 our partners to achieve certifications and integrations as well as to

1 seek additional partnerships that will allow us to address new
2 customer use cases and deployments.

3 19. The statements contained in ¶ 18 were materially false and/or misleading
4 because they misrepresented and failed to disclose the following adverse facts
5 pertaining to the Company's business, operations and prospects, which were known to
6 Defendants or recklessly disregarded by them. Specifically, Defendants made false
7 and/or misleading statements and/or failed to disclose that: (1) the Company
8 experienced distraction, disruption, and sales attrition during its IPO; and (2) as a result,
9 Defendants' statements about the Company's business, operations, and prospects were
10 materially false and misleading and/or lacked a reasonable basis at all relevant times.

11 20. On September 7, 2017, the Company held an earnings conference call for
12 the second quarter of 2018. During the call, Defendant Klein stated the following:

13 Now onto our second quarter results. And this is our first quarter as a
14 public company. ***Q2 revenue grew 27% over the same quarter a year ago,
15 at the low end of our expectations. This is primarily due to distraction,
16 disruption and some sales attrition occurred during and after our IPO.***
17 Following Mike McGuire's departure as Chief Sales Officer, we have
18 flattened our sales organization by moving to two sales regions North
19 America and international. I understand leadership about global sales
20 force and believe this change will help us improve go to market alignment,
21 velocity and execution.

22 (Emphasis added).

23 21. Shares of Tintri have plummeted since the IPO and currently trade below
24 \$5.00 per share—less than 65% of its IPO price.

25 22. As a result of Defendants' wrongful acts and omissions, and the
26 precipitous decline in the market value of the Company's securities, Plaintiff and other
27 Class members have suffered significant losses and damages.
28

1 facts about the financial condition, business, operations, and
2 management of the Company; and

3 c. to what extent members of the Class have sustained damages and
4 what is the proper measure of damages.

5 28. A class action is superior to all other available methods for the fair and
6 efficient adjudication of this controversy since joinder of all members is impracticable.
7 Furthermore, as the damages suffered by individual Class members may be relatively
8 small, the expense and burden of individual litigation make it impossible for members
9 of the Class to individually redress the wrongs done to them. There will be no difficulty
10 in the management of this action as a class action.

11 **COUNT I**

12 **Violations of Section 11 of the Securities Act**
13 **Against All Defendants**

14 29. Plaintiff repeats and realleges each and every allegation contained in the
15 foregoing paragraphs as if fully set forth herein.

16 30. This claim is brought by Plaintiff and on behalf of other members of the
17 Class who purchased or otherwise acquired the Company's securities pursuant to or
18 traceable to the Company's IPO. Each member of the Class acquired his, her, or its
19 shares pursuant to and/or traceable to, and in reliance on, the Prospectus and
20 Registration Statement. The Company is the issuer of the securities through the
21 Prospectus and Registration Statement, on which the Individual Defendants were
22 signatories.

23 31. Defendants issued and disseminated, and caused to be issued and
24 disseminated, and participated in the issuance and dissemination of, material
25 misstatements and/or omissions to the investing public that were contained in the
26 Prospectus and Registration Statement, which misrepresented or failed to disclose,
27 among other things, the facts as set forth above. By reason of the conduct alleged
28

1 herein, each Defendants violated and/or controlled a person who violated Section 11
2 of the Securities Act, 15 U.S.C. §77k.

3 32. The Company is the issuer of the securities sold via the Prospectus and
4 Registration Statement. As issuer of these securities, the Company is strictly liable to
5 Plaintiff and the Class members for the material misstatements and omissions
6 contained therein.

7 33. At the times they obtained their shares of the Company, Plaintiff and the
8 members of the Class did so without knowledge of the facts concerning the
9 misstatements and omissions alleged herein.

10 34. This claim is brought within one year after discovery of the untrue
11 statements and omissions in and from the Prospectus and Registration Statement that
12 should have been made and/or corrected through the exercise of reasonable diligence,
13 and within three years of the effective date of the Prospectus and Registration
14 Statement. It is therefore timely.

15 35. At the time of the purchases and/or acquisitions by Plaintiff and the Class,
16 the true value of the Company's securities was substantially lower than the price paid
17 by Plaintiff and the other members of the Class.

18 36. By reason of the foregoing, Plaintiff and the other members of the Class
19 are entitled to damages as measured by the provisions of Section 11(e), 15 U.S.C.
20 77K(e), from the Defendants and each of them, jointly and severally.

21 **COUNT II**

22 **Violations of Section 15 of the Securities Act Against**
23 **the Individual Defendants**

24 37. Plaintiff repeats and realleges each and every allegation contained in the
25 foregoing paragraphs as if fully set forth herein.

26 38. This claim is asserted against the Individual Defendants, each of whom
27 was a control person of the Company at relevant times.

28

1 39. The Individual Defendants were control persons of the Company by virtue
2 of, inter alia, their positions as senior officers and/or directors of the Company, and
3 they were in positions to control and did control, the false and misleading statements
4 and omissions contained in the Prospectus and the Registration Statement.

5 40. None of the Individual Defendants made reasonable investigation or
6 possessed reasonable grounds for the belief that the statements contained in the
7 Prospectus and Registration Statement were accurate complete in all material respects.
8 Had they exercised reasonable care, they could have known of the material
9 misstatements and omissions alleged herein.

10 41. This claim was brought within one year after the discovery of the untrue
11 statements and omissions in the Prospectus and Registration Statement and within three
12 years after the Company's securities were sold to the Class in connection with the IPO.
13 It is therefore timely.

14 42. By reason of the above conduct, for which the Company's is primarily
15 liable, as set forth above, the Individual Defendants are jointly and severally liable with
16 and to the same extent as the Company's pursuant to Section 15 of the Securities
17 Action, 15 U.S.C. 77o.

18 **PRAYER FOR RELIEF**

19 43. WHEREFORE, Plaintiff, on behalf of herself and the Class, prays for
20 judgment and relief as follows:

21 a. declaring this action to be a proper class action, designating Plaintiff as
22 Lead Plaintiff and certifying plaintiff as a class representative under Rule 23 of the
23 Federal Rules of Civil Procedure and designating plaintiff's counsel as Lead Counsel;

24 b. awarding damages in favor of Plaintiff and the other Class members
25 against all defendants, jointly and severally, together with interest thereon;

26 c. awarding Plaintiff and the Class reasonable costs and expenses incurred
27 in this action, including counsel fees and expert fees; and
28

1 d. awarding Plaintiff and other members of the Class such other and further
2 relief as the Court may deem just and proper.

3 **JURY TRIAL DEMANDED**

4 Plaintiff hereby demands a trial by jury.

5
6 Dated: September 18, 2017

Respectfully submitted,

7 **THE ROSEN LAW FIRM, P.A.**

8 By: /s/ Laurence M. Rosen

9 Laurence M. Rosen, Esq. (SBN 219683)

10 355 S. Grand Avenue, Suite 2450

11 Los Angeles, CA 90071

12 Telephone: (213) 785-2610

13 Facsimile: (213) 226-4684

14 Email: lrosen@rosenlegal.com

15
16
17
18
19
20
21
22
23
24
25
26
27
28
Counsel for Plaintiff

Certification and Authorization of Named Plaintiff Pursuant to Federal Securities Laws

The individual or institution listed below (the "Plaintiff") authorizes and, upon execution of the accompanying retainer agreement by The Rosen Law Firm P.A., retains The Rosen Law Firm P.A. to file an action under the federal securities laws to recover damages and to seek other relief against Tintri, Inc.. The Rosen Law Firm P.A. will prosecute the action on a contingent fee basis and will advance all costs and expenses. The Tintri, Inc.. Retention Agreement provided to the Plaintiff is incorporated by reference, upon execution by The Rosen Law Firm P.A.

First name: LANCE
Middle initial:
Last name: TULLER
Entity: LANCE TULLER
Title: LANCE TULLER
Address: REDACTED
City:
State:
Zip:
Country:
Facsimile:
Phone:
Email:

Plaintiff certifies that:

1. Plaintiff has reviewed the complaint and authorized its filing.
2. Plaintiff did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.
3. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.
4. Plaintiff represents and warrants that he/she/it is fully authorized to enter into and execute this certification.
5. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.
6. Plaintiff has made no transaction(s) during the Class Period in the debt or equity securities that are the subject of this action except those set forth below:

Acquisitions:

Type of Security	Buy Date	# of Shares	Price per Share
Common Stock	09/07/2017	1	5.15
Common Stock	08/28/2017	1	6.01
Common Stock	07/18/2017	4	7.02
Common Stock	07/10/2017	17	6.86

Certification for LANCE TULLER (cont.)

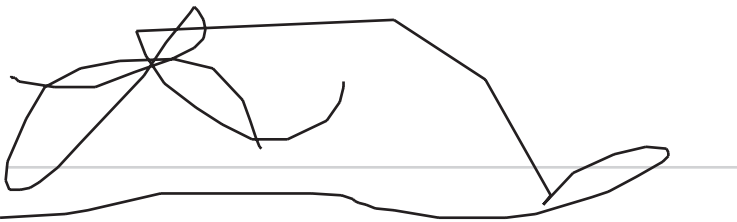
7. I have not served as a representative party on behalf of a class under the federal securities laws during the last three years, except if detailed below. []

I declare under penalty of perjury, under the laws of the United States, that the information entered is accurate: **YES**

By clicking on the button below, I intend to sign and execute this agreement and retain the Rosen Law Firm, P.A. to proceed on Plaintiff's behalf, on a contingent fee basis. **YES**

Signed pursuant to California Civil Code Section 1633.1, et seq. - and the Uniform Electronic Transactions Act as adopted by the various states and territories of the United States.

Date of signing: 09/18/2017

A handwritten signature in black ink, appearing to be "Lance Tuller", is written over a horizontal line. The signature is stylized with a large loop at the beginning and a long, sweeping tail.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Tintri, Inc., Executives Facing Securities Lawsuit Months After IPO](#)
