The Business Court of Texas,
First Division

NATALIE FUNCHEON, CHRIS SUMTER, and JEREMIAH COLLINS	§	
Plaintiffs,	§	Cause No. 26-BC01B-0078
v.	§	
PRIME DATA CENTERS, LLC, DATA REALTY HOLDINGS CORP., NICHOLAS LAAG, and ULRICH PELZ ,	§	
Defendants.	§	

DEFENDANTS' PRELIMINARY JURY-CHARGE MAP

This preliminary outline maps the anticipated jury charge and related findings based solely on the claims and counterclaims presently pleaded and is not intended as a proposed final charge or a concession as to the legal or factual viability of any claim, defense, theory, or remedy. All challenges to pleading sufficiency, standing, limitations, admissibility, damages, election of remedies, and submission are preserved, and any additional claims or counterclaims, including potential claims against Chris Sumter or Jeremiah Collins relating to restrictive covenants, competitive activity, fiduciary duties, or diversion of business opportunities, are outside the scope of this outline unless and until pleaded.

I. PLAINTIFFS' CLAIMS

A. Breach of Contract

Threshold issues for the Court

- What Employment Agreement and/or compensation plan governs each Plaintiff's claims?

- What contractual provisions govern the compensation at issue, including grant, vesting, performance, valuation, forfeiture, and payment conditions?

- What contractual provisions govern each category of compensation claimed, including:

  Exhibit B: salary, bonuses, commissions, acquisition/performance fees, and other cash or performance-based compensation; and

  Exhibit C / applicable compensation plan: phantom-unit grants, vesting, performance or milestone requirements, valuation, strike price, forfeiture, and payment conditions?

- What contractual obligations, if any, are enforceable against Prime Data Centers, LLC, as the party to the Employment Agreements

Potential Jury Questions

Exhibit B – Compensation: Did Prime Data Centers, LLC fail to comply with Exhibit B of the applicable Plaintiff's Employment Agreement by failing to pay salary, bonuses, commissions, acquisition/performance fees, or other compensation to which that Plaintiff was contractually entitled?

Exhibit C – Incentive Compensation: Did Prime Data Centers, LLC fail to comply with Exhibit C of the applicable Plaintiff's Employment Agreement and/or the governing compensation plan by failing to provide or pay phantom-equity benefits to which that Plaintiff was contractually entitled?

Conditions Precedent: Did the applicable Plaintiff satisfy all conditions required to earn, vest in, and receive the compensation claimed under the governing Employment Agreement and/or compensation plan?

Prior Material Breach: Before any alleged failure by Defendant(s) to perform, did the applicable Plaintiff fail to comply with a material obligation under the governing Employment Agreement and/or compensation plan?

Excuse of Performance: If so, was that failure material such that Defendant's subsequent performance of the obligation at issue was excused?[1]

Competitive Activity / Forfeiture: Did Plaintiff(s) engage in competitive activity prohibited by the applicable compensation plan under circumstances warranting forfeiture of benefits otherwise payable under the compensation plan?

Damages: For each breach found, what sum of money, if any, would fairly and reasonably compensate the applicable Plaintiff for damages resulting from that breach?

B. Alternative Compensation / Quasi-Contract Claims

Plaintiffs' promissory-estoppel, quantum-meruit, unjust-enrichment, and money-had-and-received theories should be submitted, if at all, only to the extent they are not displaced by an enforceable contract governing the same subject matter.

Threshold issue for the Court: Does an enforceable agreement govern the compensation or benefit for which the particular Plaintiff seeks recovery?

If not, and if otherwise legally available:

Promissory Estoppel: Did the applicable Defendant make a promise that reasonably should have been expected to induce action or forbearance by the Plaintiff, that did induce such action or forbearance, and that must be enforced to avoid injustice?

Quantum Meruit: Did the Plaintiff provide compensable services to the applicable Defendant, which accepted and benefited from those services under

[1] This defense applies only to a material breach that preceded and could excuse the particular performance allegedly owed by Prime. Later conduct giving rise to Defendants' independent counterclaims does not retroactively excuse an obligation that had already accrued.

circumstances reasonably notifying the Defendant that the Plaintiff expected payment?

Unjust Enrichment / Money Had and Received: Did the applicable Defendant obtain or retain a benefit or money that in equity and good conscience belongs to the Plaintiff?

Damages / Restitution: What amount, if any, represents the recoverable value of the uncompensated services, promise, money, or benefit?

C. Chris Sumter – Comstock Fraud / Fraudulent Inducement

Threshold issues for the Court

- Whether Chris Sumter has individual standing to recover for the alleged Comstock injuries or whether the asserted claims belong to the entities through which the Comstock interests were held.

- Whether the Comstock claims are barred by limitations.

- Whether the discovery rule or fraudulent concealment applies and, if so, whether any predicate factual issue requires submission.

- To the extent Chris Sumter asserts fraud by nondisclosure, whether Nicholas Laag or Ulrich Pelz owed Chris Sumter a legal duty to disclose the allegedly omitted information and, if the existence of such a duty depends on disputed predicate facts, what factual findings are required from the jury.

Fraud: Did Nicholas Laag or Ulrich Pelz commit fraud against Chris Sumter concerning the Comstock capital requirement, source or availability of financing, corresponding capital contribution, dilution, or buyout?

In answering this question, the jury would determine whether:

Material Misrepresentation / Nondisclosure: Nicholas Laag or Ulrich Pelz made a material misrepresentation concerning the Comstock capital requirement, source or availability of financing, corresponding

capital contribution, dilution, or buyout, or failed to disclose a material fact when under a duty to do so;

Fraud by Nondisclosure: If Chris Sumter relies on an alleged omission or nondisclosure, did Nicholas Laag or Ulrich Pelz fail to disclose a material fact concerning the Comstock financing, capital requirements, dilution, or buyout that they had a duty to disclose to Chris Sumter?

Knowledge / Recklessness: the representation was false and, when made, the speaker knew it was false or made it recklessly as a positive assertion without knowledge of its truth;

Intent: the representation or nondisclosure was made with the intent that Chris Sumter act or refrain from acting in reliance on it;

Actual and Justifiable Reliance: Chris Sumter actually and justifiably relied on the representation or nondisclosure in deciding whether to contribute additional capital, accept dilution, or sell his Comstock interest; and

Limitations Predicate, if necessary: When, in the exercise of reasonable diligence, should Chris Sumter have discovered the nature of the alleged injury and the facts giving rise to his Comstock claim?

Damages: What sum, if any, would compensate Chris Sumter for damages proximately caused by the fraud and recoverable by him individually?

Exemplary-Damages Predicate: Was any recoverable harm to Chris Sumter caused by fraud or malice, proved by clear and convincing evidence?

Exemplary Damages: What sum, if any, should be assessed as exemplary damages?

D. TUFTA / Fraudulent Transfer and Alter Ego

Threshold issues for the Court

- Identification of the challenged transfer(s), debtor, alleged creditor, transferee, and governing statutory theory.
- Whether Plaintiffs possessed a qualifying claim at the relevant time.
- Availability of TUFTA and alter-ego/veil-piercing relief.
- Which issues require factual findings and which remedies are equitable matters for the Court.

TUFTA: Was the identified transfer made with actual intent to hinder, delay, or defraud a creditor or under another pleaded statutory basis for avoidance?

Transferee / Defense: Did the identified Defendant receive the transferred asset or its proceeds, and, if necessary, were the statutory good-faith/value requirements satisfied?

Alter Ego / Veil Piercing: Did the relationship and conduct among the relevant entities satisfy the factual predicates necessary to impose liability beyond the entity otherwise responsible for the underlying obligation?

Relief: The Court determines the legal effect of any findings and the availability and scope of avoidance, attachment, injunction, veil piercing, or other statutory/equitable relief.

II. DEFENDANTS' COUNTERCLAIMS/DEFENSES

A. Breach of Duty of Loyalty / Fiduciary Duty

Threshold Issues for the Court

- Whether Natalie Funcheon owed Prime Data Centers, LLC a fiduciary duty and/or duty of loyalty concerning the conduct at issue.

- Whether equitable forfeiture or disgorgement is an available remedy for any proven breach.

- If forfeiture is available, the nature and extent of any forfeiture or disgorgement to be awarded.

Potential Jury Questions

Breach: Did Natalie Funcheon fail to comply with her fiduciary duty and/or duty of loyalty to Prime Data Centers, LLC by:

improperly accessing, transferring, retaining, using, or deleting Prime information;

approving improper expenses;

diverting or usurping Prime business opportunities; or

otherwise acting against Prime's interests while employed?

Causation: Was Natalie Funcheon's failure to comply a proximate cause of injury to Prime Data Centers, LLC?

Actual Damages: What sum of money, if any, would fairly and reasonably compensate Prime Data Centers, LLC for injury proximately caused by Natalie Funcheon's breach?

Predicate Findings for Equitable Forfeiture, if Necessary

If the Court determines that disputed factual findings would assist its equitable-forfeiture analysis:

Seriousness of Breach: Was Natalie Funcheon's breach of duty clear, serious, and deliberate?

Timing / Duration: During what period or periods of Natalie Funcheon's employment did the conduct constituting the breach occur?

Compensation: What compensation did Natalie Funcheon receive during the period or periods in which the breach occurred?

Benefit / Harm: What benefit, if any, did Natalie Funcheon obtain from the breach, and what harm, if any, did the breach cause Prime Data Centers, LLC?

Court determination: Based on the jury's predicate findings, if any, the Court determines whether equitable forfeiture or disgorgement is warranted and, if so, the amount and scope of the remedy.

B. Breach of Contract

The counterclaim alleges breaches of Natalie Funcheon's Employment Agreement and Confidentiality Agreement, including confidentiality, return-of-property, and loyalty obligations.

Breach: Did Natalie Funcheon fail to comply with the Employment Agreement and/or Confidentiality Agreement by:

- unauthorized use or disclosure of confidential information;
- failure to return Prime property, documents, or information; or
- other conduct violating the contractual obligations pleaded by Defendants?

Damages: What sum, if any, would fairly and reasonably compensate Prime Data Centers for damages resulting from the contractual breach?

Court determination: Specific performance, return or deletion of company information, and permanent injunctive relief.

C. Texas Harmful Access by Computer Act

Threshold issue: The Court should determine the statutory theory and definitions applicable to the conduct alleged and conform any submission to the statutory provisions surviving dispositive motions.

Liability: Did Natalie Funcheon engage in the computer- or data-related conduct required for liability under the applicable provisions of the Texas Harmful Access by Computer Act?

Damages: What economic damages, if any, resulted from the statutory violation?

Court determination: Statutory attorney's fees, costs, and injunctive relief, as applicable.

D. Civil Conspiracy

Threshold issue: Civil conspiracy is derivative and requires a viable underlying tort.

Conspiracy: Did Natalie Funcheon and one or more other persons:

1. combine as two or more persons;

2. have a meeting of the minds on an object or course of action involving an independently unlawful tort;

3. commit one or more unlawful overt acts in furtherance of that objective; and

4. proximately cause injury?

Responsibility: Which persons, if any, participated in the conspiracy and are responsible for harm caused by acts committed in furtherance of it?

E. Exemplary Damages

The counterclaim seeks exemplary damages for alleged willful and malicious misconduct.

Predicate: Was compensable harm to Prime Data Centers caused by fraud, malice, or gross negligence, proved by clear and convincing evidence?

Amount: What sum, if any, should be assessed against Natalie Funcheon as exemplary damages?

Court determination: Application of Chapter 41 requirements and statutory limitations.

F. Spoliation of Evidence

Threshold Issues for the Court

- Whether Natalie Funcheon had a duty to preserve the documents, electronically stored information, or other evidence at issue.

- Whether Natalie Funcheon failed to preserve or intentionally destroyed relevant evidence after that duty arose.

- Whether Natalie Funcheon acted with the specific intent to conceal or destroy discoverable evidence.

- Alternatively, whether any negligent destruction of evidence so prejudiced Prime Data Centers, LLC that it irreparably deprived Prime of a meaningful ability to present a claim or defense.

- What remedy, if any, is proportionate to the spoliation and resulting prejudice.

G. PSP Forfeiture

Threshold Issues for the Court

- Whether each Plaintiff became a participant in the PSP and satisfied any applicable participation or enrollment requirements.

- Whether the PSP's forfeiture-for-competition provision is enforceable and applicable to the benefits claimed.

Questions

Competitive Activity: Did Plaintiff(s), during employment or within two years after termination of employment, engage in competitive activity prohibited by the PSP?

Board Determination: Did Prime's Board determine, in accordance with the PSP, that Plaintiff(s) engaged in activity prohibited by the PSP?

Timing: Did the prohibited competitive activity occur during the applicable period, including during employment or within two years following termination?

Forfeiture: Did Plaintiff(s) engage in competitive activity prohibited by the PSP under circumstances warranting forfeiture of benefits otherwise payable under the PSP?

Repayment: Did Plaintiff(s) receive any PSP benefits that the PSP requires to be repaid because of prohibited competitive activity?

Amount of Repayment: What amount of PSP benefits, if any, was previously paid and is subject to repayment under the PSP?

Dated: November 4, 2026

Respectfully submitted,

/s/ Ross G. Reyes

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was forwarded to all counsel of record via email on November 4, 2026.

/s/ Ross G. Reyes

Ross G. Reyes